

Recommendations

based on the outcomes of

“Establishing stakeholder collaboration

in the process of Ukraine's integration into the EU Digital Single Market”

Round table held on April 21, 2021
in the Verkhovna Rada Digital Transformation Committee

On April 21, 2021, a round table was held at the Verkhovna Rada Digital Transformation Committee and on the Committee's online resource to discuss the outcomes of “Establishing stakeholder collaboration in the process of Ukraine’s integration into the EU Digital Single Market” project (hereinafter “the Project”) first phase. European Media Platform (EMP, an international NGO) is implementing the Project with the support of the European Union and the International Renaissance Foundation as part of the grant component of the EU4USociety project. The discussion aimed at identifying consensus topics, contentious issues, and clarification domains along four lines:

- **electronic trusted services;**
- **audiovisual services;**
- **cybersecurity and personal data protection;**
- **consumer rights protection.**

Some other topics were covered too. As a result, the following recommendations were developed (for the second Project phase and for all stakeholders):

1. Ukraine's policy of law-making and legislation reform improves the conditions for all stakeholders' participation in drafting, adopting and implementing laws and regulations and is consistent with the European Commission REFIT programme. The adoption in the first reading of the draft law No. 4530 “On the Parliamentary Service” fully corresponds to this policy. However, another delay in the entry into force of the new Regulations of the Cabinet of Ministers of Ukraine (CMU) causes serious concern. ***The Round table participants encourage the Parliament members to ensure the draft law No. 4530 adoption. It is also proposed to hold***

consultations with the relevant stakeholders regarding the prospects for the new CMU Regulations entry into force. To identify the said stakeholders, the project experts will develop a questionnaire and conduct a stakeholder survey.

2. The Round table participants welcome the significant progress of Ukraine in implementing European standards for trusted services provision. The order of amendments necessary to bring the Ukrainian legislation closer to the requirements of EU eIDAS Regulation (before or after EU review of this Regulation) also requires further consideration and consultations (both open and closed). ***Both European and Ukrainian experts should support specifically the efforts to establish trusted services compliance assessment bodies in Ukraine. Participation of the stakeholders in the implementation of EU4Digital pilot projects is equally important.***

3. Undoubtedly, the European approaches to media should be implemented in Ukraine. At the same time, the obsolescence of the current Ukrainian legislation in this domain (as well as the deplorable experience of earlier attempts to implement European standards in Ukraine media, except for the European Convention on Transfrontier Television) causes concern. An approach may stem from “Information dissemination as a component of a Single Digital Market” perspective. It both offers the possibility of certain consensus decisions, and provokes many contentious issues. For example, should TV audience be deemed consumers? ***It is important to prevent two Committees of the Verkhovna Rada (located on the same floor) from concurrent drafting of interrelated laws aimed at implementing the Association Agreement between Ukraine and the EU, as they may use inconsistent terms and definitions. To resolve this problem, we propose to involve representatives of the Parliament Principal Legal Directorate in consultations. EMP encourages the Digital Transformation Committee of the Verkhovna Rada to support us in organizing such consultations.***

4. The situation in cybersecurity and personal data protection in Ukraine is critical, and may put an end to all hopes of Ukraine to integrate into the EU Digital Single Market. Ukraine has not fully ratified the Council of Europe Convention on Cybercrime (in particular, with regard to electronic evidence). The Law of Ukraine “On the Basics of Cybersecurity” neither governs the line of authority of numerous national cybersecurity subjects, nor introduces effective public-private partnership mechanisms (let alone multi-stakeholder approach). ***Resolving this problem requires identifying all key national cybersecurity stakeholders, including those from the private sector and the professional community; arranging their effective communication on the principles of equality, openness and transparency of interests; appropriate institutional support from international donors and the Ukrainian government. Special attention should be given to more active involvement of Internet users in resolving cybersecurity and personal data protection issues. The second project stage outcomes will provide more specific suggestions.***

5. Ukrainian consumer protection legislation is critically lagging behind European standards. Ukrainian consumers are seldom involved in legislative activities. Moreover, there are examples of creating “fake” consumer communities (which actually protect the business interests of their founders). At the same time, even individual users should be able to be heard. ***Developing a policy to prevent conflicts of interest can be an effective mechanism for resolving this***

problem, especially if European and international multi-stakeholder organizations best practices are taken into account.

6. A necessary precondition for Ukraine's integration into the EU Digital Single Market is adequate translations of EU and Council of Europe regulations, EU standards, etc. Such translations need unified terms and definitions (examples of terms translation inconsistencies abound). This problem is further complicated by the ban imposed by Ukrainian Research and Training Centre for Standardization, Certification and Quality (UkrRTC, the official issuer of national standards) on disclosure of any information on terms and definitions used in Ukrainian standards, even in those purchased officially. This is hardly consistent with UkrRTC statements that it “creates the prerequisites for making national standard system closer to international and European codes and standards, as well as for implementation of the Association Agreement between Ukraine and EU/Euratom and member States, including implementation of the necessary administrative and institutional reforms”. ***To resolve this problem we suggest conducting consultations involving UkrRTC, Office of the Deputy Prime Minister of Ukraine for European and Euro-Atlantic Integration, the Cabinet of Ministers of Ukraine, professional translators, representatives of the EU4USociety project and other stakeholders.***

Outcomes

1. Consensus topics (no objections raised)
2. Contentious issues
3. Topics to clarify
 - A. Reform of legislative activity (Nikita Poturaev’s presentation and discussion)
 - B. Electronic trust services (Lilia Oleksiuk’s conclusions and discussion)
 - C. Audiovisual services (Olga Bolshakova’s conclusions and discussion)
 - D. Cybersecurity and personal data protection (Kostyantyn Korsun’s conclusions and discussion)
 - E. Consumer rights protection (Oleg Tsilvik's conclusions and discussion)
 - F. Miscellanea

A. Reform of legislative activity

A.1. The need to involve all stakeholders in legislative activities (adoption in the first reading of the draft law implementing Pat Cox Commission's recommendations)

A.2. Changes to the CMU regulations (never introduced)

A.3. The possibility of setting a precedent for the development of a European-style roadmap during implementation of upcoming Digital Service Act in Ukraine

B. Electronic trusted services

B.1. Major progress as compared to all other areas. Pilot project implementation

B.2. Amend Ukrainian legislation now or wait for changes in eIDAS?

B.3. Certification laboratories: what chance has Ukraine already lost?

C. Audiovisual services

C.1. Progress with the implementation of the European Convention on Transfrontier Television

C.2. Determining stakeholders, definition of services, attempts by the government to extend broadcasting regulation to Internet

C.3. Should the viewers (listeners) be deemed consumers?

D. Cybersecurity and personal data protection

D.1. The situation in cybersecurity and personal data protection in Ukraine is critical, and may put an end to all hopes of Ukraine to integrate into the EU Digital Single Market.

D.2. Who are the stakeholders in cybersecurity and personal data protection in Ukraine? How are the line of authority issues in Ukrainian public sector cybersecurity stakeholders resolved? Who should act for Ukrainian cybersecurity market? How the consumers' interests should be taken into account? How to build trust among stakeholders?

E. Consumer protection

E.1. Ukrainian consumer protection legislation is critically lagging behind European standards. Ukrainian consumers are seldom involved in legislative activities.

E.2. Moreover, there are examples of creating "fake" consumer communities (which actually protect the business interests of their founders). At the same time, even individual users should be able to be heard; to achieve this, the conflict of interest prevention policy should be developed.

E.3. Consumer protection legislation as a top priority

F. Miscellanea

F'. Term formation in the Ukrainian legislative practice

F". EU laws and regulations translation into Ukrainian

The event was arranged with the support of the European Union and the International Renaissance Foundation as part of the grant component of #EU4USociety project. This document reflects the position of the authors but not necessarily the position of the International Renaissance Foundation and the European Union.

Agenda

Welcome speeches

(12:00 – 12:30)

Oleksandr Fediyenko, Digital Transformation Committee, Deputy Chairman
Mykyta Poturayev, Humanitarian and Information Policy Committee, Chairman
Dmytro Shulga, International Renaissance Foundation European Programme, Director
Yuri Matsyk, Ministry of Digital Transformation Digital Infrastructure, Development Department, Director

Expert opinions presentation

(12-30 – 13:15)

Liliya Oleksiuk, All-Ukrainian Association “Information Security and Information Technologies”, Chairman
Olga Bolshakova, National Media Association, Centre for Advocacy and Lobbying, Director
Kostyantyn Корсун, Berezha Security services, Founder
Oleg Tsilvik, “Union of Consumers of Ukraine” All-Ukrainian NGO, Deputy Chairman of the Board

Discussion on expert opinions and Digital Service Act Roadmap

(13:15 – 15:00)

Lyubov Akulenko, Ukrainian Centre for European Policy NGO
Volodymyr Kozak, State Research Institute of Cybersecurity Technologies
Andriy Melashchenko, National Standards Body Of Ukraine
Andriy Dresvyannikov, Trusted services expert
Volodymyr Kovalenko, project expert
Igor Dubinsky, translator

Moderator: Oksana Prykhodko, European Media Platform, Director

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