

(English version)

**Question for written answer E-002041/24
to the Commission
Christel Schaldemose (S&D)
(14 October 2024)**

Subject: Liability of online marketplaces for products sold through their services

Will the Commission explain how it makes sense that, under Article 8 of the Digital Services Act (DSA), no obligation may be imposed on online marketplaces established in Europe, such as Temu, to check documentation on the legality under EU law of the products they broker between sellers and producers in third countries and EU consumers? Neither Article 31 nor Article 34 of the DSA seems to alter the fact that, under Article 8, no obligation can be introduced to verify the lawfulness of products and packaging before they are put on sale.

This appears to be in stark contrast with the basic principle that traditional European traders have a duty to ensure that the products they bring to Europe from sellers and producers in third countries comply with EU product and environmental legislation. That must be ensured before the products are put on sale.

Submitted: 14.10.2024

**Answer given by Executive Vice-President Virkkunen on behalf of the European Commission
(21 January 2025)**

The Commission takes seriously the risks related to online marketplaces concerning the online sale of unsafe and illegal products in the EU.

Article 8 of the Digital Services Act ⁽¹⁾ (DSA) confirmed the prohibition to impose general monitoring obligations on providers of online intermediary services, including seeking facts of illegal activities, which existed in EU law since 2000.

The DSA has also introduced fully harmonised due diligence obligations for providers of online marketplaces. Article 31 of the DSA requires providers of online marketplaces to carry out best efforts to assess the completeness of the information to be provided by traders concerning, among others, compliance with product safety EU law.

Under Article 34 and 35 of the DSA, providers of very large online marketplaces are required to assess and effectively mitigate systemic risks that their services pose to consumer protection.

Providers of online marketplaces are therefore liable under the DSA for the compliance with these due diligence obligations, which are consistent with Article 8 of the DSA ⁽²⁾ and account for their role as intermediaries.

Complementing the horizontal framework of the DSA, the General Product Safety Regulation ⁽³⁾ introduces product safety obligations for providers of online marketplaces and reinforces product traceability requirements and the Product Liability Directive ⁽⁴⁾ clarifies that online platforms too can be held liable for the damage caused by a defective product, under certain conditions and, for instance, when such a product does not comply with safety legislation.

The EU Customs Reform proposal ⁽⁵⁾, under negotiation, proposes measures to strengthen the capacity of customs and other authorities to enforce compliance with EU rules.

⁽¹⁾ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act), OJ L 277, 27.10.2022, p. 1-102

⁽²⁾ Recital 74 of the DSA.

⁽³⁾ Regulation (EU) 2023/988 of the European Parliament and of the Council of 10 May 2023 on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council and Directive (EU) 2020/1828 of the European Parliament and the Council, and repealing Directive 2001/95/EC of the European Parliament and of the Council and Council Directive 87/357/EEC, OJ L 135, 23.5.2023, p. 1-51.

⁽⁴⁾ Directive (EU) 2024/2853 of the European Parliament and of the Council of 23 October 2024 on liability for defective products and repealing Council Directive 85/374/EEC, OJ L, 2024/2853, 18.11.2024.

⁽⁵⁾ Proposal for a regulation of the European Parliament and of the Council establishing the Union Customs Code and the European Union Customs Authority, and repealing Regulation (EU) No 952/2013, COM(2023) 258 final.