Mr. Giacomo Lasorella
President
ERGA

By email

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Subject: Holding TikTok accountable – a reality check

Dear Mr. Lasorella,

We are writing to you as chair of ERGA, on behalf of BEUC, The European Consumer Organisation, to draw your attention to the continued lack of protection of consumers, particularly children, on the video-sharing platform TikTok.

Two years ago, together with 18 of our member organisations, we alerted ERGA - at that time chaired by your predecessor, Mr. Tobias Schmid - about TikTok infringing the EU Audio-Visual Media Services Directive (AVMSD). In our view, TikTok fails to prevent young users' exposure to harmful contents, does not take sufficient measure to prevent the proliferation of hidden advertising on its platform, and does not contribute to undue exposure of children to advertising (please find our previous correspondence here). In parallel, we also alerted two other EU enforcement networks, namely the CPC-Network and the European Data Protection Board (EDPB) about TikTok's breaches of consumer and data protection legislation.

We started investigating the commercial practices of TikTok in particular because of its one billion plus global audience, a significant part of which are **children and young adults** (almost 30% of its users are under 18 – its second largest age group), which puts specific responsibilities on the platform.

We also raised these issues with the European Commission and the Broadcasting Authority Ireland (BAI). However, the latter told us that nothing could be done as the AVMSD had not been transposed in Ireland yet. Meanwhile, we understood that, despite ERGA's Memorandum of Understanding, there was nothing that other ERGA members could do to ensure TikTok complies with the law because of the application of the country-of-origin principle. As you know, following the Commission's infringement procedure against Ireland, the AVMSD was finally transposed in December 2022 but the announced Irish Media Commission is still not operational at the time of writing this letter.

Two years later, many of the issues we raised have only been partially addressed or not tackled at all. We recently published a new report about the findings of our enforcement activities and the important lessons to be drawn. **Today, there is still ample evidence showing that TikTok fails to take the necessary measures to protect young users**. A report (see also here) published in *The Guardian* in November 2022 showed that TikTok was failing to crack down on accounts with misogynistic content featuring the influencer Andrew Tate, despite a previous pledge to do so. Another article showed the harmful effects these types of posts have on the daily behaviour of 11-year-old boys.

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In November, another [study](#) found that TikTok encourages harmful diet habits among teenagers and young adults, and [another one](#) about fake medical treatment to cure cancer or dangerous products for weight loss [circulated](#) on TikTok. In January 2023, an UK fitness influencer on TikTok [admitted](#) being a "toxic influencer" using deceitful practice.

Our findings provide a reality check of the lacking effectiveness of enforcement structures and existing protection in EU laws.

TikTok's case is very problematic in itself but also symptomatic of wider concerns and systemic gaps in the existing enforcement mechanisms and legal framework at the EU level.

More needs to be done to ensure our children are not exposed to damaging content, constant surveillance, and commercial exploitation online. We hope our work will contribute to better enforcing the laws also in the audio-visual media services sector.

We look forward to continuing to engage with ERGA on these various topics and strengthen consumer protection in the EU and would appreciate an opportunity to discuss these issues with you.

Yours sincerely,

Ursula Pachl
Deputy Director General

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