



2020/0361(COD)

28.5.2021

*****I**

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC
(COM(2020)0825 – C9-0418/2020 – 2020/0361(COD))

Committee on the Internal Market and Consumer Protection

Rapporteur: Christel Schaldemose

Rapporteurs for the opinion (*):

Henna Virkkunen, Committee on Industry, Research and Energy

Geoffroy Didier, Committee on Legal Affairs

Patrick Breyer, Committee on Civil Liberties, Justice and Home Affairs

(*) Associated committees – Rule 57 of the Rules of Procedure

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▯ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC
(COM(2020)0825 – C9-0418/2020 – 2020/0361(COD))**

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2020)0825),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0418/2020),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 27 April 2021¹,
 - having regard to the opinion of the Committee of the Regions of 1 July 2021²,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to opinions of the Committee on Industry, Research and Energy, the Committee on Legal Affairs, the Committee on Civil Liberties, Justice and Home Affairs, the Committee on Economic and Monetary Affairs, the Committee on Transport and Tourism, the Committee on Culture and Education and the Committee on Women’s Rights and Gender Equality,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection (A9-0000/2021),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 0, 0.0.0000, p. 0 (Not yet published in the Official Journal).

² OJ C 0, 0.0.0000, p. 0 (Not yet published in the Official Journal).

Amendment 1

Proposal for a regulation Recital 3

Text proposed by the Commission

(3) Responsible and diligent behaviour by providers of intermediary services is essential for a safe, predictable and trusted online environment and for allowing Union citizens and other persons to exercise their fundamental rights guaranteed in the Charter of Fundamental Rights of the European Union ('Charter'), in particular the freedom of expression and information and the freedom to conduct a business, and the right to non-discrimination.

Amendment

(3) Responsible and diligent behaviour by providers of intermediary services is essential for a safe, predictable and trusted online environment and for allowing Union citizens and other persons to exercise their fundamental rights guaranteed in the Charter of Fundamental Rights of the European Union ('Charter'), in particular the freedom of expression and information and the freedom to conduct a business, **a high level of consumer protection**, and the right to non-discrimination.

Or. en

Justification

A high level of consumer protection is crucial to ensure a safer online environment. Therefore, it should be explicitly included among the objectives of this Regulation.

Amendment 2

Proposal for a regulation Recital 8

Text proposed by the Commission

(8) Such a substantial connection to the Union should be considered to exist where the service provider has an establishment in the Union or, in its absence, on the basis of **the existence of a significant number of users in one or more Member States, or the targeting** of activities towards one or more Member States. The **targeting** of activities towards one or more Member States can be determined on the basis of all relevant circumstances, including factors such as the use of a language or a currency generally used in that Member State, or the

Amendment

(8) Such a substantial connection to the Union should be considered to exist where the service provider has an establishment in the Union or, in its absence, on the basis of **a directing** of activities towards one or more Member States. The **directing** of activities towards one or more Member States can be determined on the basis of all relevant circumstances, including factors such as the use of a language or a currency generally used in that Member State, or the possibility of ordering products or services, or using a national top level domain. The

possibility of ordering products or services, or using a national top level domain. The **targeting** of activities towards a Member State could also be derived from the availability of an application in the relevant national application store, from the provision of local advertising or advertising in the language used in that Member State, or from the handling of customer relations such as by providing customer service in the language generally used in that Member State. A substantial connection should also be assumed where a service provider directs its activities to one or more Member State as set out in Article 17(1)(c) of Regulation (EU) 1215/2012 of the European Parliament and of the Council²⁷. On the other hand, mere technical accessibility of a website from the Union cannot, on that ground alone, be considered as establishing a substantial connection to the Union.

²⁷ Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L351, 20.12.2012, p.1).

directing of activities towards a Member State could also be derived from the availability of an application in the relevant national application store, from the provision of local advertising or advertising in the language used in that Member State, or from the handling of customer relations such as by providing customer service in the language generally used in that Member State. A substantial connection should also be assumed where a service provider directs its activities to one or more Member State as set out in Article 17(1)(c) of Regulation (EU) 1215/2012 of the European Parliament and of the Council²⁷. On the other hand, mere technical accessibility of a website from the Union cannot, on that ground alone, be considered as establishing a substantial connection to the Union.

²⁷ Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L351, 20.12.2012, p.1).

Or. en

Justification

In line with the changes made in Article 2(4)

Amendment 3

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) For reasons of clarity, it should also be specified that this Regulation is without prejudice to Regulation (EU) 2019/1148 of

Amendment

(10) For reasons of clarity, it should also be specified that this Regulation is without prejudice to Regulation (EU) 2019/1148 of

the European Parliament and of the Council³⁰ and Regulation (EU) 2019/1150 of the European Parliament and of the Council,³¹ Directive 2002/58/EC of the European Parliament and of the Council³² and Regulation [...] on temporary derogation from certain provisions of Directive 2002/58/EC³³ as well as Union law on consumer protection, in particular Directive 2005/29/EC of the European Parliament and of the Council³⁴, Directive 2011/83/EU of the European Parliament and of the Council³⁵ and Directive 93/13/EEC of the European Parliament and of the Council³⁶, as amended by Directive (EU) 2019/2161 of the European Parliament and of the Council³⁷, and on the protection of personal data, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council.³⁸ The protection of individuals with regard to the processing of personal data is solely governed by the rules of Union law on that subject, in particular Regulation (EU) 2016/679 and Directive 2002/58/EC. This Regulation is also without prejudice to the rules of Union law on working conditions.

³⁰ Regulation (EU) 2019/1148 of the European Parliament and of the Council on the marketing and use of explosives precursors, amending Regulation (EC) No 1907/2006 and repealing Regulation (EU) No 98/2013 (OJ L 186, 11.7.2019, p. 1).

³¹ Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (OJ L 186, 11.7.2019, p. 57).

³² Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal

the European Parliament and of the Council³⁰ and Regulation (EU) 2019/1150 of the European Parliament and of the Council,³¹ Directive 2002/58/EC of the European Parliament and of the Council³² and Regulation [...] on temporary derogation from certain provisions of Directive 2002/58/EC³³ as well as Union law on consumer protection, in particular Directive 2005/29/EC of the European Parliament and of the Council³⁴, Directive 2011/83/EU of the European Parliament and of the Council³⁵ and Directive 93/13/EEC of the European Parliament and of the Council³⁶, as amended by Directive (EU) 2019/2161 of the European Parliament and of the Council³⁷, **Directive 2013/11/EC of the European Parliament and of the Council^{37a}, Directive 2006/123/EC of the European Parliament and of the Council^{37b}**, and on the protection of personal data, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council⁴⁰. The protection of individuals with regard to the processing of personal data is solely governed by the rules of Union law on that subject, in particular Regulation (EU) 2016/679 and Directive 2002/58/EC. This Regulation is also without prejudice to the rules of Union law on working conditions.

³⁰ Regulation (EU) 2019/1148 of the European Parliament and of the Council on the marketing and use of explosives precursors, amending Regulation (EC) No 1907/2006 and repealing Regulation (EU) No 98/2013 (OJ L 186, 11.7.2019, p. 1).

³¹ Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (OJ L 186, 11.7.2019, p. 57).

³² Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal

data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), OJ L 201, 31.7.2002, p. 37.

³³ Regulation [...] on temporary derogation from certain provisions of Directive 2002/58/EC.

³⁴ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive')

³⁵ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council.

³⁶ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts.

³⁷ Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as regards the better enforcement and modernisation of Union consumer protection rules

data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), (OJ L 201, 31.7.2002, p. 37).

³³ Regulation [...] on temporary derogation from certain provisions of Directive 2002/58/EC.

³⁴ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ L 149, 11.6.2005, p. 22).

³⁵ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64).

³⁶ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29).

³⁷ Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as regards the better enforcement and modernisation of Union consumer protection rules (OJ L 328, 18.12.2019, p. 7).

^{37a} ***Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for***

consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR) (OJ L 165, 18.6.2013, p. 63).

^{37b} Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

³⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

³⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

Or. en

Justification

It is important to emphasize that this Regulation is without prejudice to the directive on consumer ADR and the Service Directive as well.

Amendment 4

Proposal for a regulation Recital 12

Text proposed by the Commission

(12) In order to achieve the objective of ensuring a safe, predictable and trusted online environment, for the purpose of this Regulation the concept of “illegal content” should be defined broadly and also covers information relating to illegal content, products, services and activities. In particular, that concept should be understood to refer to information, irrespective of its form, that under the applicable law is either itself illegal, such as illegal hate speech or terrorist content and unlawful discriminatory content, or

Amendment

(12) In order to achieve the objective of ensuring a safe, predictable and trusted online environment, for the purpose of this Regulation the concept of “illegal content” should be defined broadly and also covers information relating to illegal content, products, services and activities. In particular, that concept should be understood to refer to information, irrespective of its form, that under the applicable law is either itself illegal, such as illegal hate speech or terrorist content and unlawful discriminatory content, or

that *relates* to activities that are illegal, such as the sharing of images depicting child sexual abuse, unlawful non-consensual sharing of private images, online stalking, the sale of non-compliant or counterfeit products, the non-authorised use of copyright protected material or activities involving infringements of consumer protection law. In this regard, it is immaterial whether the illegality of the information or activity results from Union law or from national law that is consistent with Union law and what the precise nature or subject matter is of the law in question.

that *is not in compliance with Union law since it refers* to activities that are illegal, such as the sharing of images depicting child sexual abuse, unlawful non-consensual sharing of private images, online stalking, the sale of non-compliant or counterfeit products, the non-authorised use of copyright protected material or activities involving infringements of consumer protection law. In this regard, it is immaterial whether the illegality of the information or activity results from Union law or from national law that is consistent with Union law and what the precise nature or subject matter is of the law in question.

Or. en

Justification

To avoid excessive takedowns of legal content 'is unlawfully referring' has been added. This will ensure that for instance a video showing a car driving too fast is not covered in the definition, unless a reference to an illegal activity in itself is illegal according to Union law or Member State law (e.g. child pornography, terrorist content etc.).

Amendment 5

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) Considering the particular characteristics of the services concerned and the corresponding need to make the providers thereof subject to certain specific obligations, it is necessary to distinguish, within the broader category of providers of hosting services as defined in this Regulation, the subcategory of online platforms. Online platforms, such as social networks or online marketplaces, should be defined as providers of hosting services that not only store information provided by the recipients of the service at their request, but that also disseminate that information to the public, again at their request.

Amendment

(13) Considering the particular characteristics of the services concerned and the corresponding need to make the providers thereof subject to certain specific obligations, it is necessary to distinguish, within the broader category of providers of hosting services as defined in this Regulation, the subcategory of online platforms. Online platforms, such as ***search engines***, social networks or online marketplaces, should be defined as providers of hosting services that not only store information provided by the recipients of the service at their request, but that also disseminate that information

However, in order to avoid imposing overly broad obligations, providers of hosting services should not be considered as online platforms where the dissemination to the public is merely a minor and purely ancillary feature of another service and that feature cannot, for objective technical reasons, be used without that other, principal service, and the integration of that feature is not a means to circumvent the applicability of the rules of this Regulation applicable to online platforms. For example, the comments section in an online newspaper could constitute such a feature, where it is clear that it is ancillary to the main service represented by the publication of news under the editorial responsibility of the publisher.

to the public, again at their request. However, in order to avoid imposing overly broad obligations, providers of hosting services should not be considered as online platforms where the dissemination to the public is merely a minor and purely ancillary feature of another service and that feature cannot, for objective technical reasons, be used without that other, principal service, and the integration of that feature is not a means to circumvent the applicability of the rules of this Regulation applicable to online platforms. For example, the comments section in an online newspaper could constitute such a feature, where it is clear that it is ancillary to the main service represented by the publication of news under the editorial responsibility of the publisher.

Or. en

Justification

The DSA should cover all digital services that play an important role in the dissemination of illegal content. In order to clarify that search engines falls within the scope of hosting services and online platforms it has been explicitly added in this recital.

Amendment 6

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) The relevant rules of Chapter II should ***only*** establish when the provider of intermediary services concerned cannot be held liable in relation to illegal content provided by the recipients of the service. ***Those rules should not be understood to provide a positive basis for establishing when a provider can be held liable, which is for the applicable rules of Union or national law to determine.*** Furthermore, the exemptions from liability established in

Amendment

(17) The relevant rules of Chapter II should establish when the provider of intermediary services concerned cannot be held liable in relation to illegal content provided by the recipients of the service. Furthermore, the exemptions from liability established in this Regulation should apply in respect of any type of liability as regards any type of illegal content, irrespective of the precise subject matter or nature of those laws.

this Regulation should apply in respect of any type of liability as regards any type of illegal content, irrespective of the precise subject matter or nature of those laws.

Or. en

Justification

If a platform does not comply with the conditions laid down in Article 5 and 5a for the exemptions of liability then it should provide a positive basis for establishing when a provider can be held liable according to relevant Union and national laws.

Amendment 7

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) A provider should be able to benefit from the exemptions from liability for ‘mere conduit’ and for ‘caching’ services when it is in no way involved with the information transmitted. This requires, among other things, that the provider does not modify the information that it transmits. However, this requirement should not be understood to cover manipulations of a technical nature which take place in the course of the transmission, as such manipulations do not alter the integrity of the information transmitted.

Amendment

(21) A provider should be able to benefit from the exemptions from liability for ‘mere conduit’ and for ‘caching’ services when it is in no way involved with the information transmitted. This requires, among other things, that the provider does not ***select or*** modify the information that it transmits. However, this requirement should not be understood to cover manipulations of a technical nature which take place in the course of the transmission, as such manipulations do not alter the integrity of the information transmitted.

Or. en

Justification

Technical amendment

Amendment 8

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) In order to benefit from the exemption from liability for hosting services, the provider should, upon obtaining actual knowledge or awareness of illegal content, act expeditiously to remove or to disable access to that content. The removal or disabling of access should be undertaken in the observance of the principle of freedom of expression. The provider can obtain such actual knowledge or awareness through, in particular, its own-initiative investigations or notices submitted to it by individuals or entities in accordance with this Regulation in so far as those notices are sufficiently precise and adequately substantiated to allow a diligent economic operator to reasonably identify, assess and where appropriate act against the allegedly illegal content.

Amendment

(22) In order to benefit from the exemption from liability for hosting services, the provider should, upon obtaining actual knowledge or awareness of illegal content, act expeditiously to remove or to disable access to that content ***taking into account the potential harm the illegal content in question may create. In order to ensure a harmonised implementation of illegal content removal throughout the Union, the provider should, within 24 hours, remove or disable access to illegal content that can seriously harm public policy, public security or public health or seriously harm consumers' health or safety. Where the illegal content does not seriously harm public policy, public security, public health or consumers' health or safety, the provider should remove or disable access to illegal content within seven days. The deadlines referred to in this Regulation should be without prejudice to specific deadlines set out Union law or within administrative or judicial orders. The provider may derogate from the deadlines referred to in this Regulation on the grounds of force majeure or for justifiable technical or operational reasons but it should be required to inform the competent authorities as provided for in this Regulation.*** The removal or disabling of access should be undertaken in the observance of the principle of ***the Charter of Fundamental Rights, including a high level of consumer protection and*** freedom of expression. The provider can obtain such actual knowledge or awareness through, in particular, its own-initiative investigations or notices submitted to it by individuals or entities in accordance with this Regulation in so far as those notices are sufficiently precise and adequately substantiated to allow a diligent economic operator to reasonably identify, assess and where appropriate act against the allegedly

illegal content.

Or. en

Justification

In line with the changes made in Article 5. The deadlines are inspired by the German law, NetzDG

Amendment 9

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) In order to ensure the effective protection of consumers ***when engaging in intermediated commercial transactions online***, certain providers of hosting services, namely, online platforms that allow consumers to conclude distance contracts with traders, should not be able to benefit from the exemption from liability for hosting service providers established in this Regulation, in so far as those online platforms present the relevant information relating to the transactions at issue in such a way that it leads consumers to believe that the information was provided by those online platforms themselves or by recipients of the service acting under their authority or control, and that those online platforms thus have knowledge of or control over the information, even if that may in reality not be the case. In that regard, it should be determined objectively, on the basis of all relevant circumstances, whether the presentation could lead to such a belief ***on the side of an average and reasonably well-informed consumer***.

Amendment

(23) In order to ensure the effective protection of consumers certain providers of hosting services, namely, online platforms that allow consumers to conclude distance contracts with traders, should not be able to benefit from the exemption from liability for hosting service providers established in this Regulation ***unless they comply with a number of specific requirements set out in this Regulation, including the appointment of a legal representative in the Union, the implementation of notice and action mechanisms, the traceability of traders using their services, the provision of information on their online advertising and their recommender system practices and policy as well as transparency requirements towards the consumers as laid down in Directive 2011/83/EU of the European Parliament and of the Council. In addition, they should not be able to benefit from the exemption from liability for hosting service providers establishing in this Regulation*** in so far as those online platforms present the relevant information relating to the transactions at issue in such a way that it leads consumers to believe that the information was provided by those online platforms themselves or by recipients of the service acting under their

authority or control, and that those online platforms thus have knowledge of or control over the information, even if that may in reality not be the case. In that regard, it should be determined objectively, on the basis of all relevant circumstances, whether the presentation could lead to such a belief.

Or. en

Justification

In line with the proposal for a new Article 5a

Amendment 10

**Proposal for a regulation
Recital 23 a (new)**

Text proposed by the Commission

Amendment

(23a) European consumers should be able to safely purchase products and services online, irrespective of whether a product or service has been produced in the Union or not. Consumer protection is currently jeopardised when products and services produced in third countries are sold in the Union online. When products or services do not comply with legal requirements set out in Union law, the consumers can be put in a situation where their rights, guaranteed by the consumer legislation acquis, cannot be enforced effectively. In order to remedy this situation, the online platforms that allow distance contracts with traders from third countries should not be able to benefit from the exemption from liability of hosting service providers when there is no economic operator inside the Union liable for the product safety or when the economic operator is available but does not respond to claims and when the product does not comply with the relevant product safety and product compliance

Justification

In line with the proposal for a new Article 5a

Amendment 11

Proposal for a regulation

Recital 25

Text proposed by the Commission

(25) In order to create legal certainty and not to discourage activities aimed at detecting, identifying and acting against illegal content that providers of intermediary services may undertake on a voluntary basis, it should be clarified that the mere fact that providers undertake such activities does not lead to the unavailability of the exemptions from liability set out in this Regulation, provided those activities are ***carried out in good faith and in a diligent manner***. In addition, it is appropriate to clarify that the mere fact that those providers take measures, in good faith, to comply with the requirements of Union law, including those set out in this Regulation as regards the implementation of their terms and conditions, should not lead to the unavailability of those exemptions from liability. Therefore, any such activities and measures that a given provider may have taken should not be taken into account when determining whether the provider can rely on an exemption from liability, in particular as regards whether the provider provides its service neutrally and can therefore fall within the scope of the relevant provision, without this rule however implying that the provider can necessarily rely thereon.

Amendment

(25) In order to create legal certainty and not to discourage activities aimed at detecting, identifying and acting against illegal content that providers of intermediary services may undertake on a voluntary basis, it should be clarified that the mere fact that providers undertake such activities does not lead to the unavailability of the exemptions from liability set out in this Regulation, ***solely because they are carrying out voluntary own-initiative investigations***, provided those activities are ***accompanied with additional safeguards***. In addition, it is appropriate to clarify that the mere fact that those providers take measures, in good faith, to comply with the requirements of Union law, including those set out in this Regulation as regards the implementation of their terms and conditions, should not lead to the unavailability of those exemptions from liability ***as long as those measures are in line with Union law***. Therefore, any such activities and measures that a given provider may have taken should not be taken into account when determining whether the provider can rely on an exemption from liability, in particular as regards whether the provider provides its service neutrally and can therefore fall within the scope of the relevant provision, without this rule however implying that the

provider can necessarily rely thereon.

Or. en

Justification

In line with the wording in Article 6

Amendment 12

Proposal for a regulation

Recital 34

Text proposed by the Commission

(34) In order to achieve the objectives of this Regulation, and in particular to improve the functioning of the internal market and ensure a safe and transparent online environment, it is necessary to establish a clear and balanced set of harmonised due diligence obligations for providers of intermediary services. Those obligations should aim in particular to guarantee different public policy objectives such as the safety and trust of the recipients of the service, including minors and vulnerable users, protect the relevant fundamental rights enshrined in the Charter, to ensure meaningful accountability of those providers and to empower recipients and other affected parties, whilst facilitating the necessary oversight by competent authorities.

Amendment

(34) In order to achieve the objectives of this Regulation, and in particular to improve the functioning of the internal market and ensure a safe and transparent online environment, it is necessary to establish a clear and balanced set of harmonised due diligence obligations for providers of intermediary services. Those obligations should aim in particular to guarantee different public policy objectives such as ***consumer protection***, the safety and trust of the recipients of the service, including minors and vulnerable users, protect the relevant fundamental rights enshrined in the Charter, to ensure meaningful accountability ***and liability*** of those providers and to empower recipients and other affected parties, whilst facilitating the necessary oversight by competent authorities.

Or. en

Amendment 13

Proposal for a regulation

Recital 36 a (new)

Text proposed by the Commission

Amendment

(36a) Providers of intermediary services should also be required to establish a single point of contact for recipients of services, which allows rapid, direct and efficient communication in particular by easily accessible means such as telephone number, email addresses, electronic contact forms, chatbots or instant messaging. To facilitate rapid, direct and efficient communication, recipients of services should not be faced with lengthy phone menus or hidden contact information. In particular, phone menus should always include the option to speak to a human. Providers of intermediary services should allow recipients of services to choose means of direct and efficient communication which do not involve automated tools.

Or. en

Justification

In line with the proposed new Article 10a.

Amendment 14

Proposal for a regulation Recital 38

Text proposed by the Commission

Amendment

(38) Whilst the freedom of contract of providers of intermediary services should in principle be respected, it is appropriate to set certain rules on the content, application and enforcement of the terms and conditions of those providers in the interests of transparency, the protection of recipients of the service and the avoidance of unfair or arbitrary outcomes.

(38) Whilst the freedom of contract of providers of intermediary services should in principle be respected, it is appropriate to set certain rules on the content, application and enforcement of the terms and conditions of those providers in the interests of transparency, the protection of recipients of the service and the avoidance of unfair or arbitrary outcomes. ***In particular, it is important to ensure that terms and conditions are fair, non-***

discriminatory and transparent, and are drafted in a clear and unambiguous language in line with applicable Union law. The terms and conditions should include information on any policies, procedures, measures and tools used for the purpose of content moderation, including algorithmic decision-making, human review, the legal consequences to be faced by the users for knowingly storing or uploading illegal content as well as on the right to terminate the use of the service. Providers of intermediary services should also provide recipients of services with a concise and easily readable summary of the main elements of the terms and conditions, including the remedies available, using, where possible graphical elements, such as icons.

Or. en

Justification

In line with the changes made in Article 12

Amendment 15

Proposal for a regulation

Recital 39

Text proposed by the Commission

(39) To ensure an adequate level of transparency and accountability, providers of intermediary services should annually report, in accordance with the harmonised requirements contained in this Regulation, on the content moderation they engage in, including the measures taken as a result of the application and enforcement of their terms and conditions. However, so as to avoid disproportionate burdens, those transparency reporting obligations should not apply to providers that are micro- *or small* enterprises as defined in Commission Recommendation 2003/361/EC.⁴⁰

Amendment

(39) To ensure an adequate level of transparency and accountability, providers of intermediary services should annually report, in accordance with the harmonised requirements contained in this Regulation, on the content moderation they engage in, including the measures taken as a result of the application and enforcement of their terms and conditions. However, so as to avoid disproportionate burdens, those transparency reporting obligations should not apply to providers that are micro enterprises as defined in Commission Recommendation 2003/361/EC.⁴⁰

⁴⁰ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

⁴⁰ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

Or. en

Justification

According to the impact assessment the costs related to transparency obligations in Article 13 are marginal. Therefore, small enterprises with an annual turnover between EUR 2-10 million should be able to comply. However, the transparency obligation should not apply to micro-enterprises, as they for instance also includes open wifi-spots on restaurants.

Amendment 16

Proposal for a regulation
Recital 39 a (new)

Text proposed by the Commission

Amendment

(39a) To ensure consumer protection, online safety and promote fairness among market participants, intermediary service providers should be obliged to clearly indicate the identity of the business user providing content, goods and services.

Or. en

Justification

In line with the new suggested Article 13a

Amendment 17

Proposal for a regulation
Recital 39 b (new)

Text proposed by the Commission

Amendment

(39b) To ensure an efficient and adequate application of the obligation on

traceability of business users, without imposing any disproportionate burdens, the intermediary service providers covered should carry out due diligence checks prior to the use of their service to verify the reliability of the information provided by the business user concerned, in particular by using freely accessible official online databases or online interfaces, such as national trade registers or by requesting the business user concerned to provide trustworthy supporting documents, such as copies of identity documents, certified bank statements, company certificates and trade register certificates. They may also use other sources, available for use at a distance, which offer a similar degree of reliability for the purpose of complying with this obligation.

Or. en

Justification

In line with the changes made in Article 13b

Amendment 18

**Proposal for a regulation
Recital 39 c (new)**

Text proposed by the Commission

Amendment

(39c) In order to contribute to a safe, trustworthy and transparent online environment for consumers, as well as for other interested parties such as competing traders and holders of intellectual property rights, and to deter business users carrying activities in violation of the applicable rules, providers of online intermediary services should ensure that their business users are identifiable. The business user should therefore be required to provide certain essential information to the online intermediary

service. Those providers of intermediary services should store all information in a secure manner for a reasonable period of time that does not exceed what is necessary, so that it can be accessed by public authorities and private parties with a legitimate interest, in accordance with the applicable law, including the law on the protection of personal data, and also in accordance with any order to provide information referred to in this Regulation.

Or. en

Justification

In line with the changes made in the Article 13b

Amendment 19

**Proposal for a regulation
Recital 39 d (new)**

Text proposed by the Commission

Amendment

(39d) Online advertising plays an important role in the online environment, including in relation to the provision of the services of online platforms. However, online advertising can contribute to significant risks, ranging from advertisements that are themselves consisting of illegal content, to contributing to financial incentives for the publication or amplification of illegal or otherwise harmful content and activities online, or the discriminatory display of advertisements with an impact on the equal treatment and opportunities of citizens. In addition to the requirements laid down in Directive 2000/31/EC of the European Parliament and of the Council^{1a}, providers of intermediary service should be required to ensure that the recipients of the service have certain individualised information necessary for them to understand on whose behalf the

advertisement is displayed and on the natural or legal person who finances the advertisement. Providers of intermediary services should clearly indicate that certain information constitutes an online advertisement, including through prominent and harmonised marking. Providers of intermediary services should in particular ensure that content, published by digital influencers for which they have received a remuneration is clearly identifiable by recipients of services as an advertisement and should make available to them any element of the contractual relationship that might be relevant to the content. In addition, recipients of the service should have information on the parameters used for determining that specific advertising is to be displayed to them, providing meaningful explanations of the logic used to that end, including when this is based on profiling. Providers of intermediary services should also be obliged to inform the advertiser where the advertisement has been displayed as well as give access to non-governmental organisations, researchers and public authorities upon their request to information related to direct and indirect payments or any other remuneration received to display the corresponding advertisement on their interfaces. The requirements of this Regulation on the provision of information relating to advertisement is without prejudice to the application of the relevant provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council, in particular those regarding the right to object, automated individual decision-making, including profiling and specifically the need to obtain consent of the data subject prior to the processing of personal data for targeted advertising. Similarly, it is without prejudice to the provisions laid down in Directive 2002/58/EC of the European Parliament and of the Council in particular those regarding the storage

of information in terminal equipment and the access to information stored therein.

^{1a} Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (OJ L 178, 17.7.2000, p. 1).

Or. en

Justification

In line with the changes made in Article 24 and the new suggested Article 13c

Amendment 20

**Proposal for a regulation
Recital 39 e (new)**

Text proposed by the Commission

Amendment

(39e) In addition to transparency requirements, further obligations should be imposed on providers of intermediary services displaying advertising to better empower recipients their services. Providers of intermediary services should, by default, ensure that recipients of their services are not subject to targeted, micro-targeted and behavioural advertising unless the recipient of the service has expressed a freely given, specific, informed and unambiguous consent. To ensure such consent is given, the provider of intermediary services should provide the recipient of the service with meaningful information, including information such as the value of giving access to and about the use of their data and clearly indicate which type of advertising will be provided. When requesting the consent from recipients of the service considered as vulnerable

consumers, the provider of intermediary service should implement the necessary measures ensuring that such consumers have received enough and relevant information. Where the intermediary service provider has received a freely given, specific, informed and unambiguous consent and process data for advertising purposes, such processing should neither lead nor create a risk of leading to pervasive tracking of the recipient of the service. Finally, the intermediary service provider should design its interface in a way that easily allows the recipients of the service to access and modify the advertising parameters. In order to ensure that the interface infrastructure is clear and easy enough for the recipients of the service, the online intermediary service provider should assess the level of awareness of such functionality, monitor the use of this functionality, and, where necessary, take the necessary measures to improve the recipients' awareness of their possibility to change advertising parameters.

Or. en

Justification

In line with the new suggested Article 13d

Amendment 21

Proposal for a regulation Recital 40

Text proposed by the Commission

(40) Providers of hosting services play a particularly important role in tackling illegal content online, as they store information provided by and at the request of the recipients of the service and typically give other recipients access thereto, sometimes on a large scale. It is

Amendment

(40) Providers of hosting services play a particularly important role in tackling illegal content online, as they store information provided by and at the request of the recipients of the service and typically give other recipients access thereto, sometimes on a large scale. It is

important that all providers of hosting services, regardless of their size, put in place user-friendly notice and action mechanisms that facilitate the notification of specific items of information that the notifying party considers to be illegal content to the provider of hosting services concerned ('notice'), pursuant to which that provider can decide whether or not it agrees with that assessment and wishes to remove or disable access to that content ('action'). Provided the requirements on notices are met, it should be possible for individuals or entities to notify multiple specific items of allegedly illegal content through a single notice. The obligation to put in place notice and action mechanisms should apply, for instance, to file storage and sharing services, web hosting services, advertising servers and paste bins, in as far as they qualify as providers of hosting services covered by this Regulation.

important that all providers of hosting services, regardless of their size, put in place ***easily accessible, comprehensive and*** user-friendly notice and action mechanisms that facilitate the notification of specific items of information that the notifying party considers to be illegal content to the provider of hosting services concerned ('notice'), pursuant to which that provider can decide whether or not it agrees with that assessment and wishes to remove or disable access to that content ***in line with the applicable law*** ('action'). Provided the requirements on notices are met, it should be possible for individuals or entities to notify multiple specific items of allegedly illegal content through a single notice. The obligation to put in place notice and action mechanisms should apply, for instance, to file storage and sharing services, web hosting services, advertising servers and paste bins, in as far as they qualify as providers of hosting services covered by this Regulation. ***In addition to the notice and action mechanism, when an online platform that allows consumers to conclude distance contracts with traders detects illegal content, it should prevent the content, already identified as illegal, from reappearing once removed.***

Or. en

Justification

In line with the changes made in Article 14

Amendment 22

Proposal for a regulation

Recital 41

Text proposed by the Commission

(41) The rules on such notice and action mechanisms should be harmonised at Union level, so as to provide for the timely,

Amendment

(41) The rules on such notice and action mechanisms should be harmonised at Union level, so as to provide for the timely,

diligent and objective processing of notices on the basis of rules that are uniform, transparent and clear and that provide for robust safeguards to protect the right and legitimate interests of all affected parties, in particular their fundamental rights guaranteed by the Charter, irrespective of the Member State in which those parties are established or reside and of the field of law at issue. The fundamental rights include, as the case may be, the right to freedom of expression and information, the right to respect for private and family life, the right to protection of personal data, the right to non-discrimination and the right to an effective remedy of the recipients of the service; the freedom to conduct a business, including the freedom of contract, of service providers; as well as the right to human dignity, the rights of the child, the right to protection of property, including intellectual property, and the right to non-discrimination of parties affected by illegal content.

diligent and objective processing of notices on the basis of rules that are uniform, transparent and clear and that provide for robust safeguards to protect the right and legitimate interests of all affected parties, in particular their fundamental rights guaranteed by the Charter, irrespective of the Member State in which those parties are established or reside and of the field of law at issue. The fundamental rights include, as the case may be, ***a high level of consumer protection***, the right to freedom of expression and information, the right to respect for private and family life, the right to protection of personal data, the right to non-discrimination and the right to an effective remedy of the recipients of the service; the freedom to conduct a business, including the freedom of contract, of service providers; as well as the right to human dignity, the rights of the child, the right to protection of property, including intellectual property, and the right to non-discrimination of parties affected by illegal content.

Or. en

Amendment 23

Proposal for a regulation

Recital 43

Text proposed by the Commission

(43) To avoid disproportionate burdens, the additional obligations imposed on online platforms under this Regulation should not apply to micro or small enterprises as defined in Recommendation 2003/361/EC of the Commission,⁴¹ unless their reach and impact is such that they meet the criteria to qualify as very large online platforms under this Regulation. The consolidation rules laid down in that Recommendation help ensure that any circumvention of

Amendment

deleted

those additional obligations is prevented. The exemption of micro- and small enterprises from those additional obligations should not be understood as affecting their ability to set up, on a voluntary basis, a system that complies with one or more of those obligations.

⁴¹ *Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).*

Or. en

Justification

In line with the suggestion to delete Article 16. Consumer protection laws does not differentiate between small and big enterprises. The obligations set out in Section 3 should also be applicable to micro and small enterprises in order to protect consumers and recipients of services from illegal content.

Amendment 24

Proposal for a regulation Recital 44

Text proposed by the Commission

(44) Recipients of the service should be able to easily and effectively contest certain decisions of online platforms that negatively affect them. Therefore, online platforms should be required to provide for internal complaint-handling systems, which meet certain conditions aimed at ensuring that the systems are easily accessible and lead to swift **and fair** outcomes. In addition, provision should be made for the possibility of out-of-court dispute settlement of disputes, including those that could not be resolved in satisfactory manner through the internal complaint-handling systems, by certified bodies that have the requisite

Amendment

(44) Recipients of the service should be able to easily and effectively contest certain decisions of online platforms that negatively affect them. Therefore, online platforms should be required to provide for internal complaint-handling systems, which meet certain conditions aimed at ensuring that the systems are easily accessible and lead to swift, **fair and non-discriminatory** outcomes **within seven days, where possible, starting on the date on which the online platform received the complaint**. In addition, provision should be made for the possibility of out-of-court dispute settlement of disputes, including those that could not be resolved in

independence, means and expertise to carry out their activities in a fair, swift and cost-effective manner. The possibilities to contest decisions of online platforms thus created should complement, yet leave unaffected in all respects, the possibility to seek judicial redress in accordance with the laws of the Member State concerned.

satisfactory manner through the internal complaint-handling systems, by certified bodies that have the requisite independence, means and expertise to carry out their activities in a fair, swift and cost-effective manner. ***Dispute resolution proceedings should be concluded within a reasonable period of time, and in any event within 90 calendar days.*** The possibilities to contest decisions of online platforms thus created should complement, yet leave unaffected in all respects, the possibility to seek judicial redress in accordance with the laws of the Member State concerned.

Or. en

Justification

In line with the changes made in Article 17 and 18

Amendment 25

Proposal for a regulation Recital 46

Text proposed by the Commission

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in ***a timely, diligent and*** objective manner. Such trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content, that they represent collective interests and that they work in a diligent and objective

Amendment

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in ***an*** objective manner. Such trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content, that they represent collective interests and that they work in a diligent and objective

manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation ('Europol') or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, organisations of industry and of right-holders could be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council.⁴³

⁴³ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA, OJ L 135, 24.5.2016, p. 53

manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation ('Europol') or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, organisations of industry and of right-holders could be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council.⁴³

⁴³ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA, OJ L 135, 24.5.2016, p. 53

Or. en

Amendment 26

Proposal for a regulation Recital 47

(47) The misuse of services of online platforms by frequently providing **manifestly** illegal content or by frequently submitting **manifestly** unfounded notices or complaints under the mechanisms and systems, respectively, established under this Regulation undermines trust and harms the rights and legitimate interests of the parties concerned. Therefore, there is a need to put in place appropriate and proportionate safeguards against such misuse. **Information should be considered to be manifestly illegal content and notices or complaints should be considered manifestly unfounded where it is evident to a layperson, without any substantive analysis, that the content is illegal respectively that the notices or complaints are unfounded.** Under certain conditions, online platforms should temporarily suspend their relevant activities in respect of the person engaged in abusive behaviour. This is without prejudice to the freedom by online platforms to determine their terms and conditions and establish stricter measures in the case of **manifestly** illegal content related to serious crimes. For reasons of transparency, this possibility should be set out, clearly and in sufficiently detail, in the terms and conditions of the online platforms. Redress should always be open to the decisions taken in this regard by online platforms and they should be subject to oversight by the competent Digital Services Coordinator. The rules of this Regulation on misuse should not prevent online platforms from taking other measures to address the provision of illegal content by recipients of their service or other misuse of their services, in accordance with the applicable Union and national law. Those rules are without prejudice to any possibility to hold the persons engaged in misuse liable, including for damages, provided for in Union or

(47) The misuse of services of online platforms by frequently providing illegal content or by frequently submitting unfounded notices or complaints under the mechanisms and systems, respectively, established under this Regulation undermines trust and harms the rights and legitimate interests of the parties concerned. Therefore, there is a need to put in place appropriate and proportionate safeguards against such misuse. Under certain conditions, online platforms should temporarily suspend their relevant activities in respect of the person engaged in abusive behaviour. **Furthermore, when the platform decides to suspend a recipient of the service, the platform should make best efforts to ensure that the suspended recipient does not reappear on the service until the suspension has been lifted.** This is without prejudice to the freedom by online platforms to determine their terms and conditions and establish stricter measures in the case of illegal content related to serious crimes. **In cases where the platform decides to suspend accounts covering matters which are of public interest, such as the accounts of politicians, the platform must receive the approval of the relevant judicial authority before applying its decision.** For reasons of transparency, this possibility should be set out, clearly and in sufficiently detail, in the terms and conditions of the online platforms. Redress should always be open to the decisions taken in this regard by online platforms and they should be subject to oversight by the competent Digital Services Coordinator. The rules of this Regulation on misuse should not prevent online platforms from taking other measures to address the provision of illegal content by recipients of their service or other misuse of their services, in accordance with the applicable Union and national law. Those rules are without

national law.

prejudice to any possibility to hold the persons engaged in misuse liable, including for damages, provided for in Union or national law.

Or. en

Justification

In line with the changes made in Article 20

Amendment 27

Proposal for a regulation Recital 49

Text proposed by the Commission

(49) In order to contribute to a safe, trustworthy and transparent online environment for consumers, *as well as for other interested parties such as competing traders and holders of intellectual property rights, and to deter traders from selling* products *or services in violation* of the applicable *rules*, online platforms allowing consumers to conclude distance contracts with *traders should ensure that such traders are traceable. The trader should therefore be required to provide certain essential information to the online platform, including for purposes of promoting messages on or offering products. That requirement should also be applicable to traders that promote messages on products or services on behalf of brands, based on underlying agreements.* Those *online platforms should store all information in a secure manner for a reasonable period of time that does not exceed what is necessary, so that it can be accessed, in accordance with the applicable law, including on the protection of personal data, by public authorities and private parties with a legitimate interest, including through the orders to provide information referred to*

Amendment

(49) In order to contribute to a safe, trustworthy and transparent online environment for consumers *and in addition to the obligation of traceability of business users, online platforms that allow consumers to conclude distance contracts with traders should obtain additional information on the trader and the products and services they intend to offer on the platform. The online platform should therefore be required to obtain information on the name, telephone number and electronic mail of the economic operator and the type of product or service the trader intends to offer on the online platform, including the relevant information in line with the compliance requirements for products and services set out in Union law, such as where applicable, the CE marking and the warnings, information and labels. Prior to offering its services to the trader, the online platform operator should be required to verify that the information provided by the trader is reliable, complete and up-to-date. In addition, the platform should be obliged to take adequate ex ante measures, such as random checks, to identify and prevent illegal content from*

in this Regulation.

appearing on their interface. Online platforms should also ensure that this traceability obligation is not avoided by traders through self-identification as non-professional sellers. The fulfilment of the obligations on traceability of the traders, products and services should facilitate the compliance by platforms allowing consumers to conclude distance contracts with the obligation to inform consumers of the identity of their contracting party established under Directive 2011/83/EU of the European Parliament and of the Council, as well as the obligations established under Regulation (EU) No 1215/2012 as regards the Member State in which consumers can pursue their consumer rights .

Or. en

Justification

In line with the changes made in Article 22.

Amendment 28

Proposal for a regulation
Recital 50

Text proposed by the Commission

Amendment

(50) To ensure an efficient and adequate application of that obligation, without imposing any disproportionate burdens, the online platforms covered should make reasonable efforts to verify the reliability of the information provided by the traders concerned, in particular by using freely available official online databases and online interfaces, such as national trade registers and the VAT Information Exchange System⁴⁵, or by requesting the traders concerned to provide trustworthy supporting documents, such as copies of identity documents, certified bank statements,

deleted

company certificates and trade register certificates. They may also use other sources, available for use at a distance, which offer a similar degree of reliability for the purpose of complying with this obligation. However, the online platforms covered should not be required to engage in excessive or costly online fact-finding exercises or to carry out verifications on the spot. Nor should such online platforms, which have made the reasonable efforts required by this Regulation, be understood as guaranteeing the reliability of the information towards consumer or other interested parties. Such online platforms should also design and organise their online interface in a way that enables traders to comply with their obligations under Union law, in particular the requirements set out in Articles 6 and 8 of Directive 2011/83/EU of the European Parliament and of the Council⁴⁶, Article 7 of Directive 2005/29/EC of the European Parliament and of the Council⁴⁷ and Article 3 of Directive 98/6/EC of the European Parliament and of the Council⁴⁸.

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https://ec.europa.eu/taxation_customs/vies/vieshome.do?selectedLanguage=en

⁴⁶ *Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council*

⁴⁷ *Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives*

97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive')

⁴⁸ Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers

Or. en

Justification

Moved to recital 39b

Amendment 29

**Proposal for a regulation
Recital 52**

Text proposed by the Commission

Amendment

(52) Online advertisement plays an important role in the online environment, including in relation to the provision of the services of online platforms. However, online advertisement can contribute to significant risks, ranging from advertisement that is itself illegal content, to contributing to financial incentives for the publication or amplification of illegal or otherwise harmful content and activities online, or the discriminatory display of advertising with an impact on the equal treatment and opportunities of citizens. In addition to the requirements resulting from Article 6 of Directive 2000/31/EC, online platforms should therefore be required to ensure that the recipients of the service have certain individualised information necessary for them to understand when and on whose behalf the advertisement is displayed. In addition, recipients of the service should have information on the main parameters

deleted

used for determining that specific advertising is to be displayed to them, providing meaningful explanations of the logic used to that end, including when this is based on profiling. The requirements of this Regulation on the provision of information relating to advertisement is without prejudice to the application of the relevant provisions of Regulation (EU) 2016/679, in particular those regarding the right to object, automated individual decision-making, including profiling and specifically the need to obtain consent of the data subject prior to the processing of personal data for targeted advertising. Similarly, it is without prejudice to the provisions laid down in Directive 2002/58/EC in particular those regarding the storage of information in terminal equipment and the access to information stored therein.

Or. en

Justification

Moved to recital 39e

Amendment 30

Proposal for a regulation Recital 52 a (new)

Text proposed by the Commission

Amendment

(52a) A core part of an online platform's business is the manner in which information is suggested, prioritised and ranked on its online interface to facilitate and optimise access to information for the recipients of the service. This is done, for example, by algorithmically suggesting, prioritising and ranking information, distinguishing through text or other visual representations, or otherwise curating information provided by recipients. Such recommender systems can have a

significant impact on the ability of recipients to retrieve and interact with information online. They also play an important role in the amplification of certain messages, the viral dissemination of information and the stimulation of online behaviour. Consequently, online platforms should let the recipients decide whether they want to be subject to recommender systems based on profiling and ensure that the option which is not based on profiling is activated by default. In addition they should ensure that recipients are appropriately informed, and can decide which information is to be presented to them. Online platforms should clearly present the main parameters for such recommender systems in an easily comprehensible and user-friendly manner to ensure that the recipients understand how information is prioritised for them and how to delete their own profile or profiles used to curate the content presented for the recipients. They should also ensure that the recipients enjoy alternative options for the main parameters. In addition, they should implement appropriate technical and organisational measures for ensuring that recommender systems are designed in a consumer friendly manner and do not influence end users' behaviour through dark patterns. Finally, a must-carry obligation should ensure that recommender systems display information from trustworthy sources, such as public authorities or scientific sources as first result following search queries in areas of public interest.

Or. en

Justification

In line with the changes made in Article 29 and the new suggested Article 24a

Amendment 31

Proposal for a regulation Recital 52 b (new)

Text proposed by the Commission

Amendment

(52b) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement adopted under the United Nations Framework Convention on Climate Change ('Paris Agreement')^{1a} and the United Nations Sustainable Development Goals, this Regulation should promote sustainability of e-commerce and sustainable consumption by ensuring that recipients of services are provided with clear and easily understandable information on the environmental impact of the products or services they buy online, allowing them to make an informed choice. In particular, online platforms allowing consumers to conclude distance contract with traders should make their best effort to provide clear and easily understandable information to recipients of services, related to sustainable consumption, such as, where relevant, information on the use of sustainable and efficient delivery methods and on the use of packaging from sustainable materials. While it is essential to preserve the right of withdrawal, allowing consumers to return goods purchased online, it is also important to inform recipients of services about the environmental cost of returning unwanted items, involving double transportation or requiring disposal rather than resale.

^{1a} OJ L 282, 19.10.2016. p. 4.

Or. en

Justification

In line with proposed new Article 24b

Amendment 32

Proposal for a regulation

Recital 54

Text proposed by the Commission

(54) Very large online platforms may cause societal risks, different in scope and impact from those caused by smaller platforms. Once the number of recipients of a platform reaches a significant share of the Union population, the systemic risks the platform poses have a disproportionately negative impact in the Union. Such significant reach should be considered to exist where the number of recipients exceeds an operational threshold set at 45 million, that is, a number equivalent to 10% of the Union population. The operational threshold should be kept up to date through amendments enacted by delegated acts, where necessary. Such very large online platforms should therefore bear the highest standard of due diligence obligations, proportionate to their societal impact and means.

Amendment

(54) Very large online platforms may cause societal risks, different in scope and impact from those caused by smaller platforms. Once the number of recipients of a platform reaches a significant share of the Union population, the systemic risks the platform poses have a disproportionately negative impact in the Union. Such significant reach should be considered to exist where the number of recipients exceeds an operational threshold set at 45 million, that is, a number equivalent to 10% of the Union population ***or if the online platforms have an annual turnover exceeding EUR 50 million within the Union.*** The operational threshold ***of the number of active recipients*** should be kept up to date through amendments enacted by delegated acts, where necessary. Such very large online platforms should therefore bear the highest standard of due diligence obligations, proportionate to their societal impact and means.

Or. en

Justification

In line with the changes made in Article 25.

Amendment 33

Proposal for a regulation

Recital 57

Text proposed by the Commission

(57) Three categories of systemic risks should be assessed in-depth. A first category concerns the risks associated with the misuse of their service through the dissemination of illegal content, such as the dissemination of child sexual abuse material or illegal hate speech, and the conduct of illegal activities, such as the sale of products or services prohibited by Union or national law, including counterfeit products. For example, and without prejudice to the personal responsibility of the recipient of the service of very large online platforms for possible illegality of his or her activity under the applicable law, such dissemination or activities may constitute a significant systematic risk where access to such content may be amplified through accounts with a particularly wide reach. A second category concerns the impact of the service on the exercise of fundamental rights, as protected by the Charter of Fundamental Rights, including the freedom of expression *and* information, the right to private life, the right to non-discrimination and the rights of the child. Such risks may arise, for example, in relation to the design of the algorithmic systems used by the very large online platform or the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition. A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform's service, with a foreseeable impact on health, civic discourse, electoral processes, public security and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid

Amendment

(57) Three categories of systemic risks should be assessed in-depth. A first category concerns the risks associated with the misuse of their service through the dissemination of illegal content, such as the dissemination of child sexual abuse material or illegal hate speech, and the conduct of illegal activities, such as the sale of products or services prohibited by Union or national law, including counterfeit products. For example, and without prejudice to the personal responsibility of the recipient of the service of very large online platforms for possible illegality of his or her activity under the applicable law, such dissemination or activities may constitute a significant systematic risk where access to such content may be amplified through accounts with a particularly wide reach. A second category concerns the impact of the service on the exercise of fundamental rights, as protected by the Charter of Fundamental Rights, including the freedom of expression, information, **consumer protection**, the right to private life, the right to non-discrimination and the rights of the child. Such risks may arise, for example, in relation to the design of the algorithmic systems used by the very large online platform or the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition. A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform's service, with a foreseeable impact on health, civic discourse, electoral processes, public security and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated

and widespread dissemination of information that is illegal content or incompatible with an online platform's terms and conditions.

behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or incompatible with an online platform's terms and conditions.

Or. en

Amendment 34

Proposal for a regulation

Recital 62

Text proposed by the Commission

Amendment

(62) A core part of a very large online platform's business is the manner in which information is prioritised and presented on its online interface to facilitate and optimise access to information for the recipients of the service. This is done, for example, by algorithmically suggesting, ranking and prioritising information, distinguishing through text or other visual representations, or otherwise curating information provided by recipients. Such recommender systems can have a significant impact on the ability of recipients to retrieve and interact with information online. They also play an important role in the amplification of certain messages, the viral dissemination of information and the stimulation of online behaviour. Consequently, very large online platforms should ensure that recipients are appropriately informed, and can influence the information presented to them. They should clearly present the main parameters for such recommender systems in an easily comprehensible manner to ensure that the recipients understand how information is prioritised for them. They should also ensure that the recipients enjoy alternative options for the main parameters, including options that

deleted

are not based on profiling of the recipient.

Or. en

Justification

Moved to recital 52a

Amendment 35

Proposal for a regulation

Recital 64

Text proposed by the Commission

(64) In order to appropriately supervise the compliance of very large online platforms with the obligations laid down by this Regulation, the Digital Services Coordinator of establishment or the Commission may require access to or reporting of specific data. Such a requirement may include, for example, the data necessary to assess the risks and possible harms brought about by the platform's systems, data on the accuracy, functioning and testing of algorithmic systems for content moderation, recommender systems or advertising systems, or data on processes and outputs of content moderation or of internal complaint-handling systems within the meaning of this Regulation. Investigations by researchers on the evolution and severity of online systemic risks are particularly important for bridging information asymmetries and establishing a resilient system of risk mitigation, informing online platforms, Digital Services Coordinators, other competent authorities, the Commission and the public. This Regulation therefore provides a framework for compelling access to data from very large online platforms to vetted researchers. All requirements for access to data under that framework should be proportionate and appropriately protect the

Amendment

(64) In order to appropriately supervise the compliance of very large online platforms with the obligations laid down by this Regulation, the Digital Services Coordinator of establishment or the Commission may require access to or reporting of specific data ***and algorithms***. Such a requirement may include, for example, the data necessary to assess the risks and possible harms brought about by the platform's systems, data on the accuracy, functioning and testing of algorithmic systems for content moderation, recommender systems or advertising systems, or data on processes and outputs of content moderation or of internal complaint-handling systems within the meaning of this Regulation. Investigations by researchers on the evolution and severity of online systemic risks are particularly important for bridging information asymmetries and establishing a resilient system of risk mitigation, informing online platforms, Digital Services Coordinators, other competent authorities, the Commission and the public. This Regulation therefore provides a framework for compelling access to data from very large online platforms to vetted researchers ***or civil society organisations representing the public interest***. All requirements for access to data under that

rights and legitimate interests, including trade secrets and other confidential information, of the platform and any other parties concerned, including the recipients of the service.

framework should be proportionate and appropriately protect the rights and legitimate interests, including trade secrets and other confidential information, of the platform and any other parties concerned, including the recipients of the service.

Or. en

Justification

In line with the changes made in Article 31

Amendment 36

Proposal for a regulation Recital 65 a (new)

Text proposed by the Commission

Amendment

(65a) Automated decision-making constitutes a fundamental element for online platforms to deliver their services and can potentially have significant consequences for individuals, or any recipients of the service. Due to their importance for Union's economy, the potential risks associated with automated decision-making used by very large online platforms' services can not only affect a vast amount of users but also threaten our society as a whole. It is therefore of utmost importance to mitigate those risks and ensure that the design of automated decision-making does not create any risk for users or our society. Very large online platforms should therefore provide the Commission with the necessary information in order to assess, against a number of criteria listed in this Regulation, the algorithms used for their automated decision-making. During its assessment, the Commission may decide to seek advice from third parties including relevant public authorities, researchers and non-governmental organisations. Where the Commission finds out that the

algorithm has been designed in such a way that it does not present enough security for its use, it should be empowered to take the appropriate measures laid down in this Regulation to ensure that the algorithm complies with the requirements established by the applicable laws.

Or. en

Justification

In line with Article 33a

Amendment 37

Proposal for a regulation

Recital 66

Text proposed by the Commission

(66) To facilitate the effective and consistent application of the obligations in this Regulation that may require implementation through technological means, it is important to promote voluntary industry standards covering certain technical procedures, where the industry can help develop standardised means to comply with this Regulation, such as allowing the submission of notices, including through application programming interfaces, or about the interoperability of advertisement repositories. Such standards could in particular be useful for relatively small providers of intermediary services. The standards could distinguish between different types of illegal content or different types of intermediary services, as appropriate.

Amendment

(66) To facilitate the effective and consistent application of the obligations in this Regulation that may require implementation through technological means, it is important to promote voluntary industry standards covering certain technical procedures, where the industry can help develop standardised means to comply with this Regulation, such as allowing the submission of notices, including through application programming interfaces, ***the use of icons, and other graphical elements for contract terms and conditions*** or about the interoperability of advertisement repositories. Such standards could in particular be useful for relatively small providers of intermediary services. The standards could distinguish between different types of illegal content or different types of intermediary services, as appropriate.

Or. en

Justification

In line with the changes made in Article 34

Amendment 38

Proposal for a regulation

Recital 80

Text proposed by the Commission

(80) Member States should ensure that violations of the obligations laid down in this Regulation can be sanctioned in a manner that is effective, proportionate and dissuasive, taking into account the nature, gravity, recurrence and duration of the violation, in view of the public interest pursued, the scope and kind of activities carried out, as well as the economic capacity of the infringer. In particular, penalties should take into account whether the provider of intermediary services concerned systematically or recurrently fails to comply with its obligations stemming from this Regulation, as well as, where relevant, whether the provider is active in several Member States.

Amendment

(80) Member States should ensure that violations of the obligations laid down in this Regulation can be sanctioned in a manner that is effective, proportionate and dissuasive, taking into account the nature, gravity, recurrence and duration of the violation, in view of the public interest pursued, the scope and kind of activities carried out, as well as the economic capacity of the infringer. In particular, penalties should take into account whether the provider of intermediary services concerned systematically or recurrently fails to comply with its obligations stemming from this Regulation, as well as, where relevant, whether the provider is active in several Member States. ***The Digital Service Coordinator should have the power to request the relevant judicial authority to restrict the access to an online interface if an infringement can cause serious harm or entails criminal offence involving a threat to the life or safety of persons or when the online intermediary service provider has repeatedly infringed the obligations laid down in the Regulation.***

Or. en

Justification

In line with the changes made in Article 41 and inspired by the CPC legislation.

Amendment 39

Proposal for a regulation Recital 85

Text proposed by the Commission

(85) Where a Digital Services Coordinator requests another Digital Services Coordinator to take action, the requesting Digital Services Coordinator, or the Board in case it issued a recommendation to assess issues involving more than three Member States, should be able to refer the matter to the Commission in case of any disagreement as to the assessments or the measures taken or proposed or a failure to adopt any measures. The Commission, on the basis of the information made available by the concerned authorities, should accordingly be able to request the competent Digital Services Coordinator to ***re-assess the matter and*** take the necessary measures to ensure compliance within a defined time period. This possibility is without prejudice to the Commission's general duty to oversee the application of, and where necessary enforce, Union law under the control of the Court of Justice of the European Union in accordance with the Treaties. A failure by the Digital Services Coordinator of establishment to take any measures pursuant to such a request may also lead to the Commission's intervention under Section 3 of Chapter IV of this Regulation, where the suspected infringer is a very large online platform

Amendment

(85) Where a Digital Services Coordinator requests another Digital Services Coordinator to take action, the requesting Digital Services Coordinator, or the Board in case it issued a recommendation to assess issues involving more than three Member States, should be able to refer the matter to the Commission in case of any disagreement as to the assessments or the measures taken or proposed or a failure to adopt any measures. The Commission, on the basis of the information made available by the concerned authorities, should accordingly be able to request the competent Digital Services Coordinator to take the necessary measures to ensure compliance within a defined time period. This possibility is without prejudice to the Commission's general duty to oversee the application of, and where necessary enforce, Union law under the control of the Court of Justice of the European Union in accordance with the Treaties. A failure by the Digital Services Coordinator of establishment to take any measures pursuant to such a request may also lead to the Commission's intervention under Section 3 of Chapter IV of this Regulation, where the suspected infringer is a very large online platform

Or. en

Justification

In order to ensure that no Member State becomes a safe haven from the obligations set out in this Regulation the Commission should request the Digital Service Coordinator to take the necessary actions, if the Commission and several Member States finds that a platform has infringed the obligations, not just request a reassessment. This is in line with the changes made in Article 45

Amendment 40

Proposal for a regulation Recital 96

Text proposed by the Commission

(96) Where the infringement of the provision that solely applies to very large online platforms is not effectively addressed by that platform pursuant to the action plan, only the Commission **may**, on its own initiative or upon advice of the Board, **decide to** further **investigate** the infringement concerned and the measures that the platform has subsequently taken, to the exclusion of the Digital Services Coordinator of establishment. After having conducted the necessary investigations, the Commission should be able to issue decisions finding an infringement and imposing sanctions in respect of very large online platforms where that is justified. It should also **have such a possibility to** intervene in cross-border situations where the Digital Services Coordinator of establishment did not take any measures despite the Commission's request, or in situations where the Digital Services Coordinator of establishment itself requested for the Commission to intervene, in respect of an infringement of any other provision of this Regulation committed by a very large online platform.

Amendment

(96) Where the infringement of the provision that solely applies to very large online platforms is not effectively addressed by that platform pursuant to the action plan, only the Commission **should**, on its own initiative or upon advice of the Board, **initiate** further **investigation on** the infringement concerned and the measures that the platform has subsequently taken, to the exclusion of the Digital Services Coordinator of establishment. After having conducted the necessary investigations, the Commission should be able to issue decisions finding an infringement and imposing sanctions in respect of very large online platforms where that is justified. It should also intervene in cross-border situations where the Digital Services Coordinator of establishment did not take any measures despite the Commission's request, or in situations where the Digital Services Coordinator of establishment itself requested for the Commission to intervene, in respect of an infringement of any other provision of this Regulation committed by a very large online platform.

Or. en

Justification

The Commission should be obliged to act on infringement. In line with the changes made in Article 51.

Amendment 41

Proposal for a regulation Recital 97

Text proposed by the Commission

(97) ***The Commission should remain free to decide whether or not it wishes to intervene in any of the situations where it is empowered to do so under this Regulation.*** Once the Commission initiated the proceedings, the Digital Services Coordinators of establishment concerned should be precluded from exercising their investigatory and enforcement powers in respect of the relevant conduct of the very large online platform concerned, so as to avoid duplication, inconsistencies and risks from the viewpoint of the principle of *ne bis in idem*. However, in the interest of effectiveness, those Digital Services Coordinators should not be precluded from exercising their powers either to assist the Commission, at its request in the performance of its supervisory tasks, or in respect of other conduct, including conduct by the same very large online platform that is suspected to constitute a new infringement. Those Digital Services Coordinators, as well as the Board and other Digital Services Coordinators where relevant, should provide the Commission with all necessary information and assistance to allow it to perform its tasks effectively, whilst conversely the Commission should keep them informed on the exercise of its powers as appropriate. In that regard, the Commission should, where appropriate, take account of any relevant assessments carried out by the Board or by the Digital Services Coordinators concerned and of any relevant evidence and information gathered by them, without prejudice to the Commission's powers and responsibility to carry out additional investigations as necessary.

Amendment

(97) Once the Commission initiated the proceedings, the Digital Services Coordinators of establishment concerned should be precluded from exercising their investigatory and enforcement powers in respect of the relevant conduct of the very large online platform concerned, so as to avoid duplication, inconsistencies and risks from the viewpoint of the principle of *ne bis in idem*. However, in the interest of effectiveness, those Digital Services Coordinators should not be precluded from exercising their powers either to assist the Commission, at its request in the performance of its supervisory tasks, or in respect of other conduct, including conduct by the same very large online platform that is suspected to constitute a new infringement. Those Digital Services Coordinators, as well as the Board and other Digital Services Coordinators where relevant, should provide the Commission with all necessary information and assistance to allow it to perform its tasks effectively, whilst conversely the Commission should keep them informed on the exercise of its powers as appropriate. In that regard, the Commission should, where appropriate, take account of any relevant assessments carried out by the Board or by the Digital Services Coordinators concerned and of any relevant evidence and information gathered by them, without prejudice to the Commission's powers and responsibility to carry out additional investigations as necessary.

Justification

In line with the changes made in Articles 50 and 51

Amendment 42

Proposal for a regulation

Article 1 – title

Text proposed by the Commission

Amendment

Subject matter *and scope*

Subject matter

Amendment 43

Proposal for a regulation

Article 1 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) rules on the implementation and enforcement of this Regulation, including as regards the cooperation of and coordination between the competent authorities.

(c) rules on the implementation, enforcement *and penalties* of this Regulation, including as regards the cooperation of and coordination between the competent authorities.

Justification

Technical amendment

Amendment 44

Proposal for a regulation

Article 1 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) set out *uniform* rules for a safe,

(b) set out *harmonised* rules for a safe,

predictable and trusted online environment, where fundamental rights enshrined in the Charter are effectively protected.

predictable and trusted online environment, where fundamental rights enshrined in the Charter, ***including a high level of consumer protection***, are effectively protected.

Or. en

Justification

A high level of consumer protection is crucial to ensure a safer online environment. Therefore, it should be explicitly included among the objectives of this Regulation.

Amendment 45

Proposal for a regulation
Article 1 – paragraph 3

Text proposed by the Commission

Amendment

3. This Regulation shall apply to intermediary services provided to recipients of the service that have their place of establishment or residence in the Union, irrespective of the place of establishment of the providers of those services.

deleted

Or. en

Justification

Technical amendment

Amendment 46

Proposal for a regulation
Article 1 – paragraph 4

Text proposed by the Commission

Amendment

4. This Regulation shall not apply to any service that is not an intermediary service or to any requirements imposed in respect of such a service, irrespective of whether the service is provided through

deleted

the use of an intermediary service.

Or. en

Justification

Technical amendment

Amendment 47

Proposal for a regulation Article 1 – paragraph 5

Text proposed by the Commission

Amendment

- 5. This Regulation is without prejudice to the rules laid down by the following:** *deleted*
- (a) Directive 2000/31/EC;**
 - (b) Directive 2010/13/EC;**
 - (c) Union law on copyright and related rights;**
 - (d) Regulation (EU) .../... on preventing the dissemination of terrorist content online [TCO once adopted];**
 - (e) Regulation (EU)/....on European Production and Preservation Orders for electronic evidence in criminal matters and Directive (EU) .../....laying down harmonised rules on the appointment of legal representatives for the purpose of gathering evidence in criminal proceedings [e-evidence once adopted]**
 - (f) Regulation (EU) 2019/1148;**
 - (g) Regulation (EU) 2019/1150;**
 - (h) Union law on consumer protection and product safety, including Regulation (EU) 2017/2394;**
 - (i) Union law on the protection of personal data, in particular Regulation (EU) 2016/679 and Directive 2002/58/EC.**

*Justification**Technical amendment***Amendment 48****Proposal for a regulation****Article 1 a (new)***Text proposed by the Commission**Amendment***Article 1a****Scope**

- 1. This Regulation applies only to intermediary services provided to recipients of the service that have their place of establishment or residence in the Union, irrespective of the place of establishment of the providers of those services.**
- 2. This Regulation shall not apply to any service that is not an intermediary service or to any requirements imposed in respect of such a service, irrespective of whether the service is provided through the use of an intermediary service.**
- 3. This Regulation is without prejudice to the rules laid down by the following:**
 - (a) Directive 2000/31/EC;**
 - (b) Directive 2010/13/EC;**
 - (c) Union law on copyright and related rights;**
 - (d) Regulation (EU) .../... on preventing the dissemination of terrorist content online [TCO once adopted];**
 - (e) Regulation (EU) .../...on European Production and Preservation Orders for electronic evidence in criminal matters and Directive (EU) .../...laying down harmonised rules on the appointment of legal representatives for**

the purpose of gathering evidence in criminal proceedings [e-evidence once adopted]

- (f) *Regulation (EU) 2019/1148;*
- (g) *Regulation (EU) 2019/1150;*
- (h) *Union law on consumer protection and product safety, including Regulation (EU) 2017/2394;*
- (i) *Union law on the protection of personal data, in particular Regulation (EU) 2016/679 and Directive 2002/58/EC;*
- (j) *Directive 2013/11/EU;*
- (l) *Directive 2006/123/EC*

Or. en

Justification

Technical amendment, and in order to emphasize that this Regulation is without prejudice to the directive on consumer ADR and the Service Directive as well

Amendment 49

Proposal for a regulation
Article 2 – paragraph 1 – point a

Text proposed by the Commission

(a) ‘information society services’ means services *within the meaning of* Article 1(1)(b) of Directive (EU) 2015/1535;

Amendment

(a) ‘information society services’ means services *as defined in* Article 1(1)(b) of Directive (EU) 2015/1535;

Or. en

Justification

Technical amendment

Amendment 50

Proposal for a regulation
Article 2 – paragraph 1 – point d – introductory part

Text proposed by the Commission

Amendment

(d) ‘to offer services in the Union’ means enabling legal or natural persons in one or more Member States to use the services of the provider of information society services which has a substantial connection to ***the Union; such a substantial connection is deemed to exist where the provider has an establishment in the Union; in the absence of such an establishment, the assessment of a substantial connection is based on specific factual criteria, such as:***

(d) ‘to offer services in the Union’ means enabling legal or natural persons in one or more Member States to use the services of the provider of information society services which has a substantial connection to ***that Member State or to those Member States;***

Or. en

Justification

Technical amendment. It is necessary to differentiate between 'to offer services to the Union' and 'substantial connection'

Amendment 51

Proposal for a regulation

Article 2 – paragraph 1 – point d – indent 1

Text proposed by the Commission

Amendment

— ***a significant number of users in one or more Member States; or***

deleted

Or. en

Justification

Technical amendment

Amendment 52

Proposal for a regulation

Article 2 – paragraph 1 – point d – indent 2

Text proposed by the Commission

Amendment

— *the targeting of activities towards one or more Member States.* *deleted*

Or. en

Justification

Technical amendment

Amendment 53

Proposal for a regulation Article 2 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) ‘substantial connection’ means the connection of a provider with one or more Member States resulting either from its establishment in the Union or from the fact that it directs its activities towards one or more Member States;

Or. en

Justification

The criterion ‘a significant number of users in one or more Member States’ has been deleted due to lack of clarity, while the one related to “directs its activities towards one or more Member States” is kept to make sure that all relevant intermediary services fall within the scope of the Regulation

Amendment 54

Proposal for a regulation Article 2 – paragraph 1 – point f – indent 2

Text proposed by the Commission

Amendment

— a ‘caching’ service that consists of the transmission in a communication network of information provided by a recipient of the service, involving the

— a ‘caching’ service that consists of the transmission in a communication network of information provided by a recipient of the service, involving the

automatic, intermediate and temporary storage of that information, for the sole purpose of making more efficient the information's onward transmission to other recipients upon their request;

automatic, intermediate and temporary storage of that information, **provided** for the sole purpose of making more efficient the information's onward transmission to other recipients upon their request;

Or. en

Justification

Technical amendment

Amendment 55

Proposal for a regulation

Article 2 – paragraph 1 – point g

Text proposed by the Commission

(g) ‘illegal content’ means any information,, **which, in itself or by its reference to an activity**, including the sale of products or provision of services is not in compliance with Union law or the law of a Member State, irrespective of the precise subject matter or nature of that law;

Amendment

(g) ‘illegal content’ means any information, including the sale of products or provision of services, **which** is not in compliance with Union law or the law of a Member State, irrespective of the precise subject matter or nature of that law;

Or. en

Justification

The criteria ‘in itself or by its reference to an activity’ has been deleted to avoid an excessive takedown

Amendment 56

Proposal for a regulation

Article 2 – paragraph 1 – point j

Text proposed by the Commission

(j) ‘distance contract’ means a contract **within the meaning of** Article 2(7) of Directive 2011/83/EU;

Amendment

(j) ‘distance contract’ means a contract **as defined in** Article 2(7) of Directive 2011/83/EU of the European Parliament and of the Council;

*Justification**Technical amendment***Amendment 57****Proposal for a regulation****Article 2 – paragraph 1 – point n***Text proposed by the Commission*

(n) ‘advertisement’ means information designed to promote the message of a legal or natural person, irrespective of whether to achieve commercial or non-commercial purposes, and displayed by an online platform on its online interface against remuneration specifically for promoting that information;

Amendment

(n) ‘advertisement’ means information designed to promote ***directly and indirectly*** the message, of a legal or natural person, irrespective of whether to achieve commercial or non-commercial purposes, and displayed by an online platform on its online interface against remuneration specifically for promoting that information;

Or. en

Justification

Indirect and direct forms of messages are added in the definition to include for instance online influencers doing hidden marketing of products and services.

Amendment 58**Proposal for a regulation****Article 2 – paragraph 1 – point o***Text proposed by the Commission*

(o) ‘recommender system’ means a fully or partially automated system used by an online platform to suggest in its online interface specific information to recipients of the service, including as a result of a search initiated by the recipient or otherwise determining the relative order or prominence of information displayed;

Amendment

(o) ‘recommender system’ means a fully or partially automated system used by an online platform to suggest, ***prioritise and rank*** in its online interface specific information to recipients of the service, including as a result of a search initiated by the recipient or otherwise determining the relative order or prominence of information displayed;

Justification

The definition on 'recommender system' goes beyond merely 'suggesting' content. It involves ranking and prioritising content as well. Therefore, the definition must be extended in line with the recommendations from EDPS

Amendment 59**Proposal for a regulation****Article 2 – paragraph 1 – point p***Text proposed by the Commission*

(p) 'content moderation' means the activities undertaken by providers of intermediary services aimed at detecting, identifying and addressing illegal content or information incompatible with their terms and conditions, provided by recipients of the service, including measures taken that affect the availability, visibility and accessibility of that illegal content or that information, such as demotion, disabling of access to, or removal thereof, or the recipients' ability to provide that information, such as the termination or suspension of a recipient's account;

Amendment

(p) 'content moderation' means the activities undertaken by providers of intermediary services aimed at **preventing**, detecting, identifying and addressing illegal content or information incompatible with their terms and conditions, provided by recipients of the service, including measures taken that affect the availability, visibility and accessibility of that illegal content or that information, such as demotion, disabling of access to, or removal thereof, or the recipients' ability to provide that information, such as the termination or suspension of a recipient's account;

Or. en

*Justification**Technical amendment***Amendment 60****Proposal for a regulation****Article 2 – paragraph 1 – point q***Text proposed by the Commission*

(q) 'terms and conditions' means all terms and conditions or specifications,

Amendment

(q) 'terms and conditions' means all terms and conditions, **communication**

irrespective of their name or form, which govern the contractual relationship between the provider of intermediary services and the recipients of the services.

guidelines or specifications, irrespective of their name or form, which govern the contractual relationship between the provider of intermediary services and the recipients of the services.

Or. en

Justification

Technical amendment

Amendment 61

Proposal for a regulation

Article 2 – paragraph 1 – point q a (new)

Text proposed by the Commission

Amendment

(qa) 'law enforcement authorities' means the competent authorities designated by the Member States in accordance with their national law to carry out law enforcement tasks for the purposes of the prevention, investigation, detection or prosecution of criminal offences in connection to illegal content online;

Or. en

Justification

Technical amendment. It is necessary to define the authorities in Article 21.

Amendment 62

Proposal for a regulation

Article 2 – paragraph 1 – point q b (new)

Text proposed by the Commission

Amendment

(qb) 'competent authorities' means the competent authorities designated by the Member States in accordance with their national law to carry out tasks which

include tackling illegal content online, including law enforcement authorities and administrative authorities charged with enforcing the law, irrespective of the nature or specific subject matter of that law, that is applicable in certain particular fields;

Or. en

Justification

Technical amendment. It is necessary to define the national competent authorities, to be designated by Member States

Amendment 63

Proposal for a regulation

Article 2 – paragraph 1 – point q c (new)

Text proposed by the Commission

Amendment

(qc) ‘business user’ means any private individual acting in a commercial or professional capacity who, or any legal person which, through online intermediation services offers goods or services to consumers for purposes relating to its trade, business, craft or profession;

Or. en

Justification

A definition on business user has been added in order to expand the scope in the KYBC obligation. The definition stems from the P2B Regulation.

Amendment 64

Proposal for a regulation

Article 2 – paragraph 1 – point q d (new)

Text proposed by the Commission

Amendment

(qd) 'remuneration' means economic compensation consisting of direct or indirect payment for the service provided, including where the intermediary service provider is not directly compensated by the recipient of the service or where the recipient of the service provides data to the service provider, except where such data is collected for the sole purpose of meeting legal requirements;

Or. en

Justification

A definition of 'remuneration' needs to be added to ensure codification of the relevant case-law and a clear understanding of the definition of 'advertisement' and the corresponding transparency requirements on advertising laid down in Article 24.

Amendment 65

Proposal for a regulation

Article 4 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Where an information society service is provided that consists of the transmission in a communication network of information provided by a recipient of the service, the service provider shall not be liable for the automatic, intermediate and temporary storage of that information, performed for the sole purpose of making more efficient the information's onward transmission to other recipients of the service upon their request, on condition that:

1. Where an information society service is provided that consists of the transmission in a communication network of information provided by a recipient of the service, the service provider shall not be liable for the automatic, intermediate and temporary storage of that information, performed for the sole purpose of making more efficient the information's onward transmission to other recipients of the service upon their request, on condition that ***the provider***:

Or. en

Justification

Technical amendment

Amendment 66

Proposal for a regulation

Article 4 – paragraph 1 – point a

Text proposed by the Commission

(a) *the provider* does not modify the information;

Amendment

(a) does not modify the information;

Or. en

Amendment 67

Proposal for a regulation

Article 4 – paragraph 1 – point b

Text proposed by the Commission

(b) *the provider* complies with conditions on access to the information;

Amendment

(b) complies with conditions on access to the information;

Or. en

Amendment 68

Proposal for a regulation

Article 4 – paragraph 1 – point c

Text proposed by the Commission

(c) *the provider* complies with rules regarding the updating of the information, specified in a manner widely recognised and used by industry;

Amendment

(c) complies with rules regarding the updating of the information, specified in a manner widely recognised and used by industry;

Or. en

Amendment 69

Proposal for a regulation

Article 4 – paragraph 1 – point d

Text proposed by the Commission

(d) **the provider** does not interfere with the lawful use of technology, widely recognised and used by industry, to obtain data on the use of the information; and

Amendment

(d) does not interfere with the lawful use of technology, widely recognised and used by industry, to obtain data on the use of the information; and

Or. en

Amendment 70

Proposal for a regulation

Article 4 – paragraph 1 – point e

Text proposed by the Commission

(e) **the provider** acts expeditiously to remove or to disable access to the information it has stored upon obtaining actual knowledge of the fact that the information at the initial source of the transmission has been removed from the network, or access to it has been disabled, or that a court or an administrative authority has ordered such removal or disablement.

Amendment

(e) acts expeditiously to remove or to disable access to the information it has stored upon obtaining actual knowledge of the fact that the information at the initial source of the transmission has been removed from the network, or access to it has been disabled, or that a court or an administrative authority has ordered such removal or disablement.

Or. en

Amendment 71

Proposal for a regulation

Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Without prejudice to specific deadlines, set out in Union law or within administrative or legal orders, providers of hosting services shall, upon obtaining actual knowledge or awareness, remove or disable access to illegal content as soon as possible and in any event:

(a) within 24 hours where the illegal content can seriously harm public policy, public security or public health or seriously harm consumers' health or safety;

(b) within seven days in all other cases where the illegal content does not seriously harm public policy, public security, public health or consumers' health or safety;

Where the provider of hosting services cannot comply with the obligation in paragraph 1a on grounds of force majeure or for objectively justifiable technical or operational reasons, it shall, without undue delay, inform the competent authority having issued an order pursuant to Article 8 or the recipient of the service having submitted a notice pursuant to Article 14, of those grounds.

Or. en

Justification

The DSA should establish a framework for notice and takedown with a clearly defined procedure, safeguards and timeline for acting on notifications on illegal content and ensure uniform procedures in all Member States. While it is necessary to grant digital platforms time to assess the legality of content, some user-generated content have a very high impact and may pose a greater threat to society or significant damage to the individual.

Amendment 72

Proposal for a regulation Article 5 – paragraph 3

Text proposed by the Commission

Amendment

3. Paragraph 1 shall not apply with respect to liability under consumer protection law of online platforms allowing consumers to conclude distance contracts with traders, where such an online platform presents the specific item of information or otherwise enables the

deleted

specific transaction at issue in a way that would lead an average and reasonably well-informed consumer to believe that the information, or the product or service that is the object of the transaction, is provided either by the online platform itself or by a recipient of the service who is acting under its authority or control.

Or. en

Justification

Moved to Article 5a

Amendment 73

Proposal for a regulation Article 5 a (new)

Text proposed by the Commission

Amendment

Article 5a

Liability of online platform allowing consumers to conclude distance contracts with traders

1. In addition to Article 5(1), an online platform allowing consumers to conclude distance contracts with traders shall not benefit from the liability exemption provided for in Article 5 if it does not comply with the obligations referred to in Articles 11, 13b, 13c, 14, 22 or 24a.

Such liability exemption shall also not benefit the online platform if it does not comply with specific information requirements for contracts concluded on online marketplaces, in line with Article 6a(1) of the Directive 2011/83/EU of the European Parliament and of the Council.

2. The liability exemption in Article 5(1) and in paragraph 1 of this Article shall not apply with respect to liability under consumer protection law of online

platforms allowing consumers to conclude distance contracts with traders, where such an online platform presents the specific item of information or otherwise enables the specific transaction at issue in a way that would lead a consumer to believe that the information, or the product or service that is the object of the transaction, is provided either by the online platform itself or by a recipient of the service who is acting under its control, authority or decisive influence.

3. For the assessment of whether the online platform has that control or authority or decisive influence over the trader, relevant criteria shall include:

a) the trader-consumer contract is concluded exclusively through facilities provided on the platform;

b) the online platform operator withholds the identity of the trader or contact details until after the conclusion of the trader-consumer contract;

c) the online platform operator exclusively uses payment systems which enable the platform operator to withhold payments made by the consumer to the trader;

d) the terms of the trader-consumer contract are essentially determined by the online platform operator;

e) the price to be paid by the consumer is set by the online platform operator;

f) the online platform is marketing the product or service in its own name rather than using the name of the trader who will supply it;

4. The liability exemption in Article 5(1) of this Regulation shall not apply in case an online platform allows consumers to conclude distance contracts with traders from third countries when:

a) there is no economic operator inside the Union liable for the product

safety or when the economic operator is available but does not respond to claims; and

b) the product does not comply with the relevant product safety and product compliance Union or national law;

5. Consumers concluding distance contracts with traders shall be entitled to seek redress from the online platform for infringement of the obligations laid down in this Regulation and in accordance with relevant Union and national law.

6. The online platform shall be entitled to seek redress from the trader who has used its services in case of a failure by that trader to comply with his obligations under this Regulation regarding the online platform or regarding the consumers.

Or. en

Justification

Additional conditions must be established to ensure that online marketplaces are not exempted from liability when selling illegal products and services. An online platform will not benefit from the exemption of liability if it does not comply with certain due diligence obligations set out in this regulation or in cases where a trader from a third country does not have an economic operator within the Union liable for product safety. Consumers will be able to seek redress from the online platform, while the online platform will in return be able to seek redress from the trader.

Amendment 74

Proposal for a regulation Article 6 – paragraph 1

Text proposed by the Commission

Providers of intermediary services shall not be deemed ineligible for the exemptions from liability referred to in Articles 3, 4 **and 5** solely because they carry out voluntary own-initiative investigations or other activities aimed at detecting, identifying and removing, or disabling of

Amendment

1. Providers of intermediary services shall not be deemed ineligible for the exemptions from liability referred to in Articles 3, 4, **5 and 5a** solely because they carry out voluntary own-initiative investigations or other activities aimed at detecting, identifying and removing, or

access to, illegal content, or take the necessary measures to comply with the requirements of Union law, including those set out in this Regulation.

disabling of access to, illegal content, or take the necessary measures to comply with the requirements of Union law, including those set out in this Regulation, ***without prejudice to freedom of expression.***

Or. en

Justification

Technical amendment

Amendment 75

**Proposal for a regulation
Article 6 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

1a. Providers of intermediary services shall ensure that such measures shall be accompanied with appropriate safeguards, such as human oversight, documentation, traceability or any additional measure to ensure that own-initiative investigations are accurate, fair, non-discriminatory and transparent.

Or. en

Justification

Voluntary actions do not protect consumers sufficiently and effectively. Therefore, appropriate safeguards are needed to ensure that own-initiative investigation measures are accurate, fair, non-discriminatory and transparent.

Amendment 76

**Proposal for a regulation
Article 8 – paragraph 1**

Text proposed by the Commission

Amendment

1. Providers of intermediary services shall, upon the receipt of an order to act

1. Providers of intermediary services shall, upon the receipt of an order to act

against a specific item of illegal content, issued by the relevant national judicial or administrative authorities, on the basis of the applicable Union or national law, in conformity with Union law, inform the authority issuing the order of the effect given to the orders, without undue delay, specifying the action taken and the moment when the action was taken.

against a specific item of illegal content, issued by the relevant national judicial or administrative authorities, on the basis of the applicable Union or national law, in conformity with Union law, inform the authority issuing the order of the effect given to the orders, *swiftly and* without undue delay, specifying the action taken and the moment when the action was taken.

Or. en

Amendment 77

Proposal for a regulation Article 9 – paragraph 1

Text proposed by the Commission

1. Providers of intermediary services shall, upon receipt of an order to provide a specific item of information about one or more specific individual recipients of the service, issued by the relevant national judicial or administrative authorities on the basis of the applicable Union or national law, in conformity with Union law, inform without undue delay the authority of issuing the order of its receipt and the effect given to the order.

Amendment

1. Providers of intermediary services shall, upon receipt of an order to provide a specific item of information about one or more specific individual recipients of the service, issued by the relevant national judicial or administrative authorities on the basis of the applicable Union or national law, in conformity with Union law, inform *swiftly and* without undue delay the authority of issuing the order of its receipt and the effect given to the order.

Or. en

Amendment 78

Proposal for a regulation Article 9 – paragraph 2 – point a – indent 1

Text proposed by the Commission

— a statement of reasons explaining the objective for which the information is required and why the requirement to provide the information is necessary and

Amendment

— a statement of reasons explaining the objective for which the information is required and why the requirement to provide the information is necessary and

proportionate to determine compliance by the recipients of the intermediary services with applicable Union or national **rules**, unless such a statement cannot be provided for reasons related to the prevention, investigation, detection and prosecution of criminal offences;

proportionate to determine compliance by the recipients of the intermediary services with applicable Union or national **law**, unless such a statement cannot be provided for reasons related to the prevention, investigation, detection and prosecution of criminal offences;

Or. en

Justification

Technical amendment

Amendment 79

**Proposal for a regulation
Article 10 – title**

Text proposed by the Commission

Points of contact

Amendment

Points of contact *for Member States’
authorities, the Commission and the
Board*

Or. en

Amendment 80

**Proposal for a regulation
Article 10 a (new)**

Text proposed by the Commission

Amendment

Article 10a

Points of contact for recipients of services

1. Providers of intermediary services shall enable recipients of services to communicate with them by providing rapid, direct and efficient means of communication such as telephone number, email addresses, electronic contact forms, chatbots or instant messaging as well as the geographical address of the establishment of the

provider of intermediary services.

2. The means of communication referred to in paragraph 1 shall be quickly and easily accessible to recipients of services in a clear user-friendly, easily identifiable and where possible, uniform manner. Providers of intermediary services shall enable recipients of services to easily choose equally accessible means of rapid, direct and efficient communication which do not involve automated tools.

3. Providers of intermediary services shall allocate sufficient human and financial resources to ensure that the communication and responses referred to in paragraph 1 are performed in a quick and efficient manner.

Or. en

Justification

To facilitate easy and trustful interactions with intermediary services. Not only national authorities, but also the recipients of services should have access to direct and efficient means of communications with the intermediary services.

Amendment 81

Proposal for a regulation Article 11 – paragraph 2

Text proposed by the Commission

2. Providers of intermediary services shall mandate their legal representatives to be addressed in addition to or instead of the provider by the Member States' authorities, the Commission and the Board on all issues necessary for the receipt of, compliance with and enforcement of decisions issued in relation to this Regulation. Providers of intermediary services shall provide their legal representative with the necessary powers and *resource* to cooperate with the

Amendment

2. Providers of intermediary services shall mandate their legal representatives to be addressed in addition to or instead of the provider by the Member States' authorities, the Commission and the Board on all issues necessary for the receipt of, compliance with and enforcement of decisions issued in relation to this Regulation. Providers of intermediary services shall provide their legal representatives with the necessary powers and *sufficient resources* to cooperate with

Member States' authorities, the Commission and the Board and comply with those decisions.

the Member States' authorities, the Commission and the Board and comply with those decisions and ***with their obligations when the provider of intermediary services is liable for infringement of the obligations set out in this Regulation.***

Or. en

Justification

In order to ensure the enforcement of this regulation, the legal representatives must have sufficient resources to comply with their obligations, if the provider of the intermediary service is liable for infringement to the obligations in this regulation. This includes paying the fines that could be imposed upon the provider of intermediary services.

Amendment 82

Proposal for a regulation Article 12 – paragraph 1

Text proposed by the Commission

1. Providers of intermediary services shall ***include information on any restrictions that they impose in relation to the use of their service in respect of information provided by the recipients of the service, in their*** terms and conditions. ***That information shall include information on any policies, procedures, measures and tools used for the purpose of content moderation, including algorithmic decision-making and human review. It shall be set out*** in clear and unambiguous language and ***shall be*** publicly available in an easily accessible format.

Amendment

1. Providers of intermediary services shall ***use fair, non-discriminatory and transparent contract*** terms and conditions ***that*** shall be ***drafted*** in clear and unambiguous language and ***are*** publicly available in an easily accessible format.

Or. en

Justification

Recipients of the service, in particular individuals, should always benefit from clearly, unambiguous and fair contract terms and conditions, irrespective of the nature of the online intermediary they use.

Amendment 83

Proposal for a regulation Article 12 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. In their terms and conditions, providers of intermediary services shall include information on any restrictions that they impose in relation to the use of their service in respect of information provided by the recipients of the service. Providers of intermediary services shall also include information on the right to terminate the use of the service by the recipient of the service in a directly accessible format. They shall also include information on any policies, procedures, measures and tools used for the purpose of content moderation, including algorithmic decision-making and human review.

Or. en

Justification

Recipients of services must be allowed to deactivate their account on an intermediary service in an easy and user-friendly way. Furthermore, terms and conditions of the intermediary services should also contain information about the content moderation being used by the platform.

Amendment 84

Proposal for a regulation Article 12 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Providers of intermediary services shall notify the recipients of the service of any significant change to the contract terms and conditions that can affect their rights and provide an explanation thereof.

Justification

Intermediary services must inform the recipients of their services of significant changes to the contract terms and conditions that can affect the rights of the recipients in order to ensure legal certainty for the users as well as for businesses.

Amendment 85**Proposal for a regulation
Article 12 – paragraph 2***Text proposed by the Commission*

2. Providers of intermediary services shall act in a diligent, objective and proportionate manner in applying and enforcing the restrictions referred to in paragraph 1, with due regard to the rights and legitimate interests of all parties involved, including the applicable fundamental rights of the recipients of the service as enshrined in the Charter.

Amendment

2. Providers of intermediary services shall act in a diligent, ***timely***, objective, ***non-discriminatory*** and proportionate manner in applying and enforcing the restrictions referred to in paragraph 1, with due regard to the rights and legitimate interests of all parties involved, including the applicable fundamental rights of the recipients of the service as enshrined in the Charter.

Amendment 86**Proposal for a regulation
Article 12 – paragraph 2 a (new)***Text proposed by the Commission**Amendment*

2a. Providers of intermediary services shall provide recipients of services with a concise and easily readable summary of the terms and conditions. That summary shall identify the main elements of the information requirements, including the possibility of easily opting-out from optional clauses and the remedies available.

Justification

Providers of intermediary services should include a summary in their terms and conditions in a short, clear and user-friendly manner to enable users to easily understand the main elements.

Amendment 87

**Proposal for a regulation
Article 12 – paragraph 2 b (new)**

Text proposed by the Commission

Amendment

2b. Where possible, providers of intermediary services shall use graphical elements such as icons or images to illustrate the main elements of the information requirements.

Justification

In order to ensure readability of the terms and conditions, icons or images can be used to make the contracts understandable.

Amendment 88

**Proposal for a regulation
Article 13 – paragraph 2**

Text proposed by the Commission

Amendment

2. Paragraph 1 shall not apply to providers of intermediary services that qualify as micro ***or small*** enterprises within the meaning of the Annex to Recommendation 2003/361/EC.

2. Paragraph 1 shall not apply to providers of intermediary services that qualify as micro enterprises within the meaning of the Annex to Recommendation 2003/361/EC.

Justification

According to the impact assessment the costs related to transparency obligations in Article 13

are marginal. Therefore, small enterprises with an annual turnover between EUR 2-10 million should be able to comply. However, the transparency obligation should not apply to micro-enterprises, as they for instance also includes open wifi-spots on restaurants.

Amendment 89

Proposal for a regulation

Article 13 a (new)

Text proposed by the Commission

Amendment

Article 13a

Display of the identity of business users

A provider of intermediary services shall ensure that the identity of the business user providing content, goods or services is clearly visible alongside the content, goods or services offered.

Or. en

Justification

In order to ensure a high level of consumer protection, the DSA must include an obligation for the intermediary service to indicate the identity of the business user. The obligation is building upon the P2B Article 3(5), but should be applicable for all intermediary services, and not only online intermediation services.

Amendment 90

Proposal for a regulation

Article 13 b (new)

Text proposed by the Commission

Amendment

Article 13b

Traceability of business users

1. A provider of intermediary services shall ensure that business users can only use its services if the provider of intermediary service has obtained the following information:

(a) the name, address, telephone number and electronic mail address of the

business user;

(b) a copy of the identification document of the business user or any other electronic identification as defined by Article 3 of Regulation (EU) No 910/2014 of the European Parliament and of the Council^{1a};

(c) the bank account details of the business user, where the business user is a natural person;

(d) where the business user is registered in a trade register or similar public register, the trade register in which the business user is registered, and its registration number or equivalent means of identification in that register;

2. The provider of intermediary services shall, upon receiving that information and until the end of the contractual relationship, make reasonable efforts to assess whether the information referred to in points (a) and (d) of paragraph 1 is reliable and up-to-date through the use of any freely accessible official online database or online interface made available by a Member States or the Union or through requests to the business user to provide supporting documents from reliable sources.

3. Where the provider of intermediary services obtains indications that any item of information referred to in paragraph 1 obtained from the business users concerned is inaccurate or incomplete, that provider of intermediary services shall request the business user to correct the information in so far as necessary to ensure that all information is accurate and complete, without delay or within the time period set by Union and national law.

Where the business user fails to correct or complete that information, the provider of intermediary services shall suspend the provision of its service to the business user until the request is complied with.

4. The providers of intermediary services shall store the information obtained pursuant to paragraph 1 and 2 in a secure manner for the duration of their contractual relationship with the business user concerned. They shall subsequently delete the information.

5. Without prejudice to paragraph 2, the providers of intermediary services shall only disclose the information to third parties where so required in accordance with the applicable law, including the orders referred to in Article 9 and any order issued by Member States' competent authorities or the Commission for the performance of their tasks under this Regulation.

6. The providers of intermediary services shall make the information referred to in points (a) and (d) of paragraph 1 available to the recipients of the service, in a clear, easily accessible and comprehensible manner.

^{1a} Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

Or. en

Justification

In order to be effective, the principle of identification should not be limited to online marketplaces. Instead all information society services, which are being used to provide illegal content, for example, domain name registries, CDN service providers, ad networks, should be obliged to take reasonable steps to stop, limit and prevent illegal activity. Without a verified identity, consumers will be deprived of effective redress mechanisms.

Amendment 91

Proposal for a regulation Article 13 c (new)

Text proposed by the Commission

Amendment

Article 13c

Online advertising transparency

- 1. Providers of intermediary services that display advertising on their online interfaces shall ensure that the recipients of the service can identify, for each specific advertisement displayed to each individual recipient, in a clear, concise and unambiguous manner and in real time:**
 - (a) that the information displayed on the interface or parts thereof is an online advertisement, including through prominent and harmonised marking;**
 - (b) the natural or legal person on whose behalf the advertisement is displayed and the natural or legal person who finances the advertisement;**
 - (c) clear, meaningful and uniform information about the parameters used to determine the recipient to whom the advertisement is displayed; and**
 - (e) if the advertisement was displayed using an automated tool and the identity of the person responsible for that tool.**
- 2. The Commission shall adopt an implementing act establishing harmonised specifications for the marking referred to in paragraph 1(a) of this Article.**
- 3. Providers of intermediary services shall inform the natural or legal person on whose behalf the advertisement is displayed where the advertisement has been displayed. They shall also inform public authorities, upon their request.**
- 4. Providers of intermediary services that display advertising on their online interfaces shall be able to give easy access**

to NGOs, researchers and public authorities, upon their request, to information related to direct and indirect payments or any other remuneration received to display the corresponding advertisement on their online interfaces.

Or. en

Justification

The scope of this article should be extended from online platforms to intermediary services that display ads on their online interfaces. In addition, users often fail to recognise the presence of commercial content, especially when it comes to commercial influencer content. In order to improve consumers' awareness of the ad, prominent and harmonised marking of ads must be ensured. Lastly, in order to ensure that advertisers are well informed where their ad has been displayed, the intermediary service should inform the advertiser where the ad has been displayed.

Amendment 92

Proposal for a regulation Article 13 d (new)

Text proposed by the Commission

Amendment

Article 13d

Recipients' consent for advertising practices

- 1. Providers of intermediary services shall, by default, not make the recipients of their services subject to targeted, micro-targeted and behavioural advertisement unless the recipient of the service has expressed a freely given, specific, informed and unambiguous consent. Providers of intermediary services shall ensure that recipients of services can easily make an informed choice when expressing their consent by providing them with meaningful information, including information about the value of giving access to and about the use of their data.*
- 2. When asking for the consent of recipients of their services considered as*

vulnerable consumers, providers of intermediary services shall implement all the necessary measures to ensure that such consumers have received enough and relevant information before they give their consent.

3. When processing data for targeted, micro-targeted and behavioural advertising, online intermediaries shall comply with relevant Union law and shall not engage in activities that can lead to pervasive tracking, such as disproportionate combination of data collected by platforms, or disproportionate processing of special categories of data that might be used to exploit vulnerabilities.

4. Providers of intermediary services shall organise their online interface in such a way that recipients of services, in particular those considered as vulnerable consumers, can easily and efficiently access and modify advertising parameters. Providers of intermediary services shall monitor the use of advertising parameters by recipients of services on a regular basis and make best efforts to improve their awareness about the possibility to modify those parameters.

Or. en

Justification

Based on the collection of their users' data social media promotes personalised advertisement. With these data the social media knows exactly when, how and why we are most susceptible to buying something. The pervasive use of data constitutes an issue for consumers, in particular vulnerable groups. Therefore and in line with IMCO INL report 2020/2018(INL), stricter rules should be introduced. Providers of intermediary services should not make the recipients of services subject to these forms of advertisement unless they have expressed their freely given and informed consent.

Amendment 93

Proposal for a regulation Article 14 – paragraph 2 – point b

Text proposed by the Commission

(b) a clear indication of the electronic location of that information, ***in particular*** the exact URL or URLs, ***and***, where necessary, additional information enabling the identification of the illegal content;

Amendment

(b) ***where relevant***, a clear indication of the electronic location of that information, ***for example*** the exact URL or URLs, ***or***, where necessary, additional information enabling the identification of the illegal content;

Or. en

Justification

Providing a URL will not always be needed to determine which content a notifier is referring to. Furthermore, some platforms such as Facebook it's sometimes impossible to copy-paste a link to the URL, which would make this requirement difficult to fulfil.

Amendment 94

**Proposal for a regulation
Article 14 – paragraph 6**

Text proposed by the Commission

6. Providers of hosting services shall process any notices that they receive under the mechanisms referred to in paragraph 1, and take their decisions in respect of the information to which the notices relate, in a timely, diligent and objective manner. Where they use automated means for that processing or decision-making, they shall include information on such use in the notification referred to in paragraph 4.

Amendment

6. Providers of hosting services shall process any notices that they receive under the mechanisms referred to in paragraph 1, and take their decisions in respect of the information to which the notices relate, in a timely, diligent, ***non-discriminatory*** and objective manner. Where they use automated means for that processing or decision-making, they shall include information on such use in the notification referred to in paragraph 4.

Or. en

Amendment 95

**Proposal for a regulation
Article 14 – paragraph 6 a (new)**

Text proposed by the Commission

Amendment

6a. The Commission is empowered to adopt delegated acts to lay down templates concerning the form, the content and other details of the notices referred to in paragraph 2.

Or. en

Justification

Technical amendment

Amendment 96

Proposal for a regulation Article 14 – paragraph 6 b (new)

Text proposed by the Commission

Amendment

6b. Where an online platform that allows consumers to conclude distance contracts with traders, detects and identifies illegal goods or services, it shall prevent this content from reappearing on the platform. The application of this requirement shall not lead to any general monitoring obligation.

Or. en

Justification

In order to effectively and meaningfully address the proliferation of illegal products and services on online marketplaces measures needs to be implemented by platforms to prevent illicit content from reappearing after having been taken down. This would not only ensure a safer online environment, but also a level playing field for European businesses.

Amendment 97

Proposal for a regulation Article 16

Text proposed by the Commission

Amendment

Article 16

deleted

Exclusion for micro and small enterprises

This Section shall not apply to online platforms that qualify as micro or small enterprises within the meaning of the Annex to Recommendation 2003/361/EC.

Or. en

Justification

Consumer protection laws does not differentiate between small and big enterprises. The obligations set out in Section 3 except for Article 23 should also be applicable to micro and small enterprises in order to protect consumers and recipients of services from illegal content.

Amendment 98

Proposal for a regulation

Article 17 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) decisions to remove or disable access to the information;

(a) decisions ***to remove or not to*** remove or disable access to the information;

Or. en

Justification

The internal complaint-handling system should be available both to those whose content has been removed or modified and those whose notice has been rejected.

Amendment 99

Proposal for a regulation

Article 17 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) decisions to suspend or terminate

(b) decisions ***to suspend or terminate***

the provision of the service, in whole or in part, to the recipients;

or not to suspend or terminate the provision of the service, in whole or in part, to the recipients;

Or. en

Amendment 100

Proposal for a regulation Article 17 – paragraph 1 – point c

Text proposed by the Commission

(c) decisions to suspend or terminate the recipients' account.

Amendment

(c) decisions ***to suspend or terminate or not*** to suspend or terminate the recipients' account.

Or. en

Amendment 101

Proposal for a regulation Article 17 – paragraph 3

Text proposed by the Commission

3. Online platforms shall handle complaints submitted through their internal complaint-handling system in a timely, diligent and objective manner. Where a complaint contains sufficient grounds for the online platform to consider that the information to which the complaint relates is not illegal and is not incompatible with its terms and conditions, or contains information indicating that the complainant's conduct does not warrant the suspension or termination of the service or the account, it shall reverse its decision referred to in paragraph 1 without undue delay.

Amendment

3. Online platforms shall handle complaints submitted through their internal complaint-handling system in a timely, ***non-discriminatory***, diligent and objective manner ***and, where possible, within seven days starting on the date on which the online platform received the complaint.*** Where a complaint contains sufficient grounds for the online platform to consider that the information to which the complaint relates is not illegal and is not incompatible with its terms and conditions, or contains information indicating that the complainant's conduct does not warrant the suspension or termination of the service or the account, it shall reverse its decision referred to in paragraph 1 without undue delay.

Justification

In order to ensure that complaints are being handled as fast as possible, a deadline has been set, where possible, for seven days.

Amendment 102**Proposal for a regulation****Article 18 – paragraph 1 – subparagraph 1***Text proposed by the Commission*

1. Recipients of the service addressed by the decisions referred to in Article 17(1), shall be entitled to select any out-of-court dispute that has been certified in accordance with paragraph 2 in order to resolve disputes relating to those decisions, including complaints that could not be resolved by means of the internal complaint-handling system referred to in that Article. Online platforms shall engage, in good faith, with the body selected with a view to resolving the dispute and shall be bound by the decision taken by the body.

Amendment

1. Recipients of the service addressed by the decisions referred to in Article 17(1), shall be entitled to select any out-of-court dispute ***settlement body*** that has been certified in accordance with paragraph 2 in order to resolve disputes relating to those decisions, including complaints that could not be resolved by means of the internal complaint-handling system referred to in that Article. Online platforms shall engage, in good faith, with the body selected with a view to resolving the dispute and shall be bound by the decision taken by the body.

*Justification**Technical amendment***Amendment 103****Proposal for a regulation****Article 18 – paragraph 2 a (new)***Text proposed by the Commission**Amendment*

2a. Certified out of court dispute settlement bodies shall conclude dispute resolution proceedings within a reasonable period of time and no later than 90 calendar days after the date on

which the certified body has received the complaint. The procedure shall be considered terminated on the date on which the certified body has made the outcome of out-of-court dispute settlement procedure available.

Or. en

Justification

In the ADR directive 2009/22/EC a deadline for the outcome of the procedure is set within 90 calendar days from the date on which the entity has received the complete complaint file. When it comes to handling complaints under this regulation the same deadline should be applied.

Amendment 104

**Proposal for a regulation
Article 19 – paragraph 2 – point c**

Text proposed by the Commission

(c) it carries out its activities for the purposes of submitting notices in ***a timely, diligent and*** objective manner.

Amendment

(c) it carries out its activities for the purposes of submitting notices in ***an*** objective manner.

Or. en

Justification

Trusted flaggers should be able to notify the platform concerning illegal content appearing on their website, without being limited to the condition of this happening in a timely and diligent manner. This condition risks resulting in platforms neglecting notices only because they were received a certain amount of time after the content was published on the interface.

Amendment 105

**Proposal for a regulation
Article 20 – paragraph 1**

Text proposed by the Commission

1. Online platforms shall suspend, for a reasonable period of time and after having issued a prior warning, the

Amendment

1. Online platforms shall suspend, for a reasonable period of time and after having issued a prior warning, the

provision of their services to recipients of the service that frequently provide *manifestly* illegal content.

provision of their services to recipients of the service that frequently provide illegal content.

Or. en

Justification

When a user frequently provides illegal content on a platform's interface, e.g. products that do not comply with EU laws, the platform should for a reasonable period of time suspend the user. This should not be limited to manifestly illegal content only.

Amendment 106

**Proposal for a regulation
Article 20 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

1a. Online platforms shall make their best efforts to ensure that suspended recipients of the service shall not be able to use the service again until the suspension has been lifted. This obligation shall not lead to any form of general monitoring obligation.

Or. en

Justification

When a platform decides to suspend a user, the platform should do its utmost to prevent the user from reappearing on the service until the user's suspension has been lifted.

Amendment 107

**Proposal for a regulation
Article 20 – paragraph 2**

Text proposed by the Commission

Amendment

2. Online platforms shall suspend, for a reasonable period of time and after having issued a prior warning, the processing of notices and complaints submitted through the notice and action

2. Online platforms shall suspend, for a reasonable period of time and after having issued a prior warning, the processing of notices and complaints submitted through the notice and action

mechanisms and internal complaints-handling systems referred to in Articles 14 and 17, respectively, by individuals or entities or by complainants that frequently submit notices or complaints that are *manifestly* unfounded.

mechanisms and internal complaints-handling systems referred to in Articles 14 and 17, respectively, by individuals or entities or by complainants that frequently submit notices or complaints that are unfounded.

Or. en

Amendment 108

Proposal for a regulation Article 20 – paragraph 3 – point a

Text proposed by the Commission

(a) the absolute numbers of items of *manifestly* illegal content or manifestly unfounded notices or complaints, submitted in the past year;

Amendment

(a) the absolute numbers of items of illegal content or manifestly unfounded notices or complaints, submitted in the past year;

Or. en

Amendment 109

Proposal for a regulation Article 20 – paragraph 3 – point d

Text proposed by the Commission

(d) *the intention of the recipient, individual, entity or complainant.*

Amendment

deleted

Or. en

Justification

This would require the online service provider to evaluate the intention of the recipient and thus entail a subjective assessment, which cannot be left for the platform to conduct.

Amendment 110

Proposal for a regulation

Article 20 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Where the online platform decides to suspend the provision of its services to a recipient of the service whose account is of public interest, the online platform must receive the approval of the relevant judicial authority before applying its decision.

Or. en

Justification

In order to ensure that accounts of public interest, e.g. of politicians, are not suspended on the basis of the platform's decision alone.

Amendment 111

Proposal for a regulation

Article 22 – title

Text proposed by the Commission

Amendment

Traceability of traders

Traceability of traders, **products and services**

Or. en

Justification

The objective of the amendment is to extend the scope of the article to ensure traceability for not only traders, but also products and services. It builds upon the article 13b.

Amendment 112

Proposal for a regulation

Article 22 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Where an online platform allows consumers to conclude distance contracts with traders, it shall ***ensure that traders can only use its services to promote messages on or to offer products or services to consumers located in the Union if, prior to the use of its services, the online platform has obtained*** the following information:

1. Where an online platform allows consumers to conclude distance contracts with traders, it shall, ***in addition to Article 13b, obtain*** the following information:

Or. en

Amendment 113

Proposal for a regulation

Article 22 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) the name, address, telephone number and electronic mail address of the trader;

deleted

Or. en

Justification

Moved to article 13b

Amendment 114

Proposal for a regulation

Article 22 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) a copy of the identification document of the trader or any other electronic identification as defined by Article 3 of Regulation (EU) No 910/2014 of the European Parliament and of the Council⁵⁰ ;

deleted

⁵⁰ **Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC**

Or. en

Justification

Moved to Article 13b

Amendment 115

**Proposal for a regulation
Article 22 – paragraph 1 – point c**

Text proposed by the Commission

Amendment

(c) the bank account details of the trader, where the trader is a natural person; **deleted**

Or. en

Justification

Moved to Article 13b

Amendment 116

**Proposal for a regulation
Article 22 – paragraph 1 – point e**

Text proposed by the Commission

Amendment

(e) where the trader is registered in a trade register or similar public register, the trade register in which the trader is registered and its registration number or equivalent means of identification in that register; **deleted**

Justification

Moved to article 13b

Amendment 117

Proposal for a regulation

Article 22 – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) a self-certification by the trader committing to only offer products or services that comply with the applicable rules of Union law. **deleted**

Or. en

Justification

Relying on self-certification is not sufficient to ensure consumer protection.

Amendment 118

Proposal for a regulation

Article 22 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) The type of products or services the trader intends to offer on the online platform, including information allowing for the unequivocal identification of the product or the service to be offered, and the relevant information in line with the compliance requirements for products and services set out in the Union law, including where applicable, the CE marking and the warnings, information and labels.

Or. en

Justification

In order to ensure that platforms have the relevant information for products and services they offer on their interface. At the same time, traders should be obliged to indicate the type of products or services they intend to sale.

Amendment 119

Proposal for a regulation Article 22 – paragraph 2

Text proposed by the Commission

2. The online platform shall, upon receiving that information, **make reasonable efforts to assess** whether the information referred to in points (a), (d) and (e) of paragraph 1 is reliable through the use of any freely accessible official online database or online interface made available by a Member States or the Union or through requests to the trader to provide supporting documents from reliable sources.

Amendment

2. The online platform **allowing consumers to conclude distance contracts with traders** shall, upon receiving that information **and before providing its services to the trader or before placing the product or service on its online interface, and until the end of the contractual relationship, check** whether the information **provided by the trader** referred to in points (d) and (fa) of paragraph 1 is reliable, **complete, up-to-date. The online platform operator shall verify the information provided by the trader** through the use of any freely accessible official online database or online interface made available by a Member States or the Union **whose list is established by the Commission by means of an implementing act that shall be adopted no later than one year after the entry into force of this Regulation** or through requests to the trader to provide supporting documents from reliable sources. **Providers of intermediary services shall apply the identification and verification measures to new and existing traders.**

Or. en

Justification

To ensure the platform provides the safest environment to its users, the online platform shall verify the information provided by the trader, including whether the information on the types of product or type of service before they are offered on its services. The platform shall carry

out the same checks for existing traders and until the end of the contractual relationship with the trader to ensure a greater level of security.

Amendment 120

Proposal for a regulation

Article 22 – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. *Where the online platform obtains indications that any item of information referred to in paragraph 1 obtained from the trader concerned is inaccurate or incomplete, that platform shall request the trader to correct the information in so far as necessary to ensure that all information is accurate and complete, without delay or within the time period set by Union and national law.*

Amendment

3. The online platform *shall take adequate measures such as random checks on the products and services offered to consumers in addition to the obligations* referred to in paragraph 1 *and 2 of this Article in order to identify and prevent the dissemination, by traders using its service, of offers for products or services which do not comply with* Union *or* national law.

Or. en

Justification

In order to identify and prevent illegal products from third-countries coming to the Union the marketplace shall take adequate measures such as for instance random checks on the products and services offered to the consumers.

Amendment 121

Proposal for a regulation

Article 22 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Where the trader fails to correct or complete that information, the online platform shall suspend the provision of its service to the trader until the request is complied with.

Amendment

deleted

Or. en

Amendment 122

Proposal for a regulation Article 22 – paragraph 4

Text proposed by the Commission

4. The online platform shall *store the information obtained pursuant to paragraph 1 and 2 in a secure manner for the duration of their contractual relationship with the trader concerned. They shall subsequently delete the information.*

Amendment

4. *Where a market surveillance authority or a customs authority informs the online platform that an offer for a product or a provision of a service is illegal with regard to applicable requirements in Union or national law, such as requirements on product safety and product compliance, that online platform shall remove the offer or disable access to it in compliance with Article 5 of this Regulation.*

The online platform shall inform the trader, who has supplied the illegal offer for a product or for a provision of a service, of the decision mentioned in this paragraph, in accordance with Articles 15 and 17. The online platform shall also inform the market surveillance authority or the custom authority of the decision taken.

When informing the trader of the decision to remove or disable access to the offer, and where the illegality of the offer in question relates to a non-compliance of the product or provision of a service which may endanger the health or the safety of consumers, the online platform shall request from the trader to communicate all information able to demonstrate that the trader in question has taken the appropriate corrective measures, including where applicable measures within the meaning of Article 16 (3) of Regulation (EU) 2019/1020 of the European Parliament and of the Council^{1a}.

^{1a} Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance

and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).

Or. en

Justification

In order to ensure that online marketplaces cooperate with relevant authorities when necessary regarding non-compliant products and services.

Amendment 123

**Proposal for a regulation
Article 22 – paragraph 5**

Text proposed by the Commission

Amendment

5. Without prejudice to paragraph 2, the platform shall only disclose the information to third parties where so required in accordance with the applicable law, including the orders referred to in Article 9 and any orders issued by Member States' competent authorities or the Commission for the performance of their tasks under this Regulation. **deleted**

Or. en

Amendment 124

**Proposal for a regulation
Article 22 – paragraph 6**

Text proposed by the Commission

Amendment

6. The online platform shall make the information referred to in points (a), (d), (e) and (f) of paragraph 1 available to the recipients of the service, in a clear, easily accessible and comprehensible manner. **deleted**

Amendment 125

Proposal for a regulation Article 22 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. The Commission shall adopt implementing acts laying down the items of information required in accordance with paragraphs 1 and 2.

Or. en

Justification

Technical amendment

Amendment 126

Proposal for a regulation Article 23 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) the number of disputes submitted to the out-of-court dispute settlement bodies referred to in Article 18, the outcomes of the dispute settlement and the average time needed for completing the dispute settlement procedures;

(a) the number of disputes submitted to the **certified** out-of-court dispute settlement bodies referred to in Article 18, the outcomes of the dispute settlement and the average time needed for completing the dispute settlement procedures;

Or. en

Justification

Technical amendment

Amendment 127

Proposal for a regulation Article 23 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the number of suspensions imposed pursuant to Article 20, distinguishing between suspensions enacted for the provision of **manifestly** illegal content, the submission of manifestly unfounded notices and the submission of manifestly unfounded complaints;

(b) the number of suspensions imposed pursuant to Article 20, distinguishing between suspensions enacted for the provision of illegal content, the submission of manifestly unfounded notices and the submission of manifestly unfounded complaints;

Or. en

Justification

In line with the changes made in Article 20

Amendment 128

Proposal for a regulation

Article 23 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. This Article shall not apply to online platforms that qualify as micro or small enterprises within the meaning of the Annex to Recommendation 2003/361/EC.

Or. en

Amendment 129

Proposal for a regulation

Article 24

Text proposed by the Commission

Amendment

Article 24

deleted

Online advertising transparency

Online platforms that display advertising on their online interfaces shall ensure that the recipients of the service can identify, for each specific advertisement

displayed to each individual recipient, in a clear and unambiguous manner and in real time:

- (a) that the information displayed is an advertisement;*
- (b) the natural or legal person on whose behalf the advertisement is displayed;*
- (c) meaningful information about the main parameters used to determine the recipient to whom the advertisement is displayed.*

Or. en

Justification

Moved to 13c

Amendment 130

Proposal for a regulation Article 24 a (new)

Text proposed by the Commission

Amendment

Article 24a

Recommender systems

- 1. Online platforms shall not make the recipients of their services subject to recommender system based on profiling, unless the recipient of the service has expressed a freely given, specific, informed and unambiguous consent. Online platforms shall ensure that the option that is not based on profiling is activated by default.**
- 2. Online platforms shall set out in their terms and conditions and when content is recommended, in a clear, accessible and easily comprehensible manner, the main parameters used in their recommender systems, as well as any options for the recipients of the service to modify or influence those main**

parameters that they have made available, including at least one option which is not based on profiling, within the meaning of Article 4 (4) of Regulation (EU) 2016/679 of the European Parliament and of the Council. Online platforms shall also enable the recipients of the service to view, in a user-friendly manner, any profile or profiles used to curate their own content. They shall provide users with an easily accessible option to delete their profile or profiles used to curate the content the recipient sees.

3. The parameters referred to in paragraph 2 shall include, at a minimum:

- (a) the recommendation criteria used by the relevant system;*
- (b) how these criteria are weighted against each other;*
- (c) what goals the relevant system has been optimised for; and*
- (d) if applicable, an explanation of the role that the behaviour of the recipients of the service plays in how the relevant system produces its outputs.*

3. Where several options are available pursuant to paragraph 1, very large online platforms shall provide an easily accessible function on their online interface allowing the recipient of the service to select and to modify at any time their preferred option for each of the recommender systems that determines the relative order of information presented to them.

4. Online platforms shall inform their users about the identity of the person responsible for the recommender system.

5. Online platforms shall ensure that the algorithm used by their recommender system is designed in such a way that it does not risk misleading or manipulating the recipients of the service when they use it.

6. Online platforms shall ensure that information from trustworthy sources, such as information from public authorities or from scientific sources is displayed as first results following search queries that are related to areas of public interest.

Or. en

Justification

The obligations introduced should not only target the VLOPs, but online platforms as such. Consumers should be equally protected irrespective of whether it is a very large online platform or a smaller one. In accordance with the requirements of data protection by design and by default, recommender systems should by default not be based on profiling. Meaningful information requirements have been added as well as new requirements to prevent platforms from nudging users into the direction of unscientific propaganda, abusive content or conspiracy theories in order to keep them active on the platform (dark patterns).

Amendment 131

**Proposal for a regulation
Article 24 b (new)**

Text proposed by the Commission

Amendment

Article 24b

Information on sustainable consumption
Online platforms allowing consumers to conclude distance contract with traders shall make their best effort to provide clear, credible, comparable and easily understandable information to recipients of services, related to sustainable consumption, such as, where relevant, the use of sustainable and efficient delivery methods, the use of packaging from sustainable materials, as well as on the environmental cost of returning goods in the event of withdrawal.

Or. en

Justification

In line with the Union's commitment to implement the Paris Agreement and the UN's sustainable development goals, this regulation should promote sustainability of e-commerce and sustainable consumption by ensuring that recipients of services are provided with clear and easily understandable information on the environmental impact of the products or services they buy online, allowing them to make an informed choice.

Amendment 132

Proposal for a regulation Article 25 – paragraph 1

Text proposed by the Commission

1. This Section shall apply to online platforms which provide their services to a number of average monthly active recipients of the service in the Union equal to or higher than 45 million, calculated in accordance with the methodology set out in the delegated acts referred to in paragraph 3.

Amendment

1. This Section shall apply to online platforms which provide their services to a number of average monthly active recipients of the service in the Union equal to or higher than 45 million, calculated in accordance with the methodology set out in the delegated acts referred to in paragraph 3 **or have an annual turnover exceeding EUR 50 million within the Union.**

Or. en

Justification

While the definition of 45 million active recipients of services will include some of the very large social media platforms, it is highly unlikely that any marketplace would be covered. The most common definitions of active recipients differs between social media (mostly based on user base) and online marketplaces (mostly based on the sale of goods and services). If the criteria on 'average monthly active recipients of the service' is not complemented with a criteria based on the annual turnover, no marketplace would likely fall within the scope.

Amendment 133

Proposal for a regulation Article 26 – paragraph 1 – point b

Text proposed by the Commission

(b) any negative effects for the exercise of the fundamental rights to respect for private and family life, freedom of

Amendment

(b) any negative effects for the exercise of the fundamental rights, **in particular for consumer protection**, to respect for private

expression and information, the prohibition of discrimination and the rights of the child, as enshrined in *Articles 7, 11, 21 and 24 of* the Charter respectively;

and family life, freedom of expression and information, the prohibition of discrimination and the rights of the child, as enshrined in the Charter *of Fundamental Rights of the European Union* respectively;

Or. en

Justification

In order to ensure that very large online platforms assess risks related to consumer protection

Amendment 134

Proposal for a regulation Article 26 – paragraph 2

Text proposed by the Commission

2. When conducting risk assessments, very large online platforms shall take into account, in particular, how their content moderation systems, recommender systems **and** systems for selecting and displaying advertisement influence any of the systemic risks referred to in paragraph 1, including the potentially rapid and wide dissemination of illegal content and of information that is incompatible with their terms and conditions.

Amendment

2. When conducting risk assessments, very large online platforms shall take into account, in particular, how their content moderation systems, recommender systems, **community standards**, systems for selecting and displaying advertisement, **and any terms and conditions on access to content** influence any of the systemic risks referred to in paragraph 1, including the potentially rapid and wide dissemination of illegal content and of information that is incompatible with their terms and conditions.

Or. en

Amendment 135

Proposal for a regulation Article 27 – paragraph 1 – point d

Text proposed by the Commission

(d) initiating or adjusting cooperation with trusted flaggers in accordance with

Amendment

(d) initiating or adjusting cooperation with trusted flaggers in accordance with

Article 19;

Article 19; **and**

Or. en

Justification

Technical amendment

Amendment 136

Proposal for a regulation Article 29

Text proposed by the Commission

Amendment

Article 29

deleted

Recommender systems

1. Very large online platforms that use recommender systems shall set out in their terms and conditions, in a clear, accessible and easily comprehensible manner, the main parameters used in their recommender systems, as well as any options for the recipients of the service to modify or influence those main parameters that they may have made available, including at least one option which is not based on profiling, within the meaning of Article 4 (4) of Regulation (EU) 2016/679.

2. Where several options are available pursuant to paragraph 1, very large online platforms shall provide an easily accessible functionality on their online interface allowing the recipient of the service to select and to modify at any time their preferred option for each of the recommender systems that determines the relative order of information presented to them.

Or. en

Justification

Moved to Article 24a

Amendment 137

Proposal for a regulation Article 30 – paragraph 2 – point e a (new)

Text proposed by the Commission

Amendment

(ea) whether one or more particular groups of recipients have been explicitly excluded from the advertisement target group.

Or. en

Justification

In line with the recommendations from the EDPS

Amendment 138

Proposal for a regulation Article 31 – paragraph 1

Text proposed by the Commission

Amendment

1. Very large online platforms shall provide the Digital Services Coordinator of establishment or the Commission, upon their reasoned request and within a reasonable period, specified in the request, access to data that are necessary to monitor and assess compliance with this Regulation. That Digital Services Coordinator and the Commission shall only use that data for those purposes.

1. Very large online platforms shall provide the Digital Services Coordinator of establishment or the Commission, upon their reasoned request and within a reasonable period, specified in the request, access to data ***and algorithms*** that are necessary to monitor and assess compliance with this Regulation. That Digital Services Coordinator and the Commission shall only use that data for those purposes.

Or. en

Amendment 139

Proposal for a regulation Article 31 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The very large online platform shall be obliged to explain the design and the functioning of the algorithms if requested by the Digital Service Coordinator of establishment.

Or. en

Justification

To ensure an effective enforcement of this regulation, the Digital Service Coordinator of establishment should not only have access to relevant data and algorithms, but also by request explanations on how the algorithms are designed and work. This will ensure that the Digital Service Coordinators have the relevant information to assess whether the platform complies with the regulation.

Amendment 140

Proposal for a regulation Article 31 – paragraph 4

Text proposed by the Commission

Amendment

4. In order to be vetted, researchers shall be affiliated with academic institutions, be independent from commercial interests, have proven records of expertise in the fields related to the risks investigated or related research methodologies, and shall commit and be in a capacity to preserve the specific data security and confidentiality requirements corresponding to each request.

4. In order to be vetted, researchers shall be affiliated with academic institutions **or civil society organisations representing the public interest**, be independent from commercial interests, **disclose the funding financing the research**, have proven records of expertise in the fields related to the risks investigated or related research methodologies, and shall commit and be in a capacity to preserve the specific data security and confidentiality requirements corresponding to each request.

Or. en

Justification

Data protection should not be misappropriated as a means for powerful players to escape transparency and accountability. Researchers and civil society organisations should have access to relevant data if they fulfill the requirements established in this article.

Amendment 141

Proposal for a regulation Article 33 a (new)

Text proposed by the Commission

Amendment

Article 33a

Algorithm accountability

- 1. When using automated decision-making, the very large online platform shall provide the Commission with the necessary information to perform an assessment of the algorithms used.**
- 2. When carrying out the assessment referred into paragraph 1, the Commission shall assess the following elements:**
 - (a) the compliance with corresponding Union requirements;**
 - (b) how the algorithm is used by the very large online platform and its impact on the provision of the service;**
 - (c) the impact on fundamental rights, including on consumer rights, as well as the social effect of the algorithms; and**
 - (d) whether the measures implemented by the very large online platform to ensure the resilience of the algorithm are appropriate with regard to the importance of the algorithm for the provision of the service and its impact on elements referred to in point (c).**
- 3. When performing their assessment, the Commission may seek advice from relevant national public authorities, researchers and non-governmental organisations.**
- 4. Following the assessment, referred to in paragraph 2, the Commission shall communicate its findings to the very large online platforms and allow them to provide additional explanation on the**

conclusion of the findings within a period of two weeks.

5. Where the Commission finds that the algorithm used by the very large online platform does not comply with point (a), (c), or (d) of paragraph 2 of this Article, the Commission shall take appropriate measures laid down in this Regulation to stop the infringement.

Or. en

Justification

Automated decision making underpins to a large extent the services offered by very large online platform. It is therefore necessary to ensure the design of such tools do not entail any risk for individuals. In order to ensure an harmonised and neutral approach for assessing automated decision making, the Commission should be the responsible authority for assessing automated decision making against a number of criteria listed in this Article.

Amendment 142

**Proposal for a regulation
Article 34 – paragraph 1 – point c**

Text proposed by the Commission

(c) specific interfaces, including application programming interfaces, to facilitate compliance with the obligations set out in Articles 30 and 31;

Amendment

(c) specific interfaces, including application programming interfaces, **the use of icons, and other graphical elements** to facilitate compliance with the obligations set out in Articles **12, 22, 30** and 31;

Or. en

Justification

Technical amendment

Amendment 143

**Proposal for a regulation
Article 35 – paragraph 2**

Text proposed by the Commission

2. Where significant systemic risk within the meaning of Article 26(1) emerge and concern several very large online platforms, the Commission **may** invite the very large online platforms concerned, other very large online platforms, other online platforms and other providers of intermediary services, as appropriate, as well as civil society organisations and other interested parties, to participate in the drawing up of codes of conduct, including by setting out commitments to take specific risk mitigation measures, as well as a regular reporting framework on any measures taken and their outcomes.

Amendment

2. Where significant systemic risk within the meaning of Article 26(1) emerge and concern several very large online platforms, the Commission **shall** invite the very large online platforms concerned, other very large online platforms, other online platforms and other providers of intermediary services, as appropriate, as well as **relevant public authorities**, civil society organisations and other interested parties, to participate in the drawing up of codes of conduct, including by setting out commitments to take specific risk mitigation measures, as well as a regular reporting framework on any measures taken and their outcomes.

Or. en

Amendment 144

Proposal for a regulation
Article 35 – paragraph 3

Text proposed by the Commission

3. When giving effect to paragraphs 1 and 2, the Commission and the Board shall aim to ensure that the codes of conduct clearly set out their objectives, contain key performance indicators to measure the achievement of those objectives and take due account of the needs and interests of all interested parties, **including** citizens, at Union level. The Commission and the Board shall also aim to ensure that participants report regularly to the Commission and their respective Digital Service Coordinators of establishment on any measures taken and their outcomes, as measured against the key performance indicators that they contain.

Amendment

3. When giving effect to paragraphs 1 and 2, the Commission and the Board shall aim to ensure that the codes of conduct clearly set out their objectives, contain key performance indicators to measure the achievement of those objectives and take due account of the needs and interests of all interested parties, **and in particular** citizens, at Union level. The Commission and the Board shall also aim to ensure that participants report regularly to the Commission and their respective Digital Service Coordinators of establishment on any measures taken and their outcomes, as measured against the key performance indicators that they contain.

Or. en

Amendment 145

Proposal for a regulation Article 39 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that their Digital Services Coordinators perform their tasks under this Regulation in an impartial, transparent and timely manner. Member States shall ensure that their Digital Services Coordinators have **adequate** technical, financial and human resources to carry out their tasks.

Amendment

1. Member States shall ensure that their Digital Services Coordinators perform their tasks under this Regulation in an impartial, transparent and timely manner. Member States shall ensure that their Digital Services Coordinators have **the necessary** technical, financial and human resources, **with in-depth technical skills, including on data processing and auditing**, to carry out their tasks.

Or. en

Amendment 146

Proposal for a regulation Article 39 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Digital Service Coordinator shall, on a regular basis, assess whether the information referred to in Article 11 is reliable, complete and up-to-date.

Or. en

Justification

In order to ensure that the information provided by the legal representative and avoid situations where the legal representative turns out to be empty mailbox, the Digital Service Coordinator should on a regular basis assess whether the information referred to in Article 11 is reliable and up-to-date.

Amendment 147

Proposal for a regulation

Article 41 – paragraph 2 – point e

Text proposed by the Commission

(e) the power to adopt interim measures to avoid the risk of serious harm.

Amendment

(e) the power to adopt interim measures to avoid ***repeated infringement of the obligations laid down in the Regulation or to avoid*** the risk of serious harm;

Or. en

Justification

If an intermediary service repeatedly infringes the obligations set out in this regulation, the Digital Service Coordinator should have the power to restrict access to the interface. This would be in line with the wording in the CPC Regulation.

Amendment 148

Proposal for a regulation

Article 41 – paragraph 2 – point e a (new)

Text proposed by the Commission

Amendment

(ea) For the purposes of point (e), the Digital Service Coordinator, shall in particular have the power to request the relevant judicial authority to:

(i) remove content or restrict access to an online interface or to order the explicit display of a warning to consumers when they access an online interface;

(ii) order a hosting service provider to remove, disable or restrict access to an online interface; or

(iii) where appropriate, order domain registries or registrars to delete a fully qualified domain name and to allow the competent authority concerned to register it, including by requesting a third party or other public authority to implement such measures.

Justification

If an intermediary service repeatedly infringes the obligations set out in this regulation, the Digital Service Coordinator should have the power to restrict access to the interface. This would be in line with the wording in the CPC Regulation.

Amendment 149**Proposal for a regulation****Article 41 – paragraph 3 – subparagraph 1 – introductory part***Text proposed by the Commission*

3. Where needed for carrying out their tasks, Digital Services Coordinators shall also have, in respect of providers of intermediary services under the jurisdiction of their Member State, where all other powers pursuant to this Article to bring about the cessation of an infringement have been exhausted, the infringement persists and causes serious harm which cannot be avoided through the exercise of other powers available under Union or national law, the power to take the following measures:

Amendment

3. Where needed for carrying out their tasks, Digital Services Coordinators shall also have, in respect of providers of intermediary services under the jurisdiction of their Member State, where all other powers pursuant to this Article, ***except those referred in point (ea) of paragraph 2***, to bring about the cessation of an infringement have been exhausted, the infringement persists and causes serious harm which cannot be avoided through the exercise of other powers available under Union or national law, the power to take the following measures:

Justification

Technical amendment in line with the changes made in Article 41, paragraph 2(e)

Amendment 150**Proposal for a regulation****Article 41 – paragraph 3 – subparagraph 1 – point b***Text proposed by the Commission*

(b) where the Digital Services Coordinator considers that the provider has not sufficiently complied with the

Amendment

(b) where the Digital Services Coordinator considers that the provider has not sufficiently complied with the

requirements of the first indent, that the infringement persists and causes serious harm, **and** that the infringement entails a serious criminal offence involving a threat to the life or safety of persons, request the competent judicial authority of that Member State to order the temporary restriction of access of recipients of the service concerned by the infringement or, only where that is not technically feasible, to the online interface of the provider of intermediary services on which the infringement takes place.

requirements of the first indent, that the infringement persists and causes serious harm, **or** that the infringement ***persists and causes serious harm and*** entails a serious criminal offence involving a threat to the life or safety of persons, request the competent judicial authority of that Member State to order the temporary restriction of access of recipients of the service concerned by the infringement or, only where that is not technically feasible, to the online interface of the provider of intermediary services on which the infringement takes place.

Or. en

Amendment 151

Proposal for a regulation

Article 41 – paragraph 3 – subparagraph 2

Text proposed by the Commission

The Digital Services Coordinator shall, except where it acts upon the Commission's request referred to in Article 65, prior to submitting the request referred to in point (b) of the first subparagraph, invite interested parties to submit written observations within a time period that shall not be less than two weeks, describing the measures that it intends to request and identifying the intended addressee or addressees thereof. The provider, the intended addressee or addressees and any other third party demonstrating a legitimate interest shall be entitled to participate in the proceedings before the competent judicial authority. Any measure ordered shall be proportionate to the nature, gravity, recurrence and duration of the infringement, without unduly restricting access to lawful information by recipients of the service concerned.

Amendment

The Digital Services Coordinator shall, except where it acts upon the Commission's request referred to in Article 65, ***prior to adopting interim measures referred to paragraph 2(e) or*** prior to submitting the request referred to in point (b) of the first subparagraph, invite interested parties to submit written observations within a time period that shall not be less than two weeks, describing the measures that it intends to request and identifying the intended addressee or addressees thereof. The provider, the intended addressee or addressees and any other third party demonstrating a legitimate interest shall be entitled to participate in the proceedings before the competent judicial authority. Any measure ordered shall be proportionate to the nature, gravity, recurrence and duration of the infringement, without unduly restricting access to lawful information by recipients

of the service concerned.

Or. en

Amendment 152

Proposal for a regulation Article 42 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that the maximum amount of penalties imposed for a failure to comply with the obligations laid down in this Regulation shall not exceed 6 % of the annual income or turnover of the provider of intermediary services concerned. Penalties for the supply of incorrect, incomplete or misleading information, failure to reply or rectify incorrect, incomplete or misleading information and to submit to an on-site inspection shall not exceed 1% of the annual income or turnover of the provider concerned.

Amendment

3. Member States shall ensure that the maximum amount of penalties imposed for a failure to comply with the obligations laid down in this Regulation shall not exceed 6 % of the annual income **worldwide** or turnover of the provider of intermediary services concerned. Penalties for the supply of incorrect, incomplete or misleading information, failure to reply or rectify incorrect, incomplete or misleading information and to submit to an on-site inspection shall not exceed 1% of the annual income **worldwide** or turnover of the provider concerned.

Or. en

Justification

In order to clarify what is meant by annual income and turnover

Amendment 153

Proposal for a regulation Article 42 – paragraph 4

Text proposed by the Commission

4. Member States shall ensure that the maximum amount of a periodic penalty payment shall not exceed 5 % of the average daily turnover of the provider of intermediary services concerned in the preceding financial year per day, calculated

Amendment

4. Member States shall ensure that the maximum amount of a periodic penalty payment shall not exceed 5 % of the average daily turnover **worldwide** of the provider of intermediary services concerned in the preceding financial year

from the date specified in the decision concerned.

per day, calculated from the date specified in the decision concerned.

Or. en

Amendment 154

Proposal for a regulation Article 43 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The Digital Services Coordinator of establishment receiving the complaint shall, without undue delay and in any event not later than three months following receipt of complaint, reply to the recipient of the service, explaining, where applicable, the steps taken to address the infringement.

Or. en

Amendment 155

Proposal for a regulation Article 45 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

Where the Board has reasons to suspect that a provider of intermediary services infringed this Regulation in a manner involving at least **three** Member States, it may **recommend** the Digital Services Coordinator of establishment to assess the matter and take the necessary investigatory and enforcement measures to ensure compliance with this Regulation.

Where the Board has reasons to suspect that a provider of intermediary services infringed this Regulation in a manner involving at least **two** Member States, it may **request** the Digital Services Coordinator of establishment to **assess the matter and** take the necessary investigatory and enforcement measures to ensure compliance with this Regulation.

Or. en

Justification

No Member State should become a safe haven from the obligations set out in this Regulation.

In case the Board has reasons to believe that a provider of intermediary services has infringed this Regulation, they should not only ‘recommend’, but request the Digital Service Coordinator of establishment to assess the matter. At the same time, the requirement of at least ‘three’ Member States should be replaced by ‘two’ Member States to lower the necessary requirements for the Board to intervene in any suspected breach.

Amendment 156

Proposal for a regulation

Article 45 – paragraph 2 – introductory part

Text proposed by the Commission

2. A request ***or recommendation*** pursuant to paragraph 1 shall at least indicate:

Amendment

2. A request pursuant to paragraph 1 shall at least indicate:

Or. en

Amendment 157

Proposal for a regulation

Article 45 – paragraph 3

Text proposed by the Commission

3. The Digital Services Coordinator of establishment shall take into utmost account the request ***or recommendation*** pursuant to paragraph 1. Where it considers that it has insufficient information to act upon the request ***or recommendation*** and has reasons to consider that the Digital Services Coordinator that sent the request, or the Board, could provide additional information, it may request such information. The time period laid down in paragraph 4 shall be suspended until that additional information is provided.

Amendment

3. The Digital Services Coordinator of establishment shall take into utmost account the request pursuant to paragraph 1. Where it considers that it has insufficient information to act upon the request and has reasons to consider that the Digital Services Coordinator that sent the request, or the Board, could provide additional information, it may request such information. The time period laid down in paragraph 4 shall be suspended until that additional information is provided.

Or. en

Amendment 158

Proposal for a regulation Article 45 – paragraph 4

Text proposed by the Commission

4. The Digital Services Coordinator of establishment shall, without undue delay and in any event not later than **two months** following receipt of the request **or recommendation**, communicate to the Digital Services Coordinator that sent the request, or the Board, its assessment of the suspected infringement, or that of any other competent authority pursuant to national law where relevant, and an explanation of any investigatory or enforcement measures taken or envisaged in relation thereto to ensure compliance with this Regulation.

Amendment

4. The Digital Services Coordinator of establishment shall, without undue delay and in any event not later than **one month** following receipt of the request, communicate to the Digital Services Coordinator that sent the request, or the Board, its assessment of the suspected infringement, or that of any other competent authority pursuant to national law where relevant, and an explanation of any investigatory or enforcement measures taken or envisaged in relation thereto to ensure compliance with this Regulation.

Or. en

Justification

If all deadlines, as they stand before the amendments, are met at the latest, any actual measure to ensure compliance with this Regulation could take up to seven months to adopt. This is far too long. Taking into account that the Board already at this stage of the investigation has provided a description of the relevant facts, including which provisions of this Regulation they believe are infringed, one month in each step to make an assessment should be sufficient.

Amendment 159

Proposal for a regulation Article 45 – paragraph 5

Text proposed by the Commission

5. Where the Digital Services Coordinator that sent the request, or, where appropriate, the Board, did not receive a reply within the time period laid down in paragraph 4 or where it does not agree with the assessment of the Digital Services Coordinator of establishment, it may refer the matter to the Commission, providing all

Amendment

5. Where the Digital Services Coordinator that sent the request, or, where appropriate, the Board, did not receive a reply within the time period laid down in paragraph 4 or where it does not agree with the assessment of the Digital Services Coordinator of establishment, it may refer the matter to the Commission, providing all

relevant information. That information shall include at least the request *or recommendation* sent to the Digital Services Coordinator of establishment, any additional information provided pursuant to paragraph 3 and the communication referred to in paragraph 4.

relevant information. That information shall include at least the request sent to the Digital Services Coordinator of establishment, any additional information provided pursuant to paragraph 3 and the communication referred to in paragraph 4.

Or. en

Amendment 160

Proposal for a regulation Article 45 – paragraph 6

Text proposed by the Commission

6. The Commission shall assess the matter within *three months* following the referral of the matter pursuant to paragraph 5, after having consulted the Digital Services Coordinator of establishment and, unless it referred the matter itself, the Board.

Amendment

6. The Commission shall assess the matter within *one month* following the referral of the matter pursuant to paragraph 5, after having consulted the Digital Services Coordinator of establishment and, unless it referred the matter itself, the Board.

Or. en

Amendment 161

Proposal for a regulation Article 45 – paragraph 7

Text proposed by the Commission

7. Where, pursuant to paragraph 6, the Commission concludes that the assessment or the investigatory or enforcement measures taken or envisaged pursuant to paragraph 4 are incompatible with this Regulation, it shall request the Digital Service Coordinator of establishment to *further assess the matter and* take the necessary investigatory or enforcement measures to ensure compliance with this Regulation, and to inform it about those

Amendment

7. Where, pursuant to paragraph 6, the Commission concludes that the assessment or the investigatory or enforcement measures taken or envisaged pursuant to paragraph 4 are incompatible with this Regulation, it shall request the Digital Service Coordinator of establishment to take the necessary investigatory or enforcement measures to ensure compliance with this Regulation, and to inform it about those measures taken

measures taken within *two months* from that request.

within *one month* from that request.

Or. en

Amendment 162

Proposal for a regulation

Article 46 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Where a Digital Services Coordinator of establishment has reasons to suspect that a provider of intermediary services has infringed this Regulation in a manner involving at least one other Member State, it may launch a joint investigation which shall be based on an agreement between the Member States concerned.

Or. en

Amendment 163

Proposal for a regulation

Article 49 – paragraph 2

Text proposed by the Commission

Amendment

2. Digital Services Coordinators and other national competent authorities that do not follow the opinions, requests or recommendations addressed to them adopted by the Board shall provide the reasons for this choice when reporting pursuant to this Regulation or when adopting their relevant decisions, as appropriate.

2. Digital Services Coordinators and other national competent authorities that do not follow the opinions, requests or recommendations addressed to them adopted by the Board shall provide the reasons for this choice ***and also explanations regarding the investigations, the actions and the measures that they might have implemented*** when reporting pursuant to this Regulation or when adopting their relevant decisions, as appropriate.

Or. en

Amendment 164

Proposal for a regulation

Article 50 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The Commission acting on its own initiative, or the Board acting on its own initiative or upon request of at least three Digital Services Coordinators of destination, **may**, where it has reasons to suspect that a very large online platform infringed any of those provisions, **recommend** the Digital Services Coordinator of establishment to investigate the suspected infringement with a view to that Digital Services Coordinator adopting such a decision within a reasonable time period.

Amendment

The Commission acting on its own initiative, or the Board acting on its own initiative or upon request of at least three Digital Services Coordinators of destination, **shall**, where it has reasons to suspect that a very large online platform infringed any of those provisions, **request** the Digital Services Coordinator of establishment to investigate the suspected infringement with a view to that Digital Services Coordinator adopting such a decision within a reasonable time period **and no later than three months**.

Or. en

Justification

The Commission should be obliged to act. Furthermore, while it is reasonable to give some flexibility to the Digital Services Coordinator, setting a harmonised deadline will help avoiding too diverging interpretation of ‘reasonable time’ and ensure a harmonised and efficient enforcement’.

Amendment 165

Proposal for a regulation

Article 51 – paragraph 1 – introductory part

Text proposed by the Commission

1. The Commission, acting either upon the Board’s recommendation or on its own initiative after consulting the Board, **may** initiate proceedings in view of the possible adoption of decisions pursuant to Articles 58 and 59 in respect of the relevant conduct by the very large online platform that:

Amendment

1. The Commission, acting either upon the Board’s recommendation or on its own initiative after consulting the Board, **shall** initiate proceedings in view of the possible adoption of decisions pursuant to Articles 58 and 59 in respect of the relevant conduct by the very large online platform that:

Justification

The Commission should be obliged to act in case of an infringement.

Amendment 166**Proposal for a regulation****Article 51 – paragraph 2 – subparagraph 1***Text proposed by the Commission*

2. **Where** the Commission **decides to** initiate proceedings pursuant to paragraph 1, it shall notify all Digital Services Coordinators, the Board and the very large online platform concerned.

Amendment

2. **When** the Commission initiates proceedings pursuant to paragraph 1, it shall notify all Digital Services Coordinators, the Board and the very large online platform concerned.

Or. en

Amendment 167**Proposal for a regulation****Article 54 – paragraph 3***Text proposed by the Commission*

3. During on-site inspections the Commission and auditors or experts appointed by it may require the very large online platform concerned or other person referred to in Article 52(1) to provide explanations on its organisation, functioning, IT system, algorithms, data-handling and business conducts. The Commission and auditors or experts appointed by it may address questions to key personnel of the very large online platform concerned or other person referred to in Article 52(1).

Amendment

3. During on-site inspections the Commission and auditors or experts appointed by it may require the very large online platform concerned or other person referred to in Article 52(1) to provide explanations on its organisation, functioning, IT system, algorithms, data-handling and business conducts. **Where necessary, the Commission or the Board may require additional information about the algorithms in question in order to assess the algorithm in accordance with Article 33a.** The Commission and auditors or experts appointed by it may address questions to key personnel of the very large online platform concerned or other person referred to in Article 52(1).

Amendment 168**Proposal for a regulation
Article 55 – paragraph 1***Text proposed by the Commission*

1. In the context of proceedings which may lead to the adoption of a decision of non-compliance pursuant to Article 58(1), where there is an urgency due to the risk of serious damage for the recipients of the service, the Commission may, by decision, order interim measures against the very large online platform concerned on the basis of a prima facie finding of an infringement.

Amendment

1. In the context of proceedings which may lead to the adoption of a decision of non-compliance pursuant to Article 58(1), where there is an urgency due to the risk of serious damage for the recipients of the service ***or where the very large online platform has repeatedly infringed the obligations laid down in this Regulation,*** the Commission may, by decision, order interim measures against the very large online platform concerned on the basis of a prima facie finding of an infringement.

Or. en

Amendment 169**Proposal for a regulation
Article 55 – paragraph 1 a (new)***Text proposed by the Commission**Amendment*

1a. The interim measures shall include:

(i) the power to remove content or to restrict access to an online interface or to order the explicit display of a warning to consumers when they access an online interface;

(ii) the power to order a hosting service provider to remove, disable or restrict access to an online interface; or

(iii) where appropriate, the power to order domain registries or registrars to delete a fully qualified domain name and

to allow the competent authority concerned to register it including by requesting a third party or other public authority to implement such measures.

Or. en

Justification

If an intermediary service repeatedly infringes the obligations set out in this regulation, the Commission should have the power to restrict access to the interface.

Amendment 170

Proposal for a regulation

Article 56 – paragraph 2 – introductory part

Text proposed by the Commission

2. The Commission *may*, upon request or on its own initiative, reopen the proceedings:

Amendment

2. The Commission *shall*, upon request or on its own initiative, reopen the proceedings:

Or. en

Amendment 171

Proposal for a regulation

Article 58 – paragraph 1 – point b

Text proposed by the Commission

(b) interim measures ordered pursuant to Article 55;

Amendment

(b) interim measures ordered pursuant to Article 55; *and*

Or. en

Amendment 172

Proposal for a regulation

Article 58 – paragraph 3

Text proposed by the Commission

3. In the decision adopted pursuant to paragraph 1 the Commission shall order the very large online platform concerned to take the necessary measures to ensure compliance with the decision pursuant to paragraph 1 within **a reasonable time period** and to provide information on the measures that that platform intends to take to comply with the decision.

Amendment

3. In the decision adopted pursuant to paragraph 1 the Commission shall order the very large online platform concerned to take the necessary measures to ensure compliance with the decision pursuant to paragraph 1 within **one month** and to provide information on the measures that that platform intends to take to comply with the decision.

Or. en

Amendment 173

Proposal for a regulation

Article 59 – paragraph 1 – introductory part

Text proposed by the Commission

1. In the decision pursuant to Article 58, the Commission may impose on the very large online platform concerned fines not exceeding 6% of its total turnover in the preceding financial year where it finds that **that** platform, intentionally or negligently:

Amendment

1. In the decision pursuant to Article 58, the Commission may impose on the very large online platform concerned fines not exceeding 6% of its total turnover in the preceding financial year **worldwide** where it finds that **the** platform, intentionally or negligently:

Or. en

Amendment 174

Proposal for a regulation

Article 59 – paragraph 2 – introductory part

Text proposed by the Commission

2. The Commission may by decision impose on the very large online platform concerned or other person referred to in Article 52(1) fines not exceeding 1% of the total turnover in the preceding financial year, where they intentionally or

Amendment

2. The Commission may by decision impose on the very large online platform concerned or other person referred to in Article 52(1) fines not exceeding 1% of the total turnover in the preceding financial year **worldwide**, where they intentionally

negligently:

or negligently:

Or. en

Amendment 175

Proposal for a regulation

Article 60 – paragraph 1 – introductory part

Text proposed by the Commission

1. The Commission may, by decision, impose on the very large online platform concerned or other person referred to in Article 52(1), as applicable, periodic penalty payments not exceeding 5 % of the average daily turnover in the preceding financial year per day, calculated from the date appointed by the decision, in order to compel them to:

Amendment

1. The Commission may, by decision, impose on the very large online platform concerned or other person referred to in Article 52(1), as applicable, periodic penalty payments not exceeding 5 % of the average daily turnover **worldwide** in the preceding financial year per day, calculated from the date appointed by the decision, in order to compel them to:

Or. en

Amendment 176

Proposal for a regulation

Article 68 – paragraph 1 – introductory part

Text proposed by the Commission

Without prejudice to Directive **2020/XX/EU** of the European Parliament and of the Council⁵², recipients of intermediary services shall have the right to mandate a body, organisation or association to exercise the rights referred to in Articles 17, 18 and 19 on their behalf, provided the body, organisation or association meets all of the following conditions:

⁵² [Reference]

Amendment

Without prejudice to Directive (**EU**) **2020/1828** of the European Parliament and of the Council⁵², recipients of intermediary services shall have the right to mandate a body, organisation or association to exercise the rights referred to in Articles 17, 18 and 19 on their behalf, provided the body, organisation or association meets all of the following conditions:

⁵² **Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative**

actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC (OJ L 409, 4.12.2020, p. 1).

Or. en

Amendment 177

Proposal for a regulation Article 69 – paragraph 2

Text proposed by the Commission

2. The delegation of power referred to in Articles 23, 25, and 31 shall be conferred on the Commission for *an indeterminate* period of *time* from [date of expected adoption of the Regulation].

Amendment

2. The power to adopt delegated acts referred to in Articles **14, 22**, 23, 25, and 31 shall be conferred on the Commission for *a* period of **five years** from [date of expected adoption of the Regulation]. ***The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.***

Or. en

Amendment 178

Proposal for a regulation Article 69 – paragraph 3

Text proposed by the Commission

3. The delegation of power referred to in Articles 23, 25 and 31 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of power specified in that decision. It shall take

Amendment

3. The delegation of power referred to in Articles **14, 22**, 23, 25 and 31 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall

effect the day following that of its publication in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Or. en

Amendment 179

Proposal for a regulation Article 69 – paragraph 5

Text proposed by the Commission

5. A delegated act adopted pursuant to Articles 23, 25 and 31 shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.

Amendment

5. A delegated act adopted pursuant to Articles **14, 22**, 23, 25 and 31 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.

Or. en

Amendment 180

Proposal for a regulation Article 70 – paragraph 1

Text proposed by the Commission

1. The Commission shall be assisted by **the** Digital Services Committee. That Committee shall be a Committee within the meaning of Regulation (EU) No 182/2011.

Amendment

1. The Commission shall be assisted by **a** Digital Services Committee. That Committee shall be a Committee within the meaning of Regulation (EU) No 182/2011.

Amendment 181

Proposal for a regulation Article 73 – paragraph 1

Text proposed by the Commission

1. By five years after the entry into force of this Regulation at the latest, and every five years thereafter, the Commission shall evaluate this Regulation and report to the European Parliament, the Council and the European Economic and Social Committee.

Amendment

1. By five years after the entry into force of this Regulation at the latest, and every five years thereafter, the Commission shall evaluate this Regulation and report to the European Parliament, the Council and the European Economic and Social Committee. ***This report shall address in particular the application of Articles 35 and 36.***

Or. en

Amendment 182

Proposal for a regulation Article 73 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Where appropriate, the report referred to in paragraph 1 shall be accompanied by a proposal for amendment of this Regulation.

Or. en

Justification

In case the code of conducts are not sufficient.

EXPLANATORY STATEMENT

Introduction

The Rapporteur welcomes the Commission's proposal on a Digital Services Act. Digital services are an important backbone of our economy, bringing new opportunities for both consumers and businesses, using the various digital services on a daily basis.

At the same time digital services have created serious challenges and risks. The nature, scale and importance of digital services for the economy and society have changed dramatically since the current legislation was put into place. An updated regulatory framework on digital services, establishing clear responsibilities is necessary to address these challenges and to ensure a level playing field in the digital Single Market and a safer digital space for the users.

The Rapporteur acknowledges the horizontal nature of this Regulation, but at the same time considers that the one size fits all approach fails to tackle the problems with illegal products and services sold through online marketplaces. The Rapporteur is of the opinion that stricter rules on online marketplaces must be introduced in order to create a level playing field and ensure the principle of "what is illegal offline should also be illegal online".

The Rapporteur welcomes the Commission's aim to increase the transparency of online advertisement and recommender systems, but is of the view that the Commission's proposal lacks concrete obligations to ensure accountability and to prevent the amplification of illegal content. The Rapporteur thus sees a need to propose further transparency measures and requirements in order to ensure user protection by design and by default.

Lastly, the Rapporteur welcomes the focus on the implementation and enforcement provisions and believes that given the cross-border nature of digital services, the hybrid enforcement model suggested by the Commission could ensure an effective and efficient enforcement of this Regulation. However, the Rapporteur finds it necessary to strengthen some provisions to ensure that no Member State becomes a safe haven for online platforms.

Consumer protection and online marketplaces

Although the Rapporteur acknowledges the horizontal approach of the DSA, more specific actions must be required from online marketplaces to ensure that consumers can purchase safe products and services online. The Rapporteur welcomes certain aspects of the Commission proposal, namely the traceability of traders, the specific condition to the liability exemption targeting online marketplaces and the fact that that notices under certain conditions will be considered to give actual knowledge and thereby make online platforms liable if they do not remove the content.

However, in order to tackle the issue with illegal products and thus ensuring the principle of "what is illegal offline should also be illegal online" is more than just words, the Rapporteur is of the opinion that further conditions to the exemption of liability and obligations must be introduced to ensure consumer protection and a level playing field for European businesses

within the digital Single Market.

The Rapporteur proposes a new Article laying down stricter conditions for the exemptions of liability specifically targeting online marketplaces. These conditions include amongst other things requirements to comply with certain due diligence obligations and conditions that ensures that where a trader from a third country does not have an economic operator liable for the product safety, the marketplace will not benefit from the exemption of liability. This is done to ensure liability of any product sold to European consumers, including from e-commerce. In addition, consumers will be able to seek redress for any damages the products or services have caused from the online platform.

Lastly, the Rapporteur proposes to strengthen the obligation on the traceability of traders, both by introducing a new article extending the scope of certain provisions presented in Article 22 to all intermediary services and by introducing new provisions targeting online marketplaces. These provisions include obligations to prevent dangerous and/or non-compliant products from being offered online and obligations to cooperate with national authorities when necessary regarding dangerous products already sold.

Removal of illegal content

The Rapporteur is of the opinion that illegal content should be removed from intermediary services as fast as possible while taking into account fundamental rights. The Rapporteur believes that the DSA should establish a framework for notice and takedown with clearly defined procedures, safeguards and timelines for acting on notifications on illegal content and ensure uniform procedures in all Member States. While it is necessary to grant digital platforms time to assess the legality of content, some content has a very high impact and may pose a greater threat to society or significant damage to the individual. It is thus reasonable to have two sets of timelines with shorter timeframes for such high impact content. To ensure consistency with existing legislation, the Rapporteur specifies that these deadlines are without prejudice to deadlines set in sectorial legislation or legal orders.

In addition, the Rapporteur welcomes the obligation introduced in Article 20 on measures and protection against misuse. However, when a user frequently provide illegal content to an interface, e.g. offer products that does not comply with EU laws, the platform should for a reasonable period of time suspend the user. This should not be limited to manifestly illegal content only.

Users rights

The Rapporteur also welcomes the Commission's proposal for an internal complaint-handling system and the out-of-court dispute settlement body. However, in order to ensure an efficient procedure, the Rapporteur has proposed to include timeframes. In addition, the internal complaint-handling system should not only be available for those whose content has been removed, but also for those whose notification has been rejected.

The Rapporteur believes that not only national authorities and the Commission should have access to direct and efficient means of communications with intermediary services, but also the recipients of services. The Rapporteur proposes a new Article that allows recipients of services to choose between means of communication with the intermediary services.

Lastly, the Rapporteur is of the opinion that the additional obligations imposed on online platforms under this Regulation chapter two, section three, should be applicable to micro and small enterprises as well except Article 23. Consumer protection law does not differentiate between small and big enterprises, and therefore the obligations should not be limited to larger platforms.

Online advertising

The Rapporteur firmly believes that the pervasive collecting and use of users' data to provide targeted, micro-targeted and behavioural advertising has spiralled out of control. The Rapporteur welcomes the new transparency obligations on this issue, but believes that transparency alone cannot solve the problems related to targeted online advertisement.

The Rapporteur proposes a new article aiming to allow consumers to navigate through online platforms without being subject to targeted advertising. The Rapporteur, therefore, proposes that targeted advertising is set off by default and that consumers can easily opt-out. The Rapporteur also suggests that when online intermediaries process data for targeted advertising, it shall not carry out activities that can lead to pervasive tracking.

Furthermore, the Rapporteur proposes to extend the scope of the Article on online advertising transparency to all intermediary services and suggests new transparency provisions. The Rapporteur suggests that the intermediary services should specify among other things the person who finances the advertisement and where the advertisement has been displayed. Moreover, the intermediary service should allow access to NGOs, researchers and public authorities upon their request to information on direct and indirect payment or any remuneration received.

Lastly, in order to improve consumers' awareness of commercial content the Rapporteur suggests to have prominent and harmonised markings of advertisement. Today, it is up to the individual trader to decide how to disclose the advertisement as long as this is judged as being sufficiently clear to an average consumer of the expected target group. This freedom results in a variety of different markings which makes it difficult for consumers to recognise an advertisement. Therefore, a prominent and harmonised marking for advertisement is needed.

Recommender systems and algorithmic accountability

The Rapporteur welcomes the Commission's recognition that recommender systems can have a significant impact on user's ability to choose information, and that the Commission has decided to dedicate an article to address related issues. However, the Rapporteur sees the need to further strengthen the empowerment of consumers when it comes to recommender systems.

The Rapporteur suggests to extend the scope of the Article to all online platforms as recommender systems used on platforms with less than 45 million active users also have a significant impact on users. Furthermore, the Rapporteur proposes that any recommender system should, by default, not be based on profiling, and that consumers subject to recommender system using profiling should be able to view and delete any profiles used to curate the content they see. In addition, the Rapporteur believes that the algorithms used in recommender system should be designed in a way that prevents dark patterns and rabbit holes from happening. Moreover, the Rapporteur suggest a "must-carry" obligation to ensure that information of public interest is high-ranked in the platforms algorithms.

Lastly, the Rapporteur finds that greater accountability on algorithms should be introduced in the proposal. The Rapporteur suggests that the Commission should be able to assess the algorithms used by very large online platforms and determine whether they comply with a number of requirements. The Commission would be allowed to sanction in case of infringement of certain requirements.

Implementation and enforcement

The Rapporteur welcomes the enforcement model proposed by the Commission. However, some changes have been made in order to strengthen the model. Taking inspiration from the Regulation (EU) 2017/2394 , the Rapporteur proposes that the Digital Service Coordinator and the Commission should have the possibility to restrict access to the interface of an intermediary service, if the provider repeatedly infringe the obligations set out in this Regulation. Furthermore, the Commission should not just have the possibility to act, but should be obliged to act if it has reasons to believe that a very large online platform infringes this Regulation.

**ANNEX: LIST OF ENTITIES OR PERSONS
FROM WHOM THE RAPPOREUR HAS RECEIVED INPUT**

The following list is drawn up on a purely voluntary basis under the exclusive responsibility of the rapporteur. The rapporteur has received input from the following entities or persons in the preparation of the draft report:

Entity and/or person
5rightsfoundation
Airbnb
Alibaba
Amazon
Avaaz
BEUC
Booking.com
BusinessEurope
CCIA
Confederation of Danish Industry
Danish Chamber of Commerce
Danish Media
Den Blå Avis
Deputy Mayor of Barcelona Laia Bonet
DigitalEurope
DOT Europe
Dropbox
EBU
EDRI
ETNO
ETUC
EucoLight
Eurocinema
EuroCommerce
European Brands Associations (AIM)
European Association of Mail Order Pharmacies
Facebook
Google
Governing Platforms
HOTREC
Huawei
IFPI
ITI
LightningEurope
LVMH Moët Hennessy Louis Vuitton
Match Group
Microsoft
MotionPictures

News Media Europe
Nordvision
Portugese Presidency of the Council
Prof. Anja Bechmann, Aarhus University
Reddit
RELX
Schibsted
STM
The Danish Ministry of Industry, Business and Financial Affairs
The DEU Ministry of Justice and Consumer Protection
The Permanent Representation of France in the EU
The Permanent Representation of the Netherlands in the EU
TikTok
Together Against Counterfeiting Alliance
Toy Industries of Europe
U.S Mission to the European Union
Wikimedia
Zalando