

The Concept of Legal Regulation of Digital Services in Business Activities

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Annotation: The rapid development of digital technologies has fundamentally transformed entrepreneurial activities and created a need for solid legal frameworks to regulate digital services. This article explores the emergence, development, and essence of legal regulation of digital services in entrepreneurship. The views of various scholars are discussed, with the aim of analyzing this dynamic concept from all perspectives.

Key words: technology, digital service, cloud computing, fintech, contract, artificial intelligence.

Introduction

Digital technologies, as an integral part of the modern economy, are elevating entrepreneurial activity to a new level. Digital services, including online platforms, e-commerce, cloud technologies, mobile applications, and other digital innovations, are creating new opportunities in the business sphere and offering fresh approaches to markets. However, this emerging field also brings with it various social, economic, and technical challenges. Therefore, the need for legal regulation of digital services is steadily increasing[1].

In the contemporary era, the integration of digital services into entrepreneurial activity has led to a fundamental transformation of traditional business models. Digital services, including cloud computing, e-commerce platforms, fintech solutions, and artificial intelligence-based tools, provide enterprises with opportunities to enhance efficiency and expand into global markets. However, the growing reliance on these technologies gives rise to new legal challenges and necessitates the development of regulatory legal frameworks.

The concept of legal regulation in this field is multifaceted, encompassing data protection, intellectual property rights, contractual obligations, and consumer rights. Understanding the emergence and development of this concept is essential for policymakers, legal scholars, and entrepreneurs.

With the expansion of the digital economy in the late twentieth and early twenty-first centuries, the necessity of regulating digital services in legal terms became evident. Scholars such as Richard and Daniel Susskind, in their work "The Future of the Professions: How Technology Will Transform the Work of Human Experts", emphasize the transformative impact of digital technologies on traditional legal systems, noting that existing laws often lag behind technological advancements[2].

Methods

Research Design

This study applies a qualitative comparative legal analysis methodology to investigate the concept of legal regulation of digital services in business activities. This methodological approach is especially appropriate because it allows for a systematic comparison of legal frameworks across jurisdictions, facilitating the identification of best practices, regulatory shortcomings, and areas for potential reform. By analyzing different legislative models, the study aims to evaluate how digital services are regulated

within entrepreneurial activities and to propose recommendations for improving the effectiveness and adaptability of legal regulation in this field.

History

The European Union's "General Data Protection Regulation"[3] (GDPR) is a key legal instrument governing data privacy and security (European Commission, 2018). Scholars regard the GDPR as a model framework for other jurisdictions, highlighting its role in ensuring a balance between innovation and consumer protection.

The development of the concept of legal regulation of digital services has been shaped by several factors. First and foremost, technological progress and the proliferation of digital platforms have necessitated a reconsideration of traditional legal doctrines. Authors such as Lawrence Lessig have advanced the "code as law" approach, emphasizing that technology itself plays a regulatory role alongside formal legal systems[4].

Economic development has also played a crucial role, as digital services make a significant contribution to the global economy, prompting governments to adopt legislation aimed at supporting innovation while mitigating risks. Scholars such as Mariana Mazzucato have emphasized the role of state policy in fostering technological ecosystems.

Integration and globalization, driven by the cross-border nature of digital services, have led to the harmonization of international treaties and the development of model laws by organizations such as UNCITRAL.

The legal regulation of digital services encompasses the establishment of rules and standards governing their use, provision, and oversight. Its primary objectives include:

Ensuring fair competition in entrepreneurial activity by preventing monopolistic practices and creating equal opportunities for businesses.

Protecting consumer rights by safeguarding users from fraud, breaches of privacy, and substandard services.

Promoting innovation by fostering conditions for technological development without imposing excessive regulatory burdens.

Comparative Analysis

Various scholars interpret this concept differently. In particular, Mark Lemley views legal regulation as a dynamic process that evolves in response to market demands[5], while Julia Black introduces the notion of a "regulatory space," highlighting the interaction between formal laws, soft regulations, and market practices[6].

After gaining independence, Uzbekistan embarked on a transition toward a market economy. The state paid considerable attention to the development of private property and implemented privatization programs for state-owned assets.

On May 2, 2012, the Law "On Guarantees of Freedom of Entrepreneurial Activity" was adopted, becoming one of the key legal instruments aimed at strengthening the protection of entrepreneurs' rights.

In recent years, the government has been undertaking large-scale measures to promote the country's socio-economic development, foster active entrepreneurship, support innovative ideas and constructive initiatives, and create decent living conditions for the population. Special emphasis has been placed on improving the business environment and ensuring employment. In particular, small businesses and private entrepreneurship constitute the backbone of the national economy, and today extensive efforts

are being made to accelerate the development of this sector, support entrepreneurs' activities, expand their numbers, and provide stronger incentives for growth.

As of July 1, 2024, the number of enterprises and organizations operating in the republic, excluding farms and peasant households, amounted to 455.6 thousand, of which 387.1 thousand were small enterprises and microfirms. During the same period, a total of 709.6 thousand enterprises were registered, reflecting a growth rate of 106.2 percent compared to the corresponding period of the previous year[7].

The aforementioned figures indicate that profound transformations are taking place in the sector, underscoring the importance of effective regulation. In particular, despite its widespread application in practice, the term "service" is interpreted inconsistently, neither in international law nor in national legislation, and its precise categorical boundaries remain undefined. Consequently, ambiguities arise in the proper legal interpretation of modern phenomena such as "digital services", which are closely linked to the classical notion of "service."

Article 81 of the Civil Code of the Republic of Uzbekistan explicitly recognizes services as objects of civil law rights, thereby confirming their status as an integral element of civil-law relations. However, the notion of "digital services" is not specifically mentioned.

Modern technologies have fundamentally transformed the nature of services. For instance, in delivery services, online education, online consultations, services powered by artificial intelligence, and automated services through financial technologies, human involvement is minimal, with the essential components of the service being provided through digital platforms. In such cases, while the service still retains the character of a classical "non-material benefit" (intangible object), it simultaneously acquires a distinct digital value, shaped by artificial intelligence and algorithmic governance.

International practice has likewise not provided a precise definition of the term "digital services." However, while the views of the above-mentioned scholars offer partial insights into the principles of regulating digital services in entrepreneurial activity, the Digital Services Act (DSA) adopted in the European Union plays a particularly significant role in clarifying these principles.

The DSA provides a definition of digital services, sets forth the principles of their regulation, and specifies the rights and obligations of parties, aligning more closely with contemporary requirements. It addresses pressing issues such as the rights and duties of contracting parties, contractual obligations, liability for non-performance, differentiation of responsibility, and the allocation of accountability.

More than twenty years after the adoption of the E-Commerce Directive, the DSA modernizes and expands the rules applicable to intermediary services within the European Union. This was a timely and crucial step, particularly given the limited scope of prior EU legislation in this area and the increasing importance of intermediary services, not only for ordinary users but also for society as a whole.

From a global perspective, the DSA represents an ambitious and courageous attempt to improve the regulation of these activities, comparable in significance to the reforms that the GDPR sought to achieve in the field of personal data protection. Unlike the GDPR, however, the DSA does not pursue the implementation of a single fundamental right. Instead, it seeks to regulate a domain involving multiple, often conflicting, fundamental rights. Above all, the DSA should be seen as an attempt to ensure a fair balance between these competing rights within the provision of intermediary services.

Achieving such a balance is not merely a political objective but a legal obligation, as enshrined in the Charter of Fundamental Rights of the European Union. Naturally, not all observers may agree that the legislature has always been entirely successful in this regard. Likewise, as with the GDPR, it is to be expected that over time, certain aspects of the DSA will require refinement and improvement.

Nevertheless, such criticisms do not alter the fact that the DSA remains an important step for the European Union in regulating intermediary services[8].

Conclusion

A digital service may be defined as an intangible civil-law object provided to a user remotely and in electronic form, generated through the transmission, processing, storage, or other technological operations involving digital technologies (including artificial intelligence, algorithmic platforms, and automated systems). It gives rise to legal relations between the service provider and the user on the basis of civil contracts.

Taking the above into account, we consider it essential to introduce the following amendments into national legislation and to implement them gradually:

- Inclusion of “digital services” as a separate provision under Article 81 of the Civil Code;
- Classification of services within the framework of the Law “On Electronic Commerce” not as goods but as distinct intangible objects;
- Drafting of a special law on digital service contracts (for example, a Law “On Digital Services”);
- Development of regulatory provisions concerning user rights, service quality, and the liability of service-providing platforms.

From an entrepreneurial perspective, digital services may be defined as services delivered via the Internet or other digital technologies. Accordingly, the legal regulation of digital services could be described as follows: “The establishment and enforcement of legal norms and standards governing the creation, distribution, and use of digital services, aimed at fostering innovation, protecting consumers, and ensuring fair market practices.”

The concept of legal regulation of digital services in entrepreneurial activity represents an evolving notion reflecting the interaction between society, technology, and law. As digital technologies continue to develop, regulatory legal systems must adapt to address emerging challenges and promote innovation. The insights of various scholars provide valuable directions for advancing both theory and practice in this field.

By understanding the historical context, developmental trajectories, and theoretical foundations of this concept, stakeholders can contribute to the creation of a balanced and effective regulatory system that serves the interests of both entrepreneurs and consumers.

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