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Dear President von der Leyen,

I have been following, with great interest, the European Commission's proposals on the Digital Services Act (DSA). Recognizing that European legislation in relation to these pressing challenges of our times is likely to impact how others approach these issues, I wish to share some reflections from the point of view of human rights.

Public debate and participation increasingly take place on and through digital platforms and thus how these platforms are regulated deeply affects the exercise and protection of human rights around the world. I welcome the European Commission's decision to hold public consultations on the package. Making these consultations as accessible and inclusive as possible, and ensuring that the inputs from different stakeholders inform the reflection and debate at every stage of the process, will contribute to identifying concrete and feasible solutions.

With platforms increasingly used around the world, concerns about the effectiveness of companies' frameworks and processes for managing content and for interacting with users have increased. Civil society and human rights experts have called for far greater transparency regarding both, the rules and mechanisms used to moderate and curate online content, as well as the actual results of interventions. Similarly, concerns emerged in relation to the lack of effective and accessible remedies, especially for members of at-risk and marginalized communities, which risks depriving users of minimal protections when their rights are affected by interventions in their online communications.

The same rights that people have offline must also be protected online, in particular freedom of expression. Human rights law provides the most solid ground for regulating online expression – it is also the only tested international set of rules and principles resulting from decades of debate and collaboration among States and international legal experts from around the globe.

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By firmly rooting any new rules for the online space in international human rights law, the European Union (EU) would make an invaluable contribution to strengthening the protection of human rights world-wide. In this context, I see the following roles for the Digital Services Act:


- 1) Establish **rules and processes that expand the space** to enable everyone to participate in the digital world;
- 2) Require **more transparency** on how platforms used by millions of people function;
- 3) **Strictly limit take-down requirements to content that is clearly illegal** and avoid extensive liability regimes or general content monitoring obligations; and
- 4) **Enhance the availability, accessibility and effectiveness of redress mechanisms** for unjustified decisions made by digital services.

Safeguarding everyone's rights to freedom of expression and privacy, and promoting public participation are paramount goals shared by most stakeholders engaged in discussions on the ways online spaces should be regulated. Preserving the immense benefits brought by digital technologies to our social and political lives, while addressing the numerous risks, are key challenges for law makers today.

I would like to thank the European Commission for sharing the inception impact assessment with my Office. We recommend that the Commission, as part of the consultation process, undertake a further specific human rights impact assessment which could focus on key concerns such as inequality and discrimination and the protection of privacy, freedom of expression, freedom of assembly and association. This assessment should consider not only the impact within the EU, but the global effects which such a regulatory instrument would have.

My Office stands ready to contribute to the debate and identify further ways in which we can assist the European Commission.

Please accept, Excellency, the assurances of my highest consideration.



Michelle Bachelet
High Commissioner for Human Rights