



DOT Europe paper on the one-stop-shop

As the EU institutions continue their deliberations on the digital agenda, DOT Europe, the voice of leading digital online tech companies in the EU, seeks to increase awareness of the one-stop-shop mechanism (OSS) to encourage policymakers to implement **streamlined supervisory regimes and cross-border enforcement mechanisms**. These are useful because decisions by supervisory authorities improve protection for citizens across the board, while also reducing regulatory fragmentation for businesses, encouraging scaling-up and strengthening the EU single market.

Definition of OSS

Under the General Data Protection Regulation (GDPR)¹, each Member State must designate an independent data protection authority (DPA) as its ‘supervisory authority’ responsible for national policing, enforcement and compliance with data protection laws. Where a controller or processor carries out cross-border data processing across multiple Member States, the OSS mechanism allows it to designate a single, lead DPA as its central point of enforcement for regulatory purposes that is recognised across the EU, unless the processing substantially affects data subjects in other Member States. This lead DPA will be located where the business has its ‘main establishment’ (i.e., place of central administration and decisions about data processing).

OSS in other legislation

NIS 2: A similar regime is established in the draft NIS 2 Directive². Here, the draft Directive establishes a one-stop-shop regime for certain digital infrastructure (DNS service providers, TLD name registries, cloud computing service providers, data centre service providers and content delivery network providers) and digital providers such as online marketplaces, search engines and social media platforms, determining their jurisdiction as the Member State of main establishment.

ePrivacy Regulation (ePR): The draft ePR³ states that the supervisory authorities appointed by each Member State under the GDPR are responsible for monitoring and applying the ePR, with the European Data Protection Board charged with ensuring consistent application overall. The draft ePR replicates the GDPR, importing the OSS mechanism wholesale, while the European Parliament text includes further clarification on the role played by supervisory authorities.

¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC <https://eur-lex.europa.eu/eli/reg/2016/679/oj>

² Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on measures for a high common level of cybersecurity across the Union, repealing Directive (EU) 2016/1148 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:823:FIN>

³ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL concerning the respect for private life and the protection of personal data in electronic communications and repealing Directive 2002/58/EC <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52017PC0010>





Benefits of OSS

OSS mechanisms aim to ensure that **legislation is interpreted consistently** in a cross-border context through businesses having to liaise with a single primary regulator rather than multiple DPAs. Requiring companies to cooperate with a different regulator in each Member State they operate in risks legislation being applied inconsistently, undermining the long-term success of the legislation, as well as creating administrative burdens due to jurisdictional disputes where companies and DPAs are not clear on who oversees what. **A consistent and uniform interpretation of legislation provides legal certainty for businesses**, which is necessary to encourage investment, foster innovation and strengthen the Digital Single Market. Under the OSS mechanism, businesses engage with authorities that speak their language and can advise them on an ongoing basis. An open working relationship can be established, **allowing both sides to benefit from established channels of communication** where the companies can ask for advice and have ongoing exchanges with their national authority. This relationship is important for SMEs, which may lack the resources to engage with numerous authorities and varying interpretations of the same legislation, as well as citizens who benefit from uniform protection across the EU.

The way forward for OSS

Notwithstanding the above, there has been some criticism of OSS mechanisms. The first concern is that there has been an unequal implementation of the system owing to varying levels of capacity in different national supervisory authorities. The second is the alleged issue of ‘forum shopping’, whereby businesses ‘shop’ for the jurisdiction with the least stringent enforcement. We recognise that patchy implementation poses a threat to the basis for harmonising regulation at EU level, but see a solution in the principle of close, sincere and effective cooperation between authorities to ensure consistent application.

