



Brussels, 1st of April 2020

Ms Anna Herold  
Head of Unit, Audiovisual and Media Policy  
European Commission

Mr Raffaele Di Giovanni Bezzi  
Head of Sector, Audiovisual Media Services  
European Commission

**Re: CCIA's submission to the European Commission's guidelines on the practical application of the essential functionality criterion of the definition of video-sharing platform services (Recital 5 of Directive 2018/1808/EU)**

Dear Ms Herold,  
Dear Mr Di Giovanni Bezzi,

The Computer & Communications Industry Association (CCIA) respectfully submits these comments to support DG Connect's drafting of the guidelines on Recital 5 of the [Audiovisual Media Services Directive](#) (AVMSD).

Recital 5 of the AVMSD states that "social media services should be covered if the provision of programmes and user-generated videos constitute an essential functionality of that service". The meaning of "essential functionality" is not developed further, except that audiovisual content must not be "merely ancillary to", or "constitute a minor part of", the activities of that social media service.

Given that social media services are often understood as covering a wide variety of functionalities, what "constitute[s] a minor part" of that service should be viewed in light of both the scope of services provided, and the relative weight of audiovisual content as compared to other services.

We would welcome clarifications when it comes to the indicators. They should not in themselves (individually or cumulatively) give rise to the conclusion that a service is a video-sharing platform (VSP) service. For example, the 'reach' indicator could wrongly capture services connecting a significant amount of users but where video-sharing is clearly ancillary, such as e-commerce services.

In the same vein, the use of absolutes (as opposed to relative numbers) risks wrongly capturing services for which video is ancillary or minor when compared to other types of content but, because of the service size, a specific (significant) number of video items might be easy to meet (e.g. a popular/sizeable e-commerce service).

Overall, we suggest assessing the essential functionality on a case-by-case basis, in light of its context within the other functionalities offered by the service, and taking into account in particular:

- (1) the overall nature and design of the service; and
- (2) whether removing video-sharing functionality from the service would effectively nullify or severely undermine that overall objective and purpose.

Thank you for considering these comments. We would be pleased to provide additional information and to meet with your services if useful.

Kind regards,

A handwritten signature in black ink, appearing to read 'Christian Borggreen', written in a cursive style.

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