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eIDAS 2.0

DIGITAL IDENTITY SERVICES IN THE PLATFORM ECONOMY

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STRUCTURE

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2 Towards a new regulatory framework

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THE MARKET FOR DIGITAL IDENTITY SERVICES

Digital identity can be defined as a digital representation of a natural or a legal person which allows the identity holder to prove who they are during online or offline interactions and transactions

(European Commission, SWD(2021) 124 final)

The **market** for digital identity services in the EU is **diverse and fragmented**: Banks, telecoms, social media platforms etc.

Demand has shifted from digital identities as such towards individual **attributes related to identities** (e.g. age verification, professional qualifications, driving licences)

The **COVID-19** pandemic has been a catalyst for the growing demand for digital identity services

TOWARDS A NEW REGULATORY FRAMEWORK

The **eIDAS 1.0 Regulation** of 2014 has only partially achieved its objectives:

- Focus on public services
- Limited possibilities for private services to connect to the eIDAS system
- Falls short of addressing new market demands

The proposal for the **eIDAS 2.0 RegIation** of 2021 seeks to address these shortcomings:

- European Digital Identity Wallet (EDIW) with a broader range of use cases in the private sector
- Acceptance of the EDIW will be mandatory across many sectors and for VLOPs
- Creation of a common technical architecture and common standards (eIDAS Toolbox)

Art. 5(7) Digital Markets Act prohibits designated gatekeepers from imposing any restrictions on business users regarding the use of competing identification systems

REGULATORY ISSUES AND RECOMMENDATIONS

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1. Market structure for digital identity services

2. Privacy and cybersecurity

3. Governance of identity services

4. Expanding the digital identity framework

MARKET STRUCTURE FOR DIGITAL IDENTITY SERVICES

❖ **Competition** between different wallet providers seems to be preferable for promoting innovation and freedom of choice for users.

   ▪ Does this require **non-discriminatory access** to key elements (hardware and software) in mobile phones?

❖ **Switching and multi-homing:** Switching between wallets should be possible in order to avoid lock-in effects and the creation of proprietary walled gardens.

   ▪ Should there be continuous and real-time data access, necessary in order to facilitated effective **multi-homing** between different EDIWs as suggested by the ITRE Committee?

   ▪ It has to be carefully examined whether the advantages of multi-homing justify the technical effort and possible risks in terms of **security and privacy.**

PRIVACY AND CYBERSECURITY (1/2)

❖ **Acceptance of the EDIW** by users depends critically on whether the wallet offers a high level of cybersecurity and privacy.

▪ Does this require that data is stored and processed in the secure element (SE) of smart phones? If yes, access to the SE is critical from a competition perspective.

▪ Which **Level of Assurance** (LoA) should be chosen for the EDIW?

PRIVACY AND CYBERSECURITY (2/2)

❖ The introduction of a **persistent and unique identifier** would probably be unconstitutional in several member states (e.g. Germany, Portugal).

- ▪ A more privacy-friendly alternative could be a "unique per service" identifier.

❖ The EDIW should follow the principles of **privacy by design** and **data minimisation.**

- ▪ Could a zero-knowledge proof approach offer a viable solution?

GOVERNANCE OF IDENTITY SERVICES

❖ A **chapter on governance** of identity services should be included in the eIDAS 2.0 proposal, as suggested by the ITRE Committee, in order to strengthen regulatory oversight of identity. services

❖ A **European Digital Identity Board** (EDIB) could help to ensure the consistent application of the revised eIDAS Regulation.

▪ How should the work of the EDIB be coordinated with other EU bodies (e.g. BEREC, EDPB, EBDS) in order to avoid too much regulatory complexity?

EXPANDING THE DIGITAL IDENTITY FRAMEWORK

❖ **Corporate digital identities:** Digital identities are not only an important tool for citizens but also for businesses (see e.g. the new KYBC rules for third-party traders on online marketplaces introduced by the DSA).

❖ **Digital identities of things:** In the IoT digital identities for connected objects could be necessary to facilitate autonomous machine-to-machine interactions.

❖ **Digital identities of avatars:** There could be a demand for new identity solutions in the Metaverse in order to distinguish avatars representing real humans from avatar bots.

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