C/2024/5942

2.10.2024

SUMMARY OF COMMISSION DECISION

of 5 August 2024

relating to a proceeding under Article 71 of Regulation (EU) 2022/2065

(Case DSA.100121 - TikTok Lite Rewards programme)

(notified under document number C(2024) 5654 final)

(Only the English text is authentic)

(C/2024/5942)

On 5 August 2024, the Commission adopted a decision making commitments binding pursuant to Article 71 of 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 [1]*. In accordance with the provision of Article 80 of that Regulation, the Commission herewith publishes the names of the parties and the main content of the decision, including any penalties imposed, having regard to the legitimate interest of the very large online platform or very large search engine concerned and any third party in the protection of their confidential information.*

1. INTRODUCTION

(1) In accordance with Article 71 of Regulation (EU) 2022/2065, the Commission by this decision makes binding the commitments offered by TikTok Technology Limited ('TTTL') in case DSA.100121 and declares that there are no further grounds for action in that case.

(2) The Decision concerns the investigation of suspected infringements of Regulation (EU) 2022/2065 in relation to the deployment of TikTok Lite in the Union. The Commission suspected that the provider of TikTok had infringed Article 34 of Regulation (EU) 2022/2065 by failing to diligently identify, analyse and assess systemic risks in the Union stemming from the rewards programme of TikTok Lite before deploying that functionality in the Union. The Commission further suspected that the provider of TikTok had infringed Article 35 of Regulation (EU) 2022/2065 by failing to put in place reasonable, proportionate, and effective mitigation measures that are tailored to the specific systemic risks to which the rewards programme of TikTok Lite gives rise in the Union.

2. PROCEDURE

(3) By decision of 25 April 2023, the Commission designated TikTok as a very large online platform ('VLOP') pursuant to Article 33(4) of Regulation (EU) 2022/2065 [2].

(4) Pursuant to Articles 33(6) and 92 of Regulation (EU) 2022/2065, the provider of TikTok was required to comply with that Regulation in relation to TikTok as from 28 August 2023.

(5) On 22 April 2024, the Commission initiated proceedings in Case DSA.100121 pursuant to Article 66 of Regulation (EU) 2022/2065 in relation to the deployment of the TikTok Lite Rewards programme in the Union ('Initiation of Proceedings Decision').

(6) By letter of 22 July 2024, TTTL, without acknowledging any infringement to Regulation (EU) 2022/2065, offered two commitments pursuant to Article 71 of that regulation to ensure compliance with the provisions of that regulation invoked by the Commission in the Initiation of Proceedings Decision.

[1] OJ L 277, 27.10.2022, p. 1.
[2] Commission Decision C(2023) 2720 final.

3. THE PROVIDER OF TIKTOK

(7) The Commission considers that the provider of TikTok in the Union consists of both TTTL and ByteDance Limited ('ByteDance'), the legal entity ultimately controlling the group of companies to which TTTL belongs.

4. DESCRIPTION OF THE TIKTOK LITE REWARDS PROGRAMME

(8) In April 2024, the provider of TikTok launched the 'TikTok Lite Rewards programme' ([3]), under which users could accumulate virtual points ('Points') by participating in five different tasks ('Tasks'): watching content ('Watch Task'), liking content ('Like Task'), following creators ('Follow Task'), recommending the TikTok Lite app to friends ('Referral Task'), and checking-in on the app daily ('Check-in Task'). Users could redeem Points for two types of rewards ('Rewards') in the Reward Center:

(i) Gift cards from third party partners (such as Amazon and PayPal); and

(ii) Virtual coins ('Coins') that can be used to send gifts to creators on TikTok.

5. THE COMMISSION'S SUSPICIONS

(9) First, the Commission suspected that the provider of TikTok infringed Article 34(1) of Regulation (EU) 2022/2065 by failing to perform an *ad hoc* risk assessment prior to deploying the TikTok Lite Rewards programme in the Union.

(10) The provider of TikTok did not consider itself legally required to perform such an *ad hoc* risk assessment prior to deploying the TikTok Lite Rewards programme in the Union, since it concluded, after a preliminary analysis, that that programme was not likely to have a critical impact on a systemic risk.

(11) The Commission, however, took the preliminary view that the TikTok Lite Rewards programme was likely to have a critical impact on the risks associated with the development of problematic social media use and behavioural addiction, and that the provider of TikTok was therefore legally required to perform an ad-hoc risk assessment prior to deploying the TikTok Lite Rewards programme in the Union. The Commission indeed suspected that the use of multiple design patterns available on TikTok Lite to retain users on the service was likely to have a critical impact on the risk of developing problematic social media use and behavioural addiction in recipients of that service.

(12) Second, the Commission suspected that the provider of TikTok infringed Article 35(1) of Regulation (EU) 2022/2065 by failing to put in place reasonable, proportionate and effective mitigation measures, tailored to the specific systemic risks identified pursuant to Article 34.

(13) The provider of TikTok took the position that it appropriately ensured the mitigation of risks in relation to the TikTok Lite Rewards programme.

(14) However, the Commission suspected that none of the measures identified by the provider of TikTok as mitigating the risks associated with the deployment of the TikTok Lite Rewards programme appear to constitute reasonable, proportionate and effective measures within the meaning of Regulation (EU) 2022/2065 to mitigate the systemic risks to which TikTok Lite gives rise in the Union or, at the very least, they do not appear to be tailored to the specific risks which should have been identified pursuant to Article 34 of Regulation (EU) 2022/2065.

([3]) The TikTok Lite Rewards programme was only available on TikTok Lite, which is a new software application launched in Spain and in France in April 2024. TikTok Lite is part of the TikTok service designated as a VLOP in the Designation Decision.

6. THE PROPOSED COMMITMENTS

(15) On 22 July 2024, TTTL, as the main establishment of the provider of TikTok in the Union, submitted the following commitments ('the Commitments') to ensure compliance with Articles 34 and 35 of Regulation (EU) 2022/2065:

1. **Withdrawal Commitment**: TTTL undertakes to withdraw from the European Union the currently suspended TikTok Lite Rewards programme that was launched in France and Spain in April 2024 and gave rise to the opening of proceedings in Case DSA.100121 (paragraph 10 of the Commission's Decision of 22 April 2024).

2. **Anti-circumvention Commitment**: To ensure that the Withdrawal Commitment is effective and cannot be circumvented, TTTL undertakes not to (re)launch in the European Union a programme whose object or effect is, directly or indirectly, to circumvent the Withdrawal Commitment, with a view to avoiding compliance with that commitment.

7. CONCLUSION

(16) The Commitments submitted are adequate to address the preliminary concerns identified by the Commission.

(17) The Withdrawal Commitment ensures that the provider of TikTok will comply with Articles 34 and 35 of Regulation (EU) 2022/2065, as the withdrawal of the TikTok Lite Rewards programme effectively removes the reward and incentive features of that programme, including the combined use of the Tasks and the multiple attention capture damaging patterns, which directly reward habitual use of, and extended engagement with, TikTok Lite. These rewards and incentive features create, by design, a risk of problematic social media use and behavioural addiction, having actual or foreseeable serious negative consequences for a person's physical or mental well-being, actual or foreseeable negative effects in relation to the protection of minors, and actual or foreseeable negative effects for the exercise of the rights of the child. Being concerned that the TikTok Lite Rewards programme contributes, by design, to this risk of developing problematic social media use and behavioural addiction, the Commission considers this risk cannot be effectively addressed by putting in place additional mitigation measures.

(18) The Anti-Circumvention Commitment ensures the effectiveness of the Withdrawal Commitment, which, as stated above, adequately addresses the Commission's suspicions in the present case, as it prevents the provider of TikTok to (re)launch in the Union a programme whose object or effect is, directly or indirectly, to circumvent the Withdrawal Commitment.

(19) The Commission also considers that the nature of these commitments and the suspected non-compliance by the provider of TikTok with its obligations that they seek to address ensure that those commitments are easy to monitor. Pursuant to Articles 34(1) and 42(4) of Regulation (EU) 2022/2065, the provider of TikTok is required to perform an *ad hoc* risk assessment prior to deploying any new functionality that is likely to have a critical impact on the systemic risks identified pursuant to Article 34 of that regulation and it is obliged to transmit a report setting out the results of that *ad hoc* risk assessment to the Commission and the Digital Services Coordinator of establishment without delay upon completion. As explained in recital (11), the Commission considers a functionality directly rewarding habitual use of, or extended engagement with, TikTok to be likely to have a critical impact on the systemic risks identified pursuant to Article 34(1) of Regulation (EU) 2022/2065. Consequently, the Commission must be informed prior to the deployment in the Union of any such functionality and would therefore be able to effectively monitor compliance with the Commitments.

(20) The Commission considers that the Commitments offered comply with the principle of proportionality, as the provider of TikTok has not proposed any less onerous commitments that would address the Commission's suspicions in a similarly adequate manner.

(21) The Commission concludes that the Withdrawal Commitment and the Anti-Circumvention Commitment are necessary and proportionate to address the Commission's suspicions in an adequate manner.

(22) In light of the commitments offered, the Commission considers that the proceedings in case DSA.100121 should be brought to an end.

(23) The Decision makes legally binding the Commitments offered by TTTL, as the main establishment of the provider of TikTok in the Union, for an indefinite period of time.