

MaaS Alliance position paper concerning the proposed Digital Services Act Package by the European Commission

Piia Karjalainen 070920

Mobility as a Service (MaaS)

MaaS is the integration of various forms of transport services into a single mobility service accessible on demand. For the user, MaaS offers added value through the use of a single application to provide access to mobility, with a single payment channel instead of multiple ticketing and payment operations. To meet a customer's request, a MaaS operator facilitates a diverse menu of transport options, be they public transport, ride-, car- or bike-sharing, taxi, car rental or lease, or a combination thereof. A successful MaaS service also brings new business models and ways to organise and operate the various transport options, with advantages including access to improved user and demand information and new opportunities to serve unmet demand for transport operators. The aim of MaaS is to be the best value proposition for its users, providing an alternative to the private use of the car that may be as convenient, more sustainable, and even cheaper while contributing to the achievement of societal and environmental goals.

According to the European Commission, most EU citizens use online platforms. The online platforms have a potential to improve consumer choice and convenience, improve efficiency and competitiveness of the industry and enhance civil participation in society. In the context of digitalisation, online platforms are considered key drivers of innovations. **Mobility as a Service, MaaS** is about integrating different kinds of mobility services and enabling access via a single application, thereby creating a platform that helps users to optimise their journey using a variety of interconnected modes of transport. In 2016 the European Commission's public consultation on online platforms proposed a definition of online platform as "an undertaking operating in two (or multi)-sided markets, which uses the Internet to enable interactions between two or more distinct but independent groups of users so as to generate value for at least one of the groups". Already at that time, the European Commission chose to categorise MaaS as a collaborative/sharing economy platform.

The intermediary role played by MaaS operators allows efficiencies matching supply and demand. In a MaaS ecosystem, the MaaS operator facilitates and monitors direct interaction between providers and users. On a simple integration level, the mobility platforms offer information about mobility options without booking or payment integration, in other words the platform helps users to find the preferred mobility option and redirects to the mobility provider platform/app. With a mature MaaS solution, both a list of available services and booking and payments for them would be possible directly from the MaaS app.

While in many key sectors of the platform economy it is typically the platform that benefits from a stronger bargaining position than the underlying service providers, in Mobility as a Service business the situation is often other way round due to the characteristics of the transport services market. In the digital era, a digital platform could be a tool to add transparency, balance the market and facilitate freedom of choice for users. Thus, when analysing the platform regulation from a MaaS point of view one of the main questions seems to be how to regulate platforms so that they mitigate rather than amplify the monopolized characteristics of the transport service market itself.

Appropriate platform regulation accompanied by open data policies that ensure access to market, fair competition and a wider choice for the consumer are the building blocks of the creation of open systems. This is also the desired vision for the mobility market. In order to support open ecosystem development, the MaaS market also requires services with a high level of interoperability as well as fair and non-discriminating commercial terms. By ensuring that MaaS-operators are not hindered by protectionism and market distortion, decision-makers support the MaaS ecosystem and help it thrive. By providing additional guidance on the relationships between public and private MaaS-players and on what constitutes fair and reasonable terms, decision-makers can speed up the development of MaaS and decrease mistrust in the sector. It is also suggested that especially within the EU, regulators would evaluate and use the good benchmark set by PSD2 (Payment Services Directive) to facilitate trust-building within mobility systems and ecosystems.

MaaS Alliance's general comments on Digital Services Act Package:

- **One size does not fit all:** We agree with the European Commission's ambition to regulate horizontally based on principles that can increase harmonization. However, differences between platforms need to be acknowledged, and to lead to a targeted approach that supports innovation.
- **Roles and definitions:** It is important to take into account that MaaS providers might fall under the different scopes of EU legislation based on their character. For example, MaaS providers might act in EU legislation as a transport service provider or digital service provider and based on this there are different rules for service providers playing in the same market. In this sense the proposed Data Act and Digital Services Act (DSA) should take care that the legislative framework for MaaS is clear and that the same data sharing rules apply to similar services. It should be clear what terms like "content", "services" and "product" refer to, in order to have clarity and to avoid unnecessary burden to sectors that might get caught in the crossfire (like transport services). The DSA should aim to provide a definition of the scope of such services at the EU level in order to prevent judicialization and to decrease fragmentation between Member States. A framework with clear definitions, roles and responsibilities benefits consumers too.
- **The country of origin principle should be maintained:** The country of origin principle (i.e. digital services are subject to the law of the Member State in which they are established and not the law of the Member States where the service is accessible) allows tech companies to set up their business in the EU Member State of their choice and provide their services across the Single Market. This is the cornerstone of a functioning Digital Single Market. Without it, innovative EU companies, in particular SMEs, might face challenges in growing, scaling-up and exporting their services especially if they come from smaller Member States.

- In transport sector the **competition issues** (also in digital environment) derives often from a lack of competition or structural challenges at the market of transport services. The hypothesis is that in certain extent the digital platforms can increase the market dynamics and transparency at the market and encourage competition, although the platforms can never replace actual physical services or overcome lack of their availability. When designing the regulatory intervention, it would be good to also pay attention to this mitigating role of platforms.
- **The structural competition problems** referred to at the consultation especially with regard to the planned New Competition Tool might also arise in the context of Public Transport Authorities or Public Transport Operators with their exclusive role in the actual service provision market and their related independent pricing and ticketing powers. The most frequently occurring problems are explained in the [study](#) commissioned by the MaaS Alliance in 2019. It is also worth noticing that in case of the MaaS sector, small and medium-sized cities might be more exposed to the (structural) competition challenges than the bigger cities with more competitive and attractive market settings.
- **Issues related unfair practices or commercial terms:** Risky situations may occur, for example if platforms use their own generic terms and conditions (T & C) and not the actual T&C of the mobility provider, thus affording no link to the T&C of the actual service provider either at or after booking. It should be a clear responsibility of the platform to inform customers in what terms different services are offered.
- **Governance** plays a key role in building trust around emerging new services. The MaaS Alliance welcomes the Commission's approach regarding the regulation, governance and oversight of the digital platform market. We recommend the use of regulation to articulate how digital economy principles support European values. However, we would like to emphasize that the powers and competencies related to the planned Competition Tool should be proportionate and appropriate. There are reservations related to actual need for this new proposed tool.
- **Consistency:** The DSA should ensure consistency with recently adopted rules on platforms such as the Platform to Business (P2B) Regulation and the New Deal for Consumers, as well as upcoming initiatives such as the data strategy. The Commission should ensure coordination in order to prevent a legislative conundrum, and to assess and take into account the potential added administrative burden.
- **Desired role of EU and division of tasks and competences:** New concepts like MaaS greatly benefit from light and enabling legislation that leaves room for innovation. This way, regulations can be used as an enabler for flexible and innovative MaaS solutions and lower the threshold for new parties in mobility (inclusion). Regarding specific characteristics of the MaaS market, it is worth noting that transport and mobility is strongly and often locally regulated, and the stakeholders have to deal with a complex reality of local, regional, national, EU, and even international regulation. The administrative burden engendered by the complexity of the regulatory framework is challenging especially for smaller companies and market newcomers.
- **Gatekeepers & access to data:** As highlighted at the [MaaS Alliance Data Strategy response](#) (May 2020) the EU should also be a strong voice for protecting customer rights, with a clear framework at place ensuring that all service providers operating in EU provide information to

users in an accessible, succinct, clear and transparent manner. The upcoming framework for data access and use should empower users to be informed and to decide on the use of their data (in accordance with GDPR), only require necessary data from the users, and make ethical data sharing and the “My Data” principles the norm. The MaaS Alliance supports the ambition to strengthen individual data portability rights. In a MaaS market, data portability does not just make customer choice simple and seamless, it also enhances competition and makes roaming between several MaaS services possible.

- Although Europe has not yet experienced uptake of so-called **superapps** the emergence of those apps might change the competition environment very rapidly. The planned regulatory tools should also be capable of steering the development of the superapp market in Europe in the desired direction, respecting the European values (including aspects of digital accessibility) and vision of the Commission, e.g. being empowered to prevent any potentially emerging privacy, user lock-in or other issues.

The Mobility as a Service Alliance (MaaS Alliance) is an international public-private partnership that is creating foundations for a common approach to MaaS, and unlocking economies of scale needed for successful implementation and take-up of MaaS in Europe and beyond. The main goal is to facilitate a single, open market and full deployment of MaaS services. MaaS Alliance members from all sectors collaborate to create the enablers needed for successful deployment of MaaS in Europe and beyond.

For more information & inquiries, please contact
Secretary General Piiia Karjalainen, p.karjalainen(a)mail.ertico.com
www.maas-alliance.eu
