

Transcript: Platform Futures #2 Roundtable: 1+1=3: When Consumer Protection and Digital Rights Converge

Date: September 7, 2022

Featuring:

Panelists

- Prabhath Agarwal, Head of Unit “Digital Services and Platforms, European Commission” (co-draftsman of the DSA and DMA package)
- Helani Galpaya, Executive Director, LIRNEAsia
- Youkyung He, Executive Director, Consumers Korea
- Helena Leurent, Director General, Consumers International

Facilitators

- Malavika Jayaram, Executive Director, Digital Asia Hub
- Dev Lewis, Program Lead, Digital Asia Hub

Length: 59:23

Synopsis: The consumer protection movement has a long history of advocating for changes in products and services - and the terms and conditions that govern their use - in the public interest. Increasingly, their mission has had to engage with digital goods and transactions, and the new types of fraud, scams, and harms that they enable. Equally, digital rights advocates have played a key role in centring end-user rights and freedoms while challenging power and information asymmetries in the tech sector.

Both sets of actors have had to contend with the increased platformization of everyday life. The combination of digital transformation initiatives and the COVID-19 pandemic has accelerated this trend, as commercial transactions, welfare programs and social interactions have moved online. In parallel, governments have had to contend with the consequences, and seek to address it through a set of legal and regulatory tools, with a focus on competition, data protection, cybersecurity and disinformation. What can consumer protection and the consumer rights movement add to a space dominated by tech policy and digital rights organizations? How can the two work in tandem to amplify their impact?

Platform Futures: 1+1=3: When Consumer Protection and Digital Rights Converge

Digital Asia Hub and Consumers International invite you to a roundtable discussion exploring the intersections between consumer protection and digital rights, to contextualise end-user harms, and to orient the discourse and legal frameworks around consumer experiences and rights. In particular, we will consider:

- How consumer interests can be articulated and effected in platform governance debates
- How we can think about individual and collective interests in platformized societies
- What sorts of research and open questions academia and civil society should engage with and prioritize in this space

Video Link:

<https://www.platformfutures.asia/whenconsumerprotectionanddigitalrightsconverge>

TRANSCRIPT BEGINS

Dev Lewis 0:03

And I will turn over to you to Malavika to kick us off.

Malavika 0:10

Thank you, Dev. Hi, everyone really great to see you all. And to see many familiar faces in the list of participants. My name is Malavika Jayaram. I'm the Executive Director of Digital Asia Hub, where a Hong Kong-based independent think tank incubated by the Berkman Kline Center at Harvard and other stakeholders. This is part of our Platform Futures program, which we started about a year and a half ago. And this is phase two. In the first phase, we published a series of little books, which we very playfully called Small Books for Big Platforms. Heleni is on our expert network, which will produce those publications. So we're thrilled to see her here. But about a year ago, maybe it seems like five in pandemic time. Helena Leurent, who's the Director General of Consumers International, and I were having a chat about, you know, ways in which we could converge the consumer rights movements as well as digital rights activists. And I think it's particularly wonderful that we're doing this together as a co-hosted

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event. And I think it's very pertinent because even even now, when we're talking about platforms, when we're talking about very, very high tech, things like artificial intelligence, we keep coming back to metaphors about seatbelts, about regulations that have protected consumer interests, all of which predated many of these technologies, all of which are borrowed from the consumer rights movements. So they have a long, long history of advocating for people. And it sounds like a cliché when you know, we're all talking about putting people back in the center of the equation when it comes to automated decision making and other uses of technology. But the consumer rights people have always had people at the center of everything they do. So I think there are so many lessons that we could learn from movements that predated the digital, that predated the kinds of tools and technologies that we're talking about now. So we're very, very excited to do this, along with Consumers International, and I would love whoever is not on mute, to please put yourself on mute, that would be so much appreciated. Thank you. So without further ado, this event is really about the power of both our movements coming together when consumer rights and digital rights converge. And we have a really fantastic lineup of people. So I'll hand over to Dev to introduce everyone. But first, I just want to thank Helena, Javier and Holly for helping us put together this event. And we're so so delighted to co host this with you, Dev, over to you.

Dev Lewis 2:59

Thank you, Malavika And thank you everyone for joining, I'm gonna go straight into it. We've got an action packed 55 minutes ahead of us. And I don't want to waste too much of it. So with that, I'm going to introduce our first speaker for the day, Helena Leurent, who is the Director General of Consumers International, who are our co host and partner for today's event. Helena, you have a long experience of consumer protection and bringing in advocating changes in products and services. I was wondering if you could share some insight and how that movement is transitioning into the digital age and in two platforms. And we'd love to hear your insight and experience on this.

Helena Leurent 3:45

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Happy to, Dev. So first, if I can express back to Malavika and the team. Thanks and excitement about the opportunity to connect. Time flies, I think we were last talking sort of was it November last year, and then sort of couple of conversations in between, I think this is a start of a really great conversation. And I'm excited to be part of it and to support. So thank you very much. Dev you said we've got I've got a long experience. That's probably not quite true, but our members do. Consumers International as a 60 year old organization. There are members as old as that although, you know, consumer advocacy continues to grow around the world. The digital space and how obviously consumer advocates focus on a whole range of different topics of food, finance, mobility, you know, all of the different areas that consumers experience, that people experience there as they are in the marketplace. And that's pretty much all of us in some way, shape or form. Now as the digital world has grown, digital issues have become increasingly high on the agenda for consumer advocates. That might be access in some places, and from a sort of a telecommunications and infrastructure standpoint. But increasingly, it's become the issues that digital rights experts will know and have been working on for a long, long time. And this is where there's a great opportunity to align. I think if we look at some of these, the majority of consumer advocates will be thinking about the following things: sustainable consumption, digital rights, and what consumer protection and empowerment means so that we get to a marketplace that is safe, fair, sustainable, and has a better sense of equality. Now, if we dig into, what are those, I think it's data governance, how, you know, how are we actually putting this together in a form that lays the foundations for the future. Second, the harms that consumers experience that might be, you know, what's called deceptive design, or, you know, the ways in which the outcomes can lead us astray. It can also be things like personalized pricing, which used to be just an economic term, and is now something that, you know, increases and exacerbates inequality, it could be looking at it from the sort of bringing together digital and sustainability, it can be the impact of connected devices. So there's a whole range and slew of places where the digital and consumer worlds can come together and reinforce and complement each other.

I think maybe the last sort of introductory comment, I would say is, there are an interesting range of tools that consumer advocates bring to the table. Those start with sort of real understanding of the consumer experience on the ground, from a lay person's perspective, and being able to put that into context, thinking about that from, you know, the experience of different segments of consumers. And really, you know, as

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a global organization, we just see this sort of this overarching trend of increased recognition of the impact of online, but you've also got this absolutely local, you know, local experience, which has to be taken into account, if you're going to have any form of impact. Beyond that, though, many consumer advocates have a form of statutory engagement in their country. And this is fantastic. You know, I always use the example. There are great examples around the world. But our member in Zimbabwe, the Consumer Council of Zimbabwe, helped draft the Consumer Protection Act for the country, which came into force in 2019. And they've been brought in to then advise on how that gets put in place. So you've got an organization that can both be in touch directly with consumers around the country, and is sharing that perspective, with government with business on how to make things better in a very real time way. And you can build different forms of leadership, different ways in which we build together. As well as then, of course, when we see things that aren't going well, there are examples in which consumer organizations can represent consumers in action. And then finally, if we look to other organizations, they are actually innovating and setting standards, showing the way in which products and digital services could be put in place in ways that are actually effective and live up to the consumer protection principles. So in some depth, lots of excitement, I really think there's a lot that we can do together. We see a lot of interest in this from our members. And there are multiple different forms of intervention that I think we have to put together to make this more effective. I'm thrilled that we have, I can see some real experts on the call here and I think it'll be fantastic to bring them in on some of the questions and points and I'm looking forward to learning myself back over to you

Dev Lewis 10:02

Thank you, Helena, that was wonderful, I think lots of insights and items that we're going to get to. With that, I'm going to use our second speaker, Prabhat Agarwal. Prabhat is the Head of Unit Digital Services and Platforms at the European Commission's DG Connect, which for those of you who are not familiar, DG Connect stands for the Directorate General for Communications Networks, Content and Technology, which develops and carries out the European Commission's policies on the digital economy and society, and Prabhat played a role in the drafting of the two new Acts, the Digital Services Act and Digital Markets Act, which was passed in July. And Prabhat I think that would be the great starting point to speak to you on what was

some of the motivations for these instruments, and particularly honing in on consumer rights and consumer protection? Maybe share some insight into how the two acts go about that? And what's novel about this approach?

Prabhat Agarwal 11:03

Yes, thank you. Thank you very much, Dev. And also, for me, really exciting to be here this morning, also, really looking forward to an interesting discussion. Maybe just to answer your question. Indeed, for those who don't know, the European Commission proposed, a year and a half ago, two major new laws in the digital space, the Digital Services Act, then Digital Markets Act, both aimed at regulating online platforms, particularly large platforms, online platforms are what we call those services that intermediate access by consumers, or users more broadly, to information content, services, or goods. So it covers everything from Instagram, to Amazon marketplaces. And those, those or eBay is, depending on those kinds of business models. Some of them are not familiar to everyone everywhere, so apologies that I'm not kind of maybe using examples from your region, but I'm sure in every region, you have similar, similar services available. And to answer your question on the motivation is that there are three big drivers for those. One is that we felt that in first of all, we saw inside the European Union, a set of new laws emerging that were kind of contradictory at national level or kind of colliding neutrally. And so the European Union as a legislator sometimes becomes active when inside European Union member states of the European Union legislate in an area, and we have a mandate from the treaty to harmonize such laws and to make kind of one European law, if different member states pass different national laws. And so this is one big drive. And we saw this in the area of platform regulation, really becoming a very strong concern that many governments inside the European Union felt that user protections were not strong enough, there's a lot of illegal goods or content on platforms, and also the transparency accountability framework around these platforms wasn't really advanced enough. So these are a couple of motivations, that led me to, to legislate. The second driver is that indeed for the European user or consumer, there is clear evidence from our our work on the impact assessments at the level of of protections and empowerment, that that were available relative to online platforms wasn't high enough, relative to the problems that that we, that we that we encountered. And maybe not to on the substantive points, you know, there were just kind of three particular elements that we zoomed in on, let me

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say four elements, one is, you know, to really give users on platforms, you know, a greater sense of choice and what sometimes people call it, you know, to react, redesign the choice architecture on what, on how people interact with content, usually, the users are, in many cases, are often not empowered to sufficiently to know about how they engage with their online platforms. And one classic example is very complex terms and conditions that that nobody understands and that a normal user cannot really decipher, ranging to, you know, kind of very difficult options that are available for users to modify their preferences of and also the default settings. And in some areas that are that are set in a way that may be misleading. This is something particularly of concern to the European Parliament. And we introduced a kind of motions on dark patterns, for example, the third element was to give consumer organizations representative organizations who protect the interests of many users, new tools to come take legal action on behalf or kind of collective interests. So it's one representative actions. So when it's not only just one user affected by it, but I kind of...Within the US it's sometimes known as kind of class actions.

Those those tools were missing for some of the issues related to perform regulations. And finally, and I think that this is a particularly strong point, both of the DSA and DMA, is that there wasn't really an up-to-date accountability and transparency framework, that for our own platform in the European Union, and in that, my transparency, I mean, kind of three types of transparency. One is towards the user or secondly, towards a regulator. Or, or thirdly, towards kind of expert researchers in which where we often it's very difficult to understand exactly what harms derived from platforms and to empower researchers also to, to carry out an in depth understanding of, of the mechanics behind these behind these tools. So I'm focusing a little bit more on the DSA, the DMA, digital markets AG, is a kind of complementary twin proposal that deals more with kind of complementing this framework, I would say, by looking beyond existing approaches in competition and antitrust law, which has been the main vehicle in the European Union attacking anti competitive practices. But the digital markets act deals, particularly with the so called gatekeeper position that many platforms have where they intermediate between a huge number of providers of information goods or services on the one hand, and an enormous body of consumers on the other side. So this is in a summary. And just to maybe summarize, what I wanted to say is that what the proposals collectively seek to better empower users and consumers through more meaningful information without overloading them with information is also a big, big issue in the digital space. Second, is to empower regulators. In this case, the European

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Commission with can wide ranging powers to, to to hold platforms to account to some including some of their internal processes. Second, to empower consumer protection organizations or other representative bodies, you know, to have stronger legal standing in European courts, to protect consumers when there's widespread Home wear of which we have some, some some indications. And finally, to offer a range of protections, I can go into more details directly and better, better protecting consumers. So this would be in a nutshell, the summary of the of the proposal, maybe I can just make one broader reflection is we because I mean, we speak we spoken a little bit our customers, we in the design of the Digital Services Act, we tried to kind of a little bit, avoid a framing excessively focused on consumers, because a normal person is kind of in the morning, you check your news, and then you check the way to work. And then you know, and then you use a platform to communicate with your kids who forgot their lunchboxes like it happened this morning with my children. And then and then in the afternoon, you buy some clothes, because they have outgrown their use. So in as in a daily journey of a normal person, you know, you act not only as a consumer in the traditional European sense of consumer protection, where you buy a good and you have certain rights relative to buying a good, but actually in your user journey, you have many different, you have many, many different personas, and some of them coincide with the traditional European definition of a consumer, but many of them don't. So so we try to prefer to speak, and this I think comes to the nexus that you were also outlining, you know, we prefer to kind of speak about a user and not necessarily a consumer, thinking that the notion of a user is broader than at least in legal terms, than that of a consumer, this may be a nuance, but I just wanted to say that we cover a broad range of activities for which users should be empowered. Even if they don't purchase a good or financial service or something like that, sorry, just, this may be just academic. But I wanted to make this small, small point.

Dev Lewis 20:13

Thank you so much for that, I think we will definitely drill down on some of the consumer protection focused points that you brought up during our next round in the discussion. Great. And with that, I'm going to move to our third speaker Helani. Helani is the CEO of LIRNEAsia a pro market Think Tank working on digital policy issues in the Asia Pacific. And she's also a Digital Asia Hub Platform Futures expert network member. Helani, you've done a lot of work on the lived experience of consumers and

users of digital platforms in South Asia. Can you maybe outline some of the key harms that you see need addressing? And where legislation hits or misses the mark?

Helani Galpaya 21:02

Sure. Thank you, Dev. Yes, I think the previous speaker Prabhat gives me a really good starting point to answer that. So you know, we do regular nationally representative surveys on digital access and use across multiple countries in Africa, Asia, Latin America with our partners. One of the things that repeatedly comes across, we are really interested in the use of platforms. And we see that the numbers are going up. But that difference between a user and a consumer is a really important one, particularly in South Asia and Southeast Asia, because we see, the first thing people do and the most predominant people think people do is to use platforms for price comparison, not for the actual purchase. So that's a really, really important point. It's a price revealing mechanism in a market. So the displayed price is a key thing. Lack of display of price until you go to the other steps is a real problem. For example, from a consumer point of view, then, for example, in 2021, in the surveys in Sri Lanka, and India, you know, large 10,000+ sample surveys representative of everyone over the age of 15. We asked people who don't use platforms broadly defined, whether it's transport, whether it's for work, whether it's for finding hired help, whether it's the Airbnb, e commerce, Flipkart, you know, all of that kind of platform, non users, why? The biggest reasons are not particularly relevant to this conversation. That is they don't have the need, and they don't have the ability, they don't know how, like over 50% of non users say I don't need it, I can still go to the shop and buy. And an equally large number 30 plus percent of the population says, Well, I don't quite know how so that's something we need to address. But there are other reasons that then creep up that are really relevant.

"I'm not certain I will receive the goods" is one of the third or fourth highest reasons people don't use platforms. So there's a huge trust element and inability to follow up, if you buy it from your corner shop or a regular shop that you go to ability to get redressal if you don't get the good or if it's a bad good, then that's there in the way people have been purchasing. But they're not sure how to deal with this when the distance is large and the seller is not a person that you can go talk to. "I cannot be certain of the quality of the good", or "someone I know has had a negative experience",

"I do not want to give my personal information", or "I'm not comfortable giving my financial information to a platform, in order to finish the transaction" come up in the reasons that people select for not using platforms. And of course, these are sort of legitimate platforms. These are not about platforms that do actually scams. So for E commerce platforms that's important. For work platforms, the kind of micro-work freelancing platforms, there's a whole set of other things. So scam websites are a real thing. So we've studied where ad clicking is a really popular really low paid job that people across South Asia are doing. So that you know if you generate 1000 clicks, you get \$1 on a YouTube video, that kind of stuff, right? So you need to work a lot. We've talked to people who work for a year to earn let's say 100 or \$1,000 by clicking and in the end turns out it was a scam or they are not going to get paid. And there is no recourse. Even the best digital work/micro-work freelancing platforms are designed in a way where it's really good for the buyer of services was usually overseas and not for the worker. If the buyer doesn't pay, there is less recourse. The buyer ranks that worker for the work that they do. The worker does not rank the, the buyer of the services. So the design of the platform itself is problematic. There's lack of transparency in how these rankings work when people work on work platforms that your ranking based on the buyers, you know, star ratings or whatever is really important. But that's not the only thing that determines your ranking, how fast you respond to emails, most people don't even know why some people are getting jobs than others because some people have a five star ranking. So lack of transparency, then there's a switching cost, which is a really particular one in work platforms, because when they want to move to another platform, they can't take their sort of ranking and previous work and move to another work platform, right? Then on social media, in particular, any transactional platforms, like E commerce, one privacy and sort of violations of my privacy come up. So those are sort of the range of challenges that sort of people cite when we talk to them either quantitatively or qualitatively. So in the end, I want to also give the context that a lot of the users are very recent internet users. And when we ask, Can you do a range of these actions by yourself or with the help of other people, most people and actions are things like change your privacy settings, search for something, anything other than passive, passive browsing across South Asia, what you see is only about 25% of the people are able to do these more than browsing more than passive browsing activities themselves, less than 50% are able to do it by themselves, or with the help of somebody else. So consumer skill also has a lot to do with it. So across the countries, obviously, there's the old fashioned consumer protection legislation, which is used by not, but not necessarily by majority of

the users, there is a lot of power education and connections, you need to go and fight a case against a company. The police are not particularly good at investigating these violations, even when you do have a law. Many don't have data protection regulations. And the consumer protection authorities have low resources and low capacity as well. And in fact, there's more capacity, perhaps at like a telecom regulator to look at digital markets, then at a Consumer Protection Authority, which has traditionally worried about the price of milk and whether that has gone bad. So there's a whole set of things that complicate the situation for emerging markets. I'll stop, stop there. And we'll come back to further questions. Thank you.

Dev Lewis 27:45

Thank you, Helani, that was great. I think lots of points again, for following up. And with that, we'll go to our fourth speaker today. I'd like to introduce Youkyung He. And she is the director of Consumers Korea, one of the most active consumer organizations in South Korea, with priority areas, including digital privacy, and platform regulations. Youkyung, I was wondering if you could help outline some of South Korea's approach to addressing the sort of power asymmetry is a platform power and monopolies in South Korea and maybe share some highlights on the consumer protection movements in South Korea and how they informing new legislation that's targeting tech companies.

Youkyung He 28:31

Thank you, Dev. Thank you for having this opportunity. So just before we dive into, like, what how the Korean regulators or the Korean legislators are dealing with the issues in Korea, maybe I'd like to give like a kind of little background of how dominant platforms are in our country. So in Korea, we have like a high level of internet penetration. And so there are these two major platforms where basically every adult in Korea are logged into. So we have Kakao Talk. Kakao Talk, it's a messaging platform, and about like a whopping 97% of the nation's population, which means everybody who went even from like elementary school kids to adults are all logged into here. And we have Naver, which is the most my widely used search search engine. It's more popular than Google. And these two platforms actually don't just provide messaging

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services or search engines. They also provide a number of other e-commerce or related things. They have a taxi hailing platform, they provide financial services, they provide news outlets, so if you want to check your news, you have to open one of the apps. These provide like games, comics, web novels, maps, social networks, blogs, messaging boards, and everything, including e-commerce. So, so this is the background where we're working in Korea. And also a unique factor in Korea is that the government, our legislation requires every person living in Korea to be registered under resident registration number. So you need to have that number in order to get a mobile phone and you need a mobile phone basically, to log into these messaging apps. So you just everybody's just like connected and you need this. And potentially what happens with this high penetration of these platforms and the use of government mandatory use of this resident registration number is that consumers are hyper-connected. And they're also very vulnerable to like potential hacks, privacy issues, data protection issues, and such. So the platforms have this potential to collect information about the users because they're logged in in their everyday lives. And at the same time, the platforms are also providing e-commerce services, and they can exploit the information extracted from the users through various channels of e-commerce, and the threat of identity, identity theft, or lack of data security is very real. So in a sense, and we've recognized as a consumer organization, that data rights or online privacy issues in a very real sense, they are converging with consumer protection issues, because it involves in fact, in fact, the same very same platforms that provide the services embedded in the everyday lives of Koreans. So we've partnered as a consumer organization, we have partnered for several years, with specific, specifically digital rights organizations. We have high level seats at the Data Protection Authority. We are former CEOs and our currency, you have a seat as a commissioner at that authority. Through these various channels, we have been voicing our opinions about legislation, policies, regulation, regulatory actions and such. So what Korean legislators and regulators have been doing in this space is that there are like, two categories. So one is like providing a comprehensive ex ante legislation to this space, whereas there are new bills on numerous new bills, and also a few pieces of legislation that we've seen during the past few years. So one is when a law that we've seen is the establishment of what is described as the world's first legislation targeted at prohibiting mandatory in-app payments by platforms. So Korea enacted the first law banning the mandatory in-app payments to prevent the platform operators basically Google, Apple from dominating the app market and abusing their status to force specific payment methods on the content providers. And we also have I would pieces

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of legislation is actually like six bills regulating, targeted at regulating online platforms they are aimed at. It's a B2B legislation, it's intended to regulate the relationship between the platforms and the stores to operators that function within the platforms.

Among one of the things that that legislation does is it requires the platforms to enter into prior agreements with the operators, specifically on matters such as how the exploit exposure rankings, how the search engines work, according to the how the search or algorithms work within a platform. And then there's an E commerce legislation that specifically looks into the the business to platform and the users or platforms and the consumers (B2C) legislation that is also being discussed. There's a whopping actually 18 bills in this area. So it's, for example, one of the items that are discussed in this area is requiring the online platforms to provide some certain liability responsibility for consumer damage occurring from these online transactions. So this is just a few of the items that are are being discussed. And aside from these proposed legislations, what actually the Korean FTC, the Korean competition authorities have been approaching this, using the existing Competition and Consumer Protection laws, by imposing enforcement actions on the platforms, for example, ordering the platforms to change to change their terms or conditions, because they're deemed unfair under the existing consumer protection laws. And also, from an anti company competition perspective, there's numerous antitrust investigations and enforcement actions that have been done in this space where, for example, the KFTC fined Google for abusing market dominance in in the Android operating waste market in 2021. And also in 2020, the KFTC fines Naver, one of the major platforms for manipulating the search algorithms. And so we see numerous enforcement actions coming from the anti competition side, also. So I'll stop here. And maybe we'll go come back for more questions later. Thank you.

Malavika 36:18

Great, thank thank you so much. It's been wonderful to hear this range of experiences and tools. And I'm going to go back to Helena very quickly to, to try and get some of the lessons that we could transport from the consumer protection movement into the digital space. And, you know, consumers organizations have a very rich history of engaging with companies, whether it's antagonistically, or collaboratively or you know, there's a whole spectrum of ways in which you can engage towards achieving

outcomes. And I was wondering if you could share some thoughts on, you know, how civil society could meaningfully engage with platforms based on consumer experiences?

Helena Leurent 37:02

Yeah, happy to thank you Malavika. And I think there's a great some points in the chat and some great points that have been brought up about, you know, what the word consumer and what it means. And I just like to sort of pause there for two seconds one, absolutely, there's sort of that is both too narrow, a way of thinking about things, and therefore, we need to collaborate across. And yet, it is such an important and rich part of the experience where some of these harms can happen. I also think I have this feeling that we've allowed the word consumer to be defined as sort of infiltrated by consumerism, and it sort of lost their sense of citizen in the marketplace, perhaps we can find an alternative term. But that is, you know, that is so rich, and, you know, as especially not just in the digital world, but in sustainable consumption, you know, in the world of sustainability and meeting the climate crisis, our understanding of the rights and responsibilities of that person, as they act in the marketplace, and how we complement that with other, you know, our other actions our citizens, you know, in different settings, deserves and needs greater thought, and absolutely means we have to cut across different the silos that have been in place in the past. To your question, Malavika, I think there are a couple of places that can work. One is these questions, as you know, governments are thinking through. And I think it was a great point from one of the speakers earlier, you know, governments trying to deal with this need to support people in very fast moving sectors, and bringing both the consumer voice together with other actors, but also helping across different sectors. An example here that I will bring from Digital finance is we have just this year this year, set up a network in low and middle income countries around the world. We have I think, 45 countries that are part of it now, where we can bring together consumer advocates, other advocates who are directly in touch with people experiencing Digital finance, finance services, and create bridges between them and regulators and digital finance service providers. And that enables us to have a joined up conversation. A lot of it is and actually training the consumer advocacy organizations themselves. But then, you know, making sure that we've got this best practice sharing around the world. So I think there's a sort of, you know, that bridge building across various actors, all of whom

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are looking for, you know, how to improve and make, you know, and make this actually work. That's one. Another example is, I think there is so much more, so many gray areas and questions we need to be asking. An example would be, you know, as you think about the growth of E commerce, on one hand, we're trying to combat deceptive design. And then the other there's an entirely separate conversation going on, in the climate world about how do we nudge people towards sustainable choices as they shop online, those two are going on in isolation, I feel and we are coming up with well, on one hand, you need much greater transparency and strict rules. And on the other hand, we need to inspire and change change people's perception. So I think the second part is actually bridging conversations that need to be had, and very, very quickly, otherwise, we're going to find ourselves, you know, in any continued mess. So there's a piece which is keeping an eye on the strengthening that collective action, I would argue, making sure that we're clear on some of the principles and things that we don't want to lose from the past, but also a leadership role to build on questions and with bridges between actors that just haven't been there and are therefore not fit for purpose. So and then we can dig into the specific areas, which I think could be unpacked. But those would be some of the mechanisms, I would point to.

Malavika 42:00

Thank you. I think this links very clearly also to the sort of dark patterns theme that Prabhat mentioned, as well as you know, some of the ways in which nudges and behavioral economics dictate the choice architecture of platforms. So I think that's, that's very key here. I think turning to Prabhat, one of the things we always hear about when we talk about the DSA and DMA package is people's heads that kind of exploding it the idea of ex ante versus ex post, you know, lawyers know what that means. But a lot of users and consumers don't. And I think given that this is one of the unique characteristics of this package, it would be great to have you outline, you know, what is unique about this approach, what does it bring to the table? And I think the question for a lot of our audience here is, does all this stuff happening in Europe have extraterritorial effect? Like, what does it mean for me sitting in Asia? So it would be great to hear your thoughts on those questions?

Prabhat Agarwal 43:03

Yes, thanks. Tough questions. So maybe, first, just to say that we're Helena just outlined, you know, about the need for for more and more systemic collaboration, also, across silos, it's really something that we endorse here at the European Commission. And I can say that, you know, I'm, maybe this is a little bit inside talk now. But my team is actually what's responsible for has been responsible for platform policies and regulation across the board. And so one of the challenges has been to set up a team that deals with kind of, you know, terrorist content on social media, unsafe products, or smuggled wildlife and people trafficking, as well as, you know, unfair conduct, like the one that, that the Korean colleagues, you know, I unfair payment services, it's all you know, so we've covered the whole brand, and, you know, a whole range. And one of the mind boggling things about is that just how wide this range of different issues is, you know, and just to give you an example, the European Commission is, in European terms, a relatively small administration, you know, we are corresponding and our coordination team, you know, we have something like 49 different teams inside the EU who are specialized and in other issues, you know, so violence against women online, which is a big problem in the European Union, or unfair commercial practices, and so on. So just it's an I guess, this is one of the things that we have to just simply accept, I think that as our whole lives and our economy moves online and in what the whole complexity of our lives and of our economic structure kind of will also move online. And this is the segue to the difference between ex ante and ex post. And ex post is usually the technical term that is given to the way that in, at least in the European Union, we enforce competition rules. So I suppose that we wait for an abuse that is usually signaled by a third party, it was a victim of an abuse of abuse of a dominant position. And there are very strict definitions of what constitutes a dominant position, and what constitutes and abuse of such a dominant position. And after this abuse has, has taken place, and the Commission can have power to investigate this and that issue kind of either, you know, ask for remedy or issue fines, or impose certain certain behaviors to remedy that abuse. And the idea of that, ex post is that to restore the situation prior to the abuse, you know, this the objective of all and this is roughly the, the consensus, and this is called ex post, because it kind of happens after the fact. And it has certain advantages, because it is very specific to, it can be very specific to particular conduct. And since in the platform economy, there's so many different ways that you can abuse your dominance. This is a very, this is a very carefully tailored, but still very sharp instrument. And the commission has used also in the past 10 years, you know, against Google, both, for an operating system similar to Korea, but also for the Google Shopping service, which is, of course, interesting from a consumer perspective, and

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many others, which have been covered in the news. As for ex ante, is the opposite of that is that we create a framework that applies even prior to an abuse taking place, you know, so, and this is a little bit, it's an anticipatory framework, you know, the logic of such an approach, which is what we tried to do in both editions. So second, the Digital Markets Act, is the advantages, of course of such an approach. And generally, this is this regulated industry, like in Europe, you know, utilities are regulated, the energy suppliers are regulated your financial sector is regulated. And this poses a regulatory framework that is valid at all times, with without prior no advantage of this is that it applies to all actors, not just the one company that may be abusing its dominant position. So it applies to a whole sector of similar companies. One challenge, of course, is in the platform economy is that, you know, Google is different from Amazon, and it's different from Facebook or Twitter. So what are the commonalities, but this is address. And the advantage, again, is that it kind of puts a uniform set of expectations or kind of what, what companies should and should not do, you know, kind of a list of do's and don'ts that, of course, you know, there are some advantages and drawbacks, and in the European Union, we didn't have to choose luckily, we still have the ex post enforcement of competition rules and a continue to work and we complement that with things, maybe just two final points from my side and to answer also, the question on the global impact is that we already have a relatively strong framework in the European Union for data protection, consumer protection, financial services and, and in competition and what the DSA tries to do is sit in the triangle between protection, consumer protection and competition law and connect these dots, which are very difficult to connect because as Helena answered, that sometimes these are discussing in different issue, add the sustainability dimension becomes even more complex, because these, these are there's a kind of certain path of dependencies in many jurisdictions, including in the European Union, how these things have been legislated in the past and making bridges is difficult, you know. So but this is just a visual image that I use quite a lot, you know, to explain a little bit on where we're coming from, what global impact it has, on these things have. I mean, I think first of all, many jurisdictions around the world have a shared problem definition to what the European Union has siding with Korean colleagues, that have pointed to many things that we have also addressed, you know, and so that we see a kind of a congruence of, of problem analysis across the world, you know, so some people in the world are coming to the conclusion that we faced similar problems, you know, so, that's, that's one second thing is that, you know, there's a certain logical desire to coordinate amongst like minded jurisdictions who share similar values, because let's not forget that we are also

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touching issues of free speech and, and every expression online was very important in the European Union, as as they are enshrined in charter fundamental rights. So it's not just about about kind of unfair conduct or consumer protection in terms of guarantees or delivery like, like Helani had mentioned earlier on, you know, it's also about a whole category of free species which are, which are frankly under threat at the moment. In Europe, we feel very strongly with the Russian invasion in Ukraine and also some illiberal tendencies in jurisdictions such as, such as Hungary, and so inside the European Union. So I think that there is scope for cooperation, I think that the DSA and DMA will have some, some global impact, you know, because also, we see this because of the number of jurisdictions who are approaching us at the moment, which is very large, and we're interested in understanding better from, from how they can work together with us and how they can kind of maybe adjust some of the rules. And my main message there is, is that, of course, it's hard to copy paste European rules to other jurisdictions, but it's good to cooperate. It's certainly good to cooperate in those formations where where we have a shared commitment, fundamental rights and consumer protections and conduct, you know, so that we also so I can, presumably, I believe that the compliance costs with the digital service sector in the digital market sector are probably very high, and perhaps amongst the highest of all, all kinds of ongoing legislations. I'm not an expert in every jurisdiction, of course, and far from it.

But I can imagine that that companies will try to minimize the compliance costs globally by seeking similar rules. Trans jurisdiction really, and it's important to get this right.

Malavika 51:24

Thank you. Hello, Helani. I know you and I have a lot of experience of how copy pasting happens in the most malevolent ways, where people cherry pick bits of legislation and then transport it to the global south with really horrific consequences. So I was wondering if maybe you want to touch on some of these sort of aspects or any other ways in which the ways that harms are framed or enforced, you know, in the Global South, whether they're slightly different if there's anything you want to zero in on.

Helani Galpaya 52:00

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I mean, the European Union doesn't make rules for the European Union, European Union sets the standard, particularly when it comes to digital things for certainly for Asia. GDPR is the case in point, years of advocates saying how amazing and aspirational it is, but how utterly unenforceable and impractical it is for small businesses and for governments that don't have reserve resources to run the Information Commissioner's Office, right. And finding out there's a little bit of recognition there. But it was driven by business interests who wanted the GDPR in order to trade with the European Union, right? So very BPO centric kind of thing. So this is happening already, and the conversation around the DSA is happening. So just take the point about ex post or ex ante versus ex post. So I completely agree with everything that has been said, I mean, you know, this kind of, you know, given how much we don't know about the kind of innovations that are going on in digital markets. And so most of it could be amazing. We might say, Okay, we do want exposed because we can then investigate actual harms and get penalties. But think about the capacity, the skills and the budgets required to do that kind of investigation, which are very, very, very few competition authorities in South Asia, maybe India is an exception, really have, right? And the power to demand that kind of information about markets in the past, right. So it might work in a high capacity place where you can call on economists and researchers, but really not. On the other hand, you know, ex ante will give her at least a basic set of foods. So it's a mixed bag when it comes to Asia.

The second thing that I think that doesn't get enough attention is certainly for the smaller markets. But even for bigger markets is that international jurisdictional issues that come in consumer protection. When you buy from large platforms, which can be headquartered in Ireland, sometimes, you know, in the big countries, they will actually have registered headquarters or office and staff in a country, but in most smaller markets, they don't. And that's a real problem. And the buyer can be overseas, the platform itself is registered overseas. So this is sort of this classic Internet governance challenge that small markets and countries have, in order to have some kind of equivalency test or some kind of harmonization. We've done it with, you know, the Budapest convention when it comes to criminal activity on platforms and the ability to get data, right. But this really has to be translated into just day to day digital commerce and cross border commerce. And we haven't done that. We haven't done that well. And we certainly haven't done that from a consumer protection point of view. We have starting to do that more on data privacy, for example, when it comes to trade. So that's a thing that doesn't get enough attention. I think. The third thing I want to highlight is

this obsession, possibly rightfully so, over consumer welfare in the short term, because we are getting cheaper prices, and lots of consumers are coming online. And everyone is getting fast service and goods delivered versus the long term effects of the networks and market dominance. And I think, you know, the EU rules that Prabhat was talking about is really trying to address that by identifying I think the term was gatekeeper platforms. So we have a lot of that going on. Right? Free is good is the mantra, right? I mean, our email services are free, whatever is free. The problem is when that service is taken out of the market for whatever reason, or mergers, and there's less and less choice, what do you switch to? And what is your default backup option? 10 years down the line, if there's one taxi service that's all on a platform, and they decide to double prices, what are the choices that you have for consumers who can't afford to pay. So the kind of regulation that matches the short term consumer welfare, which is huge that come from PAC, from platform usage and dominance, but the long term effects of market exit by other players is something that I think we're not paying much attention to, and that really, really needs a discussion. And possibly this is all driven by the very US, you know, sort of mergers, acquisitions and sort of market regulation principles, which are very consumer welfare centric in the short term, right. The final thing we haven't really talked about is the sort of the challenges particularly in emerging markets, when new buyers are coming of algorithmic accountability, that's a real consumer issue, right? I mean, your ability, let's say to get credit, your it's all about bucketing you with other similar users using algorithms, right. And at the moment is users that are online who the platforms have data for are richer than the newer users more male, higher educated, etc, right? So in the algorithms that identify the bucket, that I as a female from the global south who might be not educated fall into is not going to really be reflected off me. And there's very little mechanisms when a system refuses a service for me, whether it's a government system that refuses my application for a payment, or a credit system, what are the recourses that I have to at least have an accountability decision as a consumer user, from this system, the algorithmic algorithm rejected you is not good enough. So accountability of the system also has to enter into the conversation very quickly, because a lot of these decisions are being made by algorithms.

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Thank you, Helani. I think we could hear from all of you for another hour. But unfortunately, we're at time, but I just want to mention a couple of things, which is we had a few audience questions from Dorothy Elaine Campbell in Jamaica, from the communications and Consumer Affairs Commission, and from Jake Goldenfein at the Melbourne law school, from Steve Wilson at Constellation Research and Debby Kristin at Engage Media. So we don't have time now to actually go through those questions. But what I'm gonna suggest is, maybe we'll email the four of you with these questions. And if any of you would like to just, you know, send us a paragraph or something we would, we could just publish that as part of our event roundtable summary, if that's an option, because I don't want those questions to go unanswered, because they're really great questions, but I'm also conscious of everyone's time. So I just want to use this opportunity to thank Consumers International, Helena, Javier, Holly, and Prabhat, Helani and Youkyung for joining us today at all kinds of times across the world and sharing your expertise. And we'd really love to dive into some of these issues further, and maybe bring you all back for a follow up conversation. But for now, from digitally job and platform futures. Thank you so much, and have a great day. Thanks, Dev. Also, I thank you all. Bye bye.