

Workshop: Trust in Digital Infrastructures. Global Perspectives, Histories, and Politics

The Role of Trust in Platform Regulation

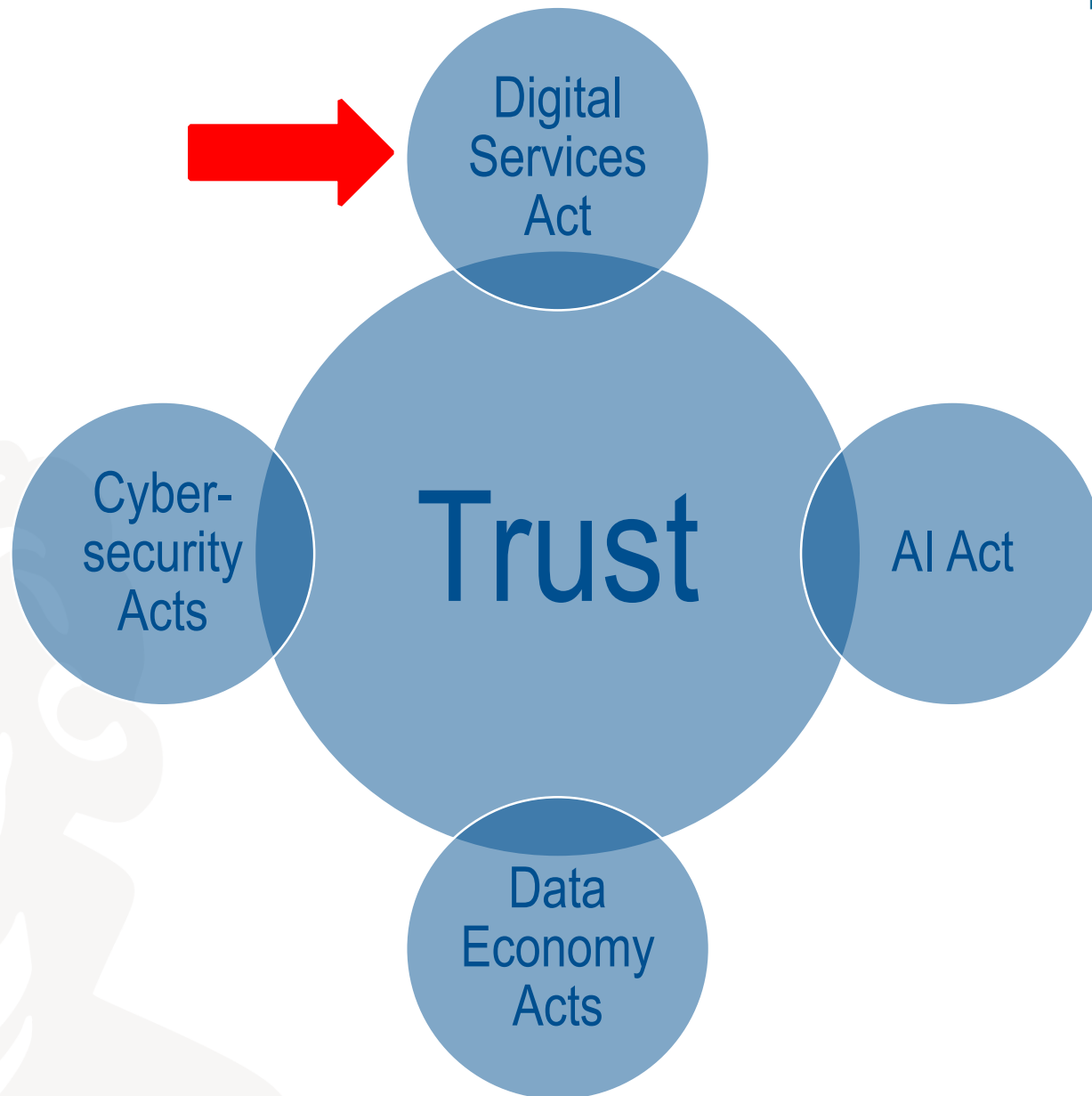
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Proposition #1: EU law does not perceive online platforms like X/Twitter as a fixed digital “infrastructure” where a “conflict-laden process” has been “transformed into a working agreement that everyone can agree on”.

Instead, they are regulated as constantly changing and inherently risky “business models and services” (recital 1 [Digital Services Act](#), DSA).

Proposition #2: „Trust“ plays a key role in EU platform regulation.





- „Trust“ in the Digital Services Act
 - Is used 50 times
 - “The **aim** of this Regulation is to contribute to the proper functioning of the internal market for intermediary services by setting out harmonised rules for a safe, predictable and **trusted online environment** that facilitates innovation and in which fundamental rights enshrined in the Charter, including the principle of consumer protection, are effectively protected.” (Art. 1(1))
 - “In order to achieve the objective of ensuring a safe, predictable and trustworthy online environment, for the purpose of this Regulation **the concept of ‘illegal content’** should broadly reflect the existing **rules in the offline environment.**” (Recital 12)
 - “Providers of online platforms shall take the necessary technical and organisational measures to ensure that notices submitted by **trusted flaggers**, acting within their designated area of expertise ... **are given priority** and are processed and decided upon without undue delay.” (Art. 22(1))

- „Trust“ in the Digital Services Act
 - “**Auditors** should have the necessary expertise in the area of risk management and technical competence to audit algorithms. They should be independent, in order to be able to perform their tasks in an adequate and **trustworthy manner.**” (Recital 92)
 - “In times of **crisis**, there might be a need for certain specific measures to be taken urgently by providers of very large online platforms, in addition to measures they would be taking in view of their other obligations under this Regulation. ... Measures that those providers may identify and consider applying may include, for example, ... further **intensifying cooperation with trusted flaggers**, ... and **promoting trusted information** and adapting the design of their online interfaces.” (Recital 91)

Proposition #3: The notion of „trust“ in EU platform regulation is vague.



- Trust: a complex phenomenon (cf. [Forst, 2022](#))
 - The concept of trust
 - „A trusts B in context C in relation to D“
 - Conceptions of trust
 - Specifications of the ABCD relationship (personal, general, systemic ...)
 - Justified and unjustified trust
 - Are there good reasons to trust (→ trustworthiness requirements)?

- Application to the DSA:
 - (1) Trusted flaggers
 - B: flaggers; C: UGC on online platforms; D: reduce illegal content
 - A?: platform operators, users, public authorities, the European society?
 - (2) Trusted online environment
 - C: online intermediary services in the EU; D: reduce illegal and harmful content/features
 - A?: users, public authorities, society at large?
 - B?: platform operators, public authorities?

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Proposition #4: The notion of „trust“ in EU platform regulation is problematic.



- Is trust justified? What are the trustworthiness criteria?
 - E.g. trusted flaggers, Art. 22(2)
 - Status, awarded, upon application by any entity, by the Digital Services Coordinator of the Member State in which the applicant is established
 - has particular expertise and competence for the purposes of detecting, identifying and notifying illegal content;
 - is independent from any provider of online platforms;
 - carries out its activities for the purposes of submitting notices diligently, accurately and objectively.
 - But Karlsruhe Court of Appeals 2020 and 2021: False fact checks of press publications amount to unfair competition and are illegal ([here](#) and [here](#))

- Is trust justified? What are the trustworthiness criteria?
 - E.g. the disinformation community
 - Disinformation and the DSA
 - Brand Owners and Other Ad Industry Players
 - the [Global Alliance for Responsible Media](#) of the [World Federation of Advertisers](#)
 - Source-Raters
 - [NewsGuard](#), [Global Disinformation Index](#)

Conclusion: Trust – a misleading narrative?



- Further reading
 - Peukert 2023: [Vertrauen als Topos der Plattformregulierung](#)
 - Peukert 2023: [Who Decides What Counts as Disinformation in the EU?](#)
 - Peukert 2023: [The Regulation of Disinformation in the EU – Overview and Open Questions](#)
 - Peukert 2021: [Five Reasons to be Skeptical About the DSA](#)