

- Secretariat - MN/jbp

**FINAL VOTING LIST**

on the draft opinion

Promoting fairness and transparency for business users of online intermediation services

2018/0112(COD)

Rapporteur: Francis Zammit Dimech

Draft opinion – PE 628.386v01-00 (1-44)  
Amendments – PE 629.590v01-00 (45 -330)

Part of the text being considered	Subject of the vote	Comments	Rapp.'s opinion	Voting result
Article 1	<b><u>AMC 1</u></b>	If adopted, go to AM 118	<b>+</b>	
	AM 113 Boutonnet, Troszczynski	Falls if AMC 1 is adopted	<b>-</b>	
	AM 114 Buda	Falls if AMC 1 or AM 113 is adopted	<b>+</b>	
	AM 115 Reda	Compatible with previous AMs	<b>+</b>	
	AM 116 Popa	Falls if AMC 1 is adopted Compatible with previous AMs	<b>+</b>	
	AM 117 Popa	Identical Compatible with previous AMs	<b>+</b>	
	AM 13 Rapporteur			
	AM 14 Rapporteur	Compatible with previous AMs	<b>+</b>	

Article 2 – paragraph 1 – point 1	AM 118 Gebhardt		-	
Article 2 – paragraph 1 – point 2 – point a	AM 119 Cavada	If adopted, go to AMC 2	+	
	AM 120 Gebhardt	Falls if AM 119 is adopted	+	
Article 2 – paragraph 1 – point 2 – points b and c	<b><u>AMC 2</u></b>	If adopted, go to AM 126	+	
	AM 15 Rapporteur		+	
	AM 121 Zwiefka, Gräfin von Thun und Hohenstein	Falls if AMC 2 or AM 15 is adopted	+	
	AM 122 Popa	Falls if AMC 2, AM 15 or AM 121 is adopted	+	
	AM 16 Rapporteur	Compatible with previous AMs	+	
	AM 123 Gebhardt, Regner	Compatible with previous AMs	+	
	AM 124 Reda	Compatible with previous AMs	+	
	AM 125 Popa	Compatible with AM 15, AM 121 and AM 122. Falls if AM 16, AM 123 or AM 124 is adopted	+	
Article 2 – paragraph 1 – point 3 a (new)	AM 126 Gebhardt		+	
Article 2 – paragraph 1 – point 5	<b><u>AMC 3</u></b>	If adopted, go to AM 135	+	
	AM 127 Geringer de Oedenberg	Falls if AMC 3 is adopted	+	
	AM 128 Mašťálka, Chrysogonos	Falls if AM 127 is adopted	+	
	AM 129 Gebhardt	Falls if AM 127 is adopted. Compatible with AM 128	+	

	AM 130 Cavada	Compatible with previous AMs	+	
	AM 131 Cavada	Falls if AM 127 is adopted. Compatible with AM 128, AM 129 and AM 130	+	
	AM 132 Reda	Falls if AM 127, AM 128 or AM 129 is adopted. Compatible with AM 130 and AM 131	+	
	AM 133 Cavada	Falls if AM 127, AM 128, AM 129 or AM 132 is adopted. Compatible with AM 130 and AM 131	+	
	AM 134 Cavada	Falls if AM 127 is adopted. Compatible with AM 128, AM 129, AM 130, AM 131 and AM 132	+	
Article 2 – paragraph 1 – point 7	AM 135 Reda	If adopted, go to AMC 4	+	
	AM 136 Boutonnet, Troszczyński	Falls if AM 135 is adopted	-	
Article 2 – paragraph 1 – point 8	<b><u>AMC 4</u></b>	If adopted, go to AMC 5	+	
	AM 137 Reda		+	
	AM 17 Rapporteur	Identical Compatible with AM 137	+	
	AM 138 Mašťálka, Chrysogonos			
Article 2 – paragraph 1 – point 10	<b><u>AMC 5</u></b>	If adopted, go to AM 143	+	
	AM 139 Buda	Identical	+	
	AM 140 Reda			
	AM 18 Rapporteur	Compatible with AM 139/140	+	

	AM 141 Popa	Falls if AM 18 is adopted. Compatible with AM 139/140	+	
	AM 142 Maštálka	Falls if AM 18 or AM 141 is adopted. Compatible with AM 139/140	+	
Article 2 – paragraph 1 – point 10 a (new)	AM 143 Cavada		+	
Article 3 – paragraph 1	<b><u>AMC 6</u></b>	If adopted, go to AM 153	+	
	AM 144 Rapporteur		+	
	AM 145 Maštálka	Compatible with AM 144	+	
	AM 146 Reda	Falls if AM 144 is adopted. Compatible with AM 145	+	
	AM 147 Boutonnet, Troszczyński	Falls if AMC 6 is adopted. Compatible with previous AMs	-	
	AM 148 Boutonnet, Troszczyński	Falls if AMC 6 is adopted. Compatible with previous AMs	-	
	AM 149 Rapporteur	Compatible with previous AMs	+	
	AM 150 Buda	Compatible with previous AMs	+	
	AM 151 Maštálka	Falls if AM 148, AM 149 or AM 150 is adopted	+	
	AM 19 Rapporteur	Compatible with previous AMs	+	
	AM 20 Rapporteur	Identical Compatible with previous AMs	+	
	AM 152 Rapporteur			
Article 3 – paragraph 1 – point c a (new)	AM 153 Buda, Marinescu		-	

Article 3 – paragraph 2	AM 154 Boutonnet, Troszczynski		-	
Article 3 – paragraph 3	<b><u>AMC 7</u></b>	If adopted, go to AMC 8	+	
	AM 155 Maštálka	Identical	+	
	AM 21 Rapporteur			
	AM 157 Cavada	Falls if AM 155/21 is adopted.	+	
	AM 156 Cavada	Falls if AM 155/21 or AM 157 is adopted.	+	
	AM 158 Cavada	Compatible with previous AMs	+	
	AM 159 Buda	Compatible with previous AMs	+	
	AM 160 Popa	Falls if AMC 7, AM 155/21 or AM 157 is adopted. Compatible with AM 156, AM 158 and AM 159	-	
	AM 161 Cavada	Compatible with previous AMs	+	
	AM 162 Gebhardt	Falls if AMC 7 or AM 161 is adopted. Compatible with previous AMs	+	
	AM 163 Cavada	Compatible with previous AMs	+	
	AM 22 Rapporteur	Falls if AM 163 is adopted	+	
	AM 23 Rapporteur	Compatible with previous AMs	+	
	Article 3 – paragraph 4	<b><u>AMC 8</u></b>	If adopted, go to AMC 9	+
AM 164 Boutonnet, Troszczynski		Falls if AMC 8 is adopted	-	

	AM 165 Cavada	Identical to AM 164	+	
	AM 166 Reda	Falls if AM 164/165 is adopted	+	
	AM 167 Maštálka	Falls if AM 166 is adopted. Compatible with previous AMs	+	
	AM 24 Rapporteur	Falls if AM 167 is adopted. Compatible with previous AMs	+	
Article 3 – paragraphs 5 and 5 a (new)	<b><u>AMC 9</u></b>	If adopted, go to AMC 10	+	
	AM 168 Cavada		+	
	AM 169 Reda	Compatible with AM 168	+	
	AM 25 Rapporteur	Falls if AM 168 is adopted. Compatible with AM 169	+	
	AM 170 Gebhardt	Compatible with previous AMs	+	
Article 4	<b><u>AMC 10</u></b>	If adopted, go to AM 180	+	
	AM 171 Buda		+	
	AM 172 Rapporteur	Compatible with AM 171	+	
	AM 173 Boutonnet, Troszczynski	Falls if AMC 10 is adopted. Compatible with previous AMs	-	
	AM 174 Buda	Compatible with previous AMs	+	
	AM 175 Cavada, Rohde	Compatible with previous AMs	+	
	AM 176 Popa	(Linguistic AM, no vote)	+	No vote

	AM 177 Maštálka	Falls if AMC 10 is adopted. Compatible with previous AMs	-	
	AM 178 Reda	Compatible with previous AMs	+	
	AM 181 Cavada	Compatible with previous AMs	+	
	AM 183 Reda	Compatible with previous AMs	+	
	AM 179 Maštálka, Chrysogonos	Compatible with previous AMs	+	
Article 4 – paragraph 2 – subparagraph 1 (new)	AM 180 Popa	Compatible with previous AMs	-	
Article 4 – paragraph 2 a (new)	AM 182 Geringer de Oedenberg	Falls if AM 179 is adopted. Compatible with previous AMs	-	
Article 5	<b><u>AMC 11</u></b>	If adopted, go to AM 205	+	
	AM 184 Maštálka	Falls if AMC 11 is adopted	-	
	AM 185 Geringer de Oedenberg	Falls if AMC 11 or AM 184 is adopted	-	
	AM 186 Boutonnet, Troszczynski	Falls if AMC 11, AM 184 or AM 185 is adopted	-	
	AM 187 Gebhardt, Regner	Falls if AMC 11, AM 184 or AM 185 is adopted. Compatible with AM 186	-	
	AM 188 Reda	Falls if any of the previous AMs is adopted	+	
	AM 189 Maštálka	Deletion Falls if AMC 11 is adopted. Compatible with previous AMs If adopted, go to AM 192	-	
	AM 190 Gebhardt, Regner	Falls if AMC 11 or AM 189 is adopted. If adopted, go to AM 192	-	
	AM 191 Reda	Falls if AM 189 or AM 190 is adopted.	+	

	AM 192 Reda	Compatible with previous AMs	+	
	AM 193 Reda	Compatible with previous AMs	+	
	AM 194 Reda	Compatible with previous AMs	+	
	AM 195 Maštálka, Chrysogonos	Falls if AMC 11 or AM 194 is adopted. Compatible with previous AMs	-	
	AM 26 Rapporteur	Falls if AMC 11 or AM 195 is adopted. Compatible with previous AMs	+	
	AM 196 Popa	Falls if AMC 11, AM 194, AM 26 or AM 195 is adopted. Compatible with previous AMs	-	
	AM 197 Cavada, Rohde	Compatible with previous AMs	+	
	AM 198 Geringer de Oedenberg	Falls if AMC 11, AM 195 or AM 196 is adopted. Compatible with AM 197 and previous AMs	-	
	AM 199 Reda	Compatible with previous AMs	+	
	AM 200 Reda	Falls if AMC 11 is adopted. Compatible with previous AMs	-	
	AM 201 Reda	Compatible with previous AMs	+	
	AM 202 Reda	Compatible with previous AMs	+	
	AM 203 Maštálka	Falls if AMC 11, AM 202 is adopted. Compatible with previous AMs	+	
	AM 204 Geringer de Oedenberg	Falls if AMC 11, AM 202 or AM 203 is adopted. Compatible with previous AMs	-	
	AM 27 Rapporteur	Falls if AM 202, AM 203 or AM 204 is adopted.	+	



		Compatible with previous AMs		
Article 5 – paragraph 4 a (new)	AM 205 Gebhardt		+	
	AM 206 Geringer de Oedenberg	Compatible with AM 205	+	
Article 6	<b><u>AMC 12</u></b>	If adopted, go to AMC 13	+	
	AM 207 Gebhardt, Regner	Falls if AMC 12 or AMC 207 is adopted	-	
	AM 208 Geringer de Oedenberg	Falls if AMC 12 or AM 207 is adopted. Compatible with AM 207	-	
	AM 209 Gebhardt, Regner	Falls if AMC 12 is adopted. Compatible with previous AMs	-	
	AM 28 Rapporteur	Falls if AM 209 is adopted.	+	
	AM 210 Reda	Falls if AMC 12 is adopted. Compatible with previous AMs	-	
	AM 211 Reda	Compatible with previous AMs	+	
	AM 212 Gebhardt, Regner	Identical Compatible with previous AMs	+	
	AM 29 Rapporteur			
	AM 213 Gebhardt	Identical Compatible with previous AMs	+	
	AM 214 Buda			
	AM 215 Gebhardt	Falls if AMC 12 is adopted. Compatible with previous AMs	-	
	AM 216 Boutonnet, Troszczynski	Identical Falls if AMC 12 or AM 215 is adopted	-	

	AM 217 Honeyball			
	AM 218 Popa	Identical Compatible with previous AMs	+	
	AM 30 Rapporteur			
	AM 219 Gebhardt	Compatible with previous AMs	+	
	AM 220 Boutonnet, Troszczyński	Falls if AMC 12 is adopted. Compatible with previous AMs	+	
	AM 221 Honeyball	Falls if AMC 12 or AM 220 is adopted. Compatible with previous AMs	-	
	AM 222 Gebhardt, Regner	Compatible with previous AMs	+	
	AM 223 Reda	Compatible with previous AMs	+	
Article 6 a (new)	<b><u>AMC 13</u></b>	If adopted, go to AMC 14	+	
	AM 225 Cavada		+	
	AM 224 Gebhardt, Regner	Falls if AM 225 is adopted	+	
Article 7	<b><u>AMC 14</u></b>	If adopted, go to AM 238	+	
	AM 226 Reda		+	
	AM 227 Buda	Falls if AMC 14 or AM 226 is adopted	-	
	AM 228 Maštálka, Chrysogonos	Falls if AMC 14 is adopted. Compatible with previous AMs	-	
	AM 229 Reda	Compatible with previous AMs	+	

	AM 230 Reda	Compatible with previous AMs	+	
	AM 231 Reda	Compatible with previous AMs	+	
	AM 232 Reda	Compatible with previous AMs	+	
	AM 233 Reda	Compatible with previous AMs	+	
	AM 31 Rapporteur	Compatible with previous AMs	+	
	AM 234 Rapporteur	Compatible with previous AMs	+	
	AM 235 Rapporteur	Compatible with previous AMs	+	
	AM 236 Rapporteur	Compatible with previous AMs	+	
	AM 237 Rapporteur	Compatible with previous AMs	+	
Article 7 – paragraph 2 e (new)	AM 238 Gebhardt, Regner	Compatible with previous AMs	-	
Article 7 – paragraph 2 f (new)	AM 239 Honeyball	Compatible with previous AMs	-	
Article 7 – paragraph 2 g (new)	AM 240 Gebhardt, Regner	Compatible with previous AMs	-	
Article 8	<b><u>AMC 15</u></b>	If adopted, go to AM 250	+	
	AM 241 Zwiefka, Gräfin von Thun und Hohenstein	Falls if AMC 15 is adopted	-	
	AM 242 Gebhardt	Falls if AM 241 is adopted	+	
	AM 243 Boutonnet, Troszczynski	Falls if AMC 15 or AM 241 is adopted. Compatible with AM 242	-	

	AM 244 Reda	Falls if AM 241 is adopted. Compatible with previous AMs	+	
	AM 245 Maštálka	Falls if AMC 15 or AM 241 is adopted. Compatible with previous AMs	-	
	AM 246 Maštálka	Deletion Falls if AMC 15 is adopted. If adopted, go to AM 32	-	
	AM 247 Zwiefka, Gräfin von Thun und Hohenstein	Falls if AMC 15 or AM 246 is adopted If adopted, go to AM 32	-	
	AM 248 Reda	Falls if AM 246 or AM 257 is adopted	+	
	AM 32 Rapporteur	Falls if AM 246 or AM 257 is adopted. Compatible with AM 248	+	
	AM 249 Cavada	Compatible with previous AMs	+	
Article 9 – paragraph 1 – subparagraph 1	AM 250 Buda		-	
Article 9 – paragraph 1 – subparagraph 1 a (new)	AM 251 Reda		+	
Article 9 – paragraph 2 – point b	AM 252 Boutonnet, Troszczynski		-	
Article 9 – paragraph 2 – point c	AM 253 Buda		+	
Article 9 – paragraph 4 – subparagraph 1	AM 254 Maštálka	If adopted, go to AM 256	+	
	AM 33 Rapporteur	Falls if AM 254 is adopted. If adopted, go to AM 256	+	
	AM 255 Reda	Falls if AM 254 or 33 is adopted.	-	
Article 9 – paragraph 4 – subparagraph 2	AM 256 Maštálka, Chrysogonos	If adopted, go to AM 258	-	

	AM 34 Rapporteur	Falls if AM 256 is adopted.	+	
	AM 257 Popa	Falls if AM 256 or AM 34 is adopted.		
	AM 258 Reda	Compatible with previous AMs	-	
Article 9 – paragraph 5	AM 259 Karim		+	
Article 9 – paragraph 5 a (new)	AM 260 Maštálka, Chrysogonos	Identical	-	
	AM 261 Voss, Štefanec			
Article 10	<b><u>AMC 16</u></b>	If adopted, go to AM 281	+	
	AM 262 Karim	Identical	+	
	AM 263 Cavada			
	AM 35 Rapporteur	Falls if AM 262/263 is adopted	+	
	AM 264 Buda	Falls if AMC 16 is adopted. Compatible with previous AMs	-	
	AM 265 Geringer de Oedenberg	Identical Compatible with previous AMs	+	
	AM 266 Maštálka			
	AM 267 Voss, Štefanec			
	AM 36 Rapporteur	Compatible with previous AMs	+	
	AM 268 Karim	Falls if AM 36 is adopted	+	

	AM 269 Maštálka, Chrysogonos	Falls if AMC 16, AM 36 or AM 268 is adopted.	-	
	AM 270 Cavada	Falls if AM 36, AM 268 or AM 269 is adopted	+	
	AM 271 Voss, Štefanec	Identical Falls if AM 36, AM 268, AM 269 or AM 270 is adopted	+	
	AM 272 Geringer de Oedenberg			
	AM 273 Cavada	Deletion If adopted, go to AM 278	+	
	AM 37 Rapporteur	Falls if AM 273 is adopted If adopted, go to AM 278	+	
	AM 274 Buda	Falls if AM 273 or AM 37 is adopted If adopted, go to AM 278	+	
	AM 275 Popa	Falls if AM 273, AM 37 or AM 274 is adopted	+	
	AM 276 Maštálka, Chrysogonos	Identical Falls if AM 273, AM 37 or AM 274 is adopted. Compatible with AM 275	+	
	AM 277 Voss, Štefanec			
	AM 278 Gebhardt	Compatible with previous AMs	+	
	AM 38 Rapporteur	Falls if AM 278 is adopted	+	
	AM 39 Rapporteur	Compatible with previous AMs	+	
	AM 279 Maštálka, Chrysogonos	Identical Fall if AMC 16 is adopted Compatible with previous AMs	-	
	AM 280 Voss, Štefanec			
Article 11 – paragraph 1	AM 281 Reda		-	

Article 12	<b><u>AMC 17</u></b>	If adopted, go to AM 317	<b>+</b>	
	AM 282 Maštálka, Chrysogonos	Identical	<b>+</b>	
	AM 283 Voss, Štefanec			
	AM 284 Cavada, Rohde	Falls if AM 282/283 is adopted.	<b>+</b>	
	AM 285 Rapporteur	Compatible with previous AMs	<b>+</b>	
	AM 40 Rapporteur	Compatible with previous AMs	<b>+</b>	
	AM 286 Rapporteur	Compatible with previous AMs	<b>+</b>	
	AM 287 Maštálka, Chrysogonos	Identical Compatible with previous AMs	<b>+</b>	
	AM 288 Voss, Štefanec			
	AM 289 Geringer de Oedenberg			
	AM 290 Rapporteur			
	AM 41 Rapporteur			
	AM 291 Buda	Identical Falls if AMC 17 or AM 287/288/289/290 is adopted	<b>-</b>	
	AM 292 Popa			
	AM 293 Voss, Štefanec	Identical Compatible with previous AMs	<b>+</b>	
	AM 294 Geringer de Oedenberg			

	AM 295 Maštálka			
	AM 296 Voss, Štefanec	Identical Compatible with previous AMs	+	
	AM 297 Geringer de Oedenberg			
	AM 298 Maštálka			
	AM 299 Rapporteur	Falls if AMC 17 is adopted Compatible with previous AMs	+	
	AM 300 Voss, Štefanec	Identical Compatible with previous AMs	+	
	AM 301 Geringer de Oedenberg			
	AM 302 Maštálka, Chrysogonos			
	AM 304 Rapporteur	Compatible with previous AMs	+	
	AM 303 Maštálka, Chrysogonos	Identical Compatible with previous AMs	+	
	AM 305 Voss, Štefanec			
	AM 306 Geringer de Oedenberg			
	AM 307 Rapporteur	Compatible with previous AMs	+	
	AM 308 Rapporteur	Compatible with previous AMs	+	
	AM 309 Voss, Štefanec	Identical Compatible with previous AMs	+	
	AM 310 Maštálka			



	AM 311 Rapporteur	Identical Compatible with previous AMs	+	
	AM 312 Voss, Štefanec	Identical Compatible with previous AMs	+	
	AM 315 Maštálka			
	AM 313 Rapporteur	Falls if AMC 17 is adopted Compatible with previous AMs	+	
	AM 314 Rapporteur	Compatible with previous AMs	+	
	AM 316 Cavada, Rohde	Compatible with previous AMs	+	
	AM 42 Rapporteur	Compatible with previous AMs	+	
Article 13 – paragraph 1	AM 317 Buda	If adopted, go to AM 320	+	
	AM 318 Cavada	Compatible with AM 317 If adopted, go to AM 320	+	
	AM 319 Cavada, Rohde	Falls if AM 317 or AM 318 is adopted	-	
Article 13 a (new)	AM 320 Gebhardt, Regner		+	
Article 13 a (new)	AM 321 Reda	(Part on judicial cooperation in civil matters and data protection fall if corresponding compromises adopted)	-	
Article 13 a (new)	<b><u>AMC 18</u></b>	If adopted, go to AM 323	+	
	AM 322 Rapporteur		+	
	AM 330 Cavada	(Penultimate indent, the rest of AM 330 is compatible and voted as part of AMC 20 below)	+	

Article 13 a (new)	AM 323 Boutonnet, Troszczynski		-	
Article 13 b (new)	AM 324 Gebhardt, Regner		+	
Article 13 c (new)	AM 325 Gebhardt, Regner		+	
Article 14	<b><u>AMC 19</u></b>	If adopted, go to AM 326	+	
	AM 43 Rapporteur		+	
	AM 44 Rapporteur	Compatible with AM 43	+	
Article 15 – paragraph 2	AM 326 Karim	Identical If adopted, go to AMC 20	+	
	AM 327 Voss, Štefanec			
	AM 328 Mašťálka	Falls if AM 326/327 is adopted	-	
Annex I (new)	<b><u>AMC 20</u></b>	If adopted, go to AM 45	+	
	AM 329 Gebhardt, Regner		+	
	AM 330 Cavada	Compatible with AM 329	+	
Recital 1	AM 45 Buda		-	
Recital 2	AM 46 Gebhardt, Regner		-	
	AM 47 Buda	Compatible with AM 46	-	
Recital 5	<b><u>AMC 21</u></b>	If adopted, go to AM 52	+	

	AM 48 Boutonnet, Troszczynski	Falls if AMC 21 is adopted	-	
	AM 49 Buda	Falls if AMC 21 or AM 48 is adopted	-	
	AM 50 Reda	Identical Compatible with previous AMs	+	
	AM 51 Popa			
	AM 1 Rapporteur			
Recital 6	AM 52 Reda		+	
Recital 7	<b><u>AMC 22</u></b>	If adopted, go to AMC 23	+	
	AM 53 Reda		+	
	AM 2 Rapporteur	Compatible with AM 53	+	
Recital 8	<b><u>AMC 23</u></b>	If adopted, go to AM 58	+	
	AM 54 Gebhardt, Regner	Falls if AMC 23 is adopted	-	
	AM 55 Rapporteur	Compatible with previous AMs	+	
	AM 3 Rapporteur	Compatible with previous AMs If adopted, go to AM 58	+	
	AM 56 Buda	Falls if AM 3 is adopted If adopted, go to AM 58	+	
	AM 57 Popa	Falls if AM 3 or AM 56 is adopted	+	
Recital 9	AM 58 Maštálka, Chrysogonos		-	

	AM 59 Boutonnet, Troszczyński	Compatible with AM 58	-	
Recital 11	<b><u>AMC 24</u></b>	If adopted, go to AMC 25	+	
	AM 60 Maštálka, Chrysogonos		+	
	AM 61 Reda	Compatible with AM 60	-	
	AM 62 Buda	Compatible with previous AMs	-	
	AM 4 Rapporteur	Compatible with previous AMs If adopted, go to AMC 25	+	
	AM 63 Boutonnet, Troszczyński	Falls if AM 4 is adopted	-	
Recital 12	<b><u>AMC 25</u></b>	If adopted, go to AM 69	+	
	AM 64 Reda	Deletion If adopted, go to AM 69	+	
	AM 65 Boutonnet, Troszczyński	Falls if AM 64 is adopted If adopted, go to AM 69	-	
	AM 66 Gebhardt	Falls if AM 64 or AM 65 is adopted If adopted, go to AM 69	-	
	AM 67 Honeyball	Identical Falls if AM 64, AM 65 or AM 66 is adopted	+	
	AM 68 Rapporteur			
Recital 13	AM 69 Cavada		+	
	AM 70 Reda	Compatible with AM 69	-	
	AM 71 Popa	Compatible with previous AMs	-	

Recital 14	AM 72 Cavada	Compatible with AM 72	-	
	AM 73 Boutonnet, Troszczynski	Compatible with previous AMs	-	
	AM 74 Reda	Compatible with previous AMs	+	
Recital 14 a (new)	AM 5 Rapporteur		+	
Recital 15	AM 75 Boutonnet, Troszczynski		-	
	AM 76 Reda	Compatible with AM 75 If adopted, go to AMC 26	+	
	AM 6 Rapporteur	Falls if AM 76 is adopted	+	
Recital 16	<b><u>AMC 26</u></b>	If adopted, go to AM 8	+	
	AM 77 Reda		+	
	AM 78 Buda	Compatible with AM 77	-	
	AM 79 Maštálka, Chrysogonos	Compatible with previous AMs	-	
	AM 7 Rapporteur	Falls if AM 78 or AM 79 is adopted. Compatible with AM 77	+	
Recital 16 a (new)	AM 8 Rapporteur		+	
Recital 17	AM 80 Reda		-	
	AM 81 Boutonnet, Troszczynski	Compatible with AM 80	-	
	AM 82 Buda	Compatible with previous AMs	+	

Recital 18	AM 83 Mašťálka, Chrysogonos		+	
	AM 84 Boutonnet, Troszczynski	Compatible with AM 84	-	
	AM 85 Reda	Compatible with previous AMs	+	
	AM 86 Popa	Compatible with previous AMs	+	
Recital 19	AM 87 Boutonnet, Troszczynski		-	
	AM 88 Reda	Compatible with AM 87	-	
	AM 89 Honeyball	Compatible with previous AMs	-	
	AM 90 Gebhardt	Compatible with previous AMs	+	
Recital 19 a (new)	AM 91 Boutonnet, Troszczynski		-	
Recital 19 a (new)	AM 92 Cavada		-	
	AM 93 Gebhardt, Regner	Falls if AM 92 is adopted	-	
Recital 19 a (new)	<b><u>AMC 27</u></b>	If adopted, go to AM 95	+	
	AM 94 Honeyball	Identical	+	
	AM 9 Rapporteur			
Recital 19 b (new)	AM 95 Honeyball		-	
Recital 19 b (new)	AM 96 Gebhardt, Regner		+	

Recital 20	<b><u>AMC 28</u></b>	If adopted, go to AMC 29	+	
	AM 97 Reda		+	
	AM 10 Rapporteur	Compatible with AM 97	+	
Recital 21	<b><u>AMC 29</u></b>	If adopted, go to AMC 30	+	
	AM 98 Zwiefka, Gräfin von Thun und Hohenstein	Falls if AMC 29 is adopted If adopted, go to AMC 30	+	
	AM 11 Rapporteur	Falls if AM 98 is adopted If adopted, go to AMC 30	+	
	AM 99 Reda	Falls if AM 98 or AM 11 is adopted	+	
Recital 21 a (new)	<b><u>AMC 30</u></b>	If adopted, go to AM 103	+	
	AM 100 Voss	Identical If adopted, go to AM 103	+	
	AM 101 Rapporteur			
	AM 12 Rapporteur	Falls if AM 100/101 is adopted If adopted, go to AM 103	+	
	AM 102 Reda	Falls if AM 100/101 or AM 12 is adopted	+	
Recital 22	AM 103 Buda	If adopted, go to AM 105	+	
	AM 104 Popa	Falls if AM 103 is adopted	-	
Recital 23	AM 105 Reda		+	
Recital 24	AM 106 Buda		-	

Recital 25	<b><u>AMC 31</u></b>	If adopted, go to AM 111	<b>+</b>	
	AM 109 Maštálka, Chrysogonos	Identical If adopted, go to AM 111	-	
	AM 110 Voss, Štefanec			
	AM 107 Buda	Falls if AM 109/110 is adopted If adopted, go to AM 111	<b>+</b>	
	AM 108 Reda	Falls if AM 107 is adopted	<b>+</b>	
Recital 26	AM 111 Reda		-	
Recital 31	AM 112 Boutonnet, Troszczyński		-	
DRAFT OPINION AS A WHOLE		(Electronic vote)	<b>+</b>	



## Compromise amendments

### AMC 1

AM 13, AM 14 (Rapporteur), AM 115 (Reda), AM 117 (Popa)

#### Article 1

##### *Text proposed by the Commission*

1. This Regulation lays down rules to ensure that business users of online intermediation services and corporate website users in relation to online search engines are granted appropriate transparency and effective redress possibilities.

2. This Regulation shall apply to online intermediation services and online search engines provided, or offered to be provided, to business users and corporate website users, respectively, that have their place of establishment or *residence* in the Union and that, through online intermediation services or online search engines, offer goods or services to consumers located in the Union, irrespective of the place of establishment or residence of the providers of those services.

##### *Amendment*

1. This Regulation lays down rules to ensure that business users of online intermediation services and corporate website users in relation to online **and connected** search engines are granted appropriate **fairness**, transparency and effective redress possibilities.

2. This Regulation shall apply to online intermediation services and online search engines provided, or offered to be provided, to business users and corporate website users, respectively, that have their place of establishment or **are operating** in the Union and that, through online intermediation services or online search engines, offer goods or services to consumers located in the Union, irrespective of the place of establishment or residence of the providers of those services. ***This Regulation is without prejudice to sectoral measures taken at Union or national level, in compliance with Union law.***

### AMC 2

AM 15, AM 16 (Rapporteur), AM 123 (Gebhardt, Regner), AM 124 (Reda)

#### Article 2 – point 2 – points b and c

##### *Text proposed by the Commission*

(2) 'online intermediation services' means services which meet all of the

##### *Amendment*

(2) 'online intermediation services' means services which meet all of the

following requirements:

- (a) [...]
- (b) **they allow** business users to offer goods or services to consumers, **with a view to facilitating the** initiating of direct transactions between those business users and consumers, **irrespective of where those transactions are ultimately concluded;**
- (c) they are provided to business users on the basis of contractual relationships between, **on the one hand**, the provider of those services and, **on the other hand**, **both those business users and the consumers to which those business users offer goods or services;**

following requirements:

- (a) [...]
- (b) **their primary purpose is to enable** business users to offer goods or services to consumers **by** initiating direct **online** transactions between those business users and consumers **on the online portal of the provider of the online intermediation services in question or by direct link to that of the business user.**
- (c) they are provided **in general** to business users on the basis of contractual relationships between the provider of those services and business users **who** offer goods **and** services **to consumers. For the purpose of this Regulation, such a contractual relationship should also be deemed to exist where personal data or other data is provided ~~as counter~~ performance ~~other than money~~;**

### AMC 3

AM 128 (Maštálka, Chrysogonos), AM 129 (Gebhardt), AM 130, AM 131, AM 133, AM 134 (Cavada), AM 132 (Reda)

### Article 2 – point 5

#### *Text proposed by the Commission*

(5) 'online search engine' means a digital service that allows users to perform searches of, **in principle, all** websites or websites in a particular language on the basis of a query on any subject in the form of a keyword, phrase or other input, and returns links in which information related to the **requested content** can be found;

#### *Amendment*

(5) 'online search engine' means a digital service, **including inter alia digital interfaces and applications, including mobile applications with search functionality** that allows users to **input queries and** perform searches of **various** websites or websites **and mobile applications** in a particular language on the basis of a query on any subject in the form of a keyword, phrase or other input (**by text, voice or any other means**), and returns **content such as short texts, pictures, links, videos, audios**, in which information related to the **search** can be found;

#### AMC 4

AM 17 (Rapporteur), AM 137 (Reda), AM 138 (Maštálka, Chrysogonos)

#### Article 2 – point 8

##### *Text proposed by the Commission*

(8) 'ranking' means the relative prominence given to the goods or services offered to consumers by business users through online intermediation services, or to websites indexed **for consumers** by online search engines, as presented, organised or communicated **to those consumers** by the providers of online intermediation services or by providers of online search engines, respectively, irrespective of the technological means used for such presentation, organisation or communication;

##### *Amendment*

(8) 'ranking' means the relative prominence **in search results** given to the goods or services offered to consumers by business users through online intermediation services, or to websites indexed by online search engines, as presented, organised or communicated by the providers of online intermediation services or by providers of online search engines, respectively, irrespective of the technological means used for such presentation, organisation or communication;

#### AMC 5

AM 18 (Rapporteur), AM 139 (Buda), AM 140 (Reda), AM 141 (Popa), AM 142 (Maštálka)

#### Article 2 – point 10

##### *Text proposed by the Commission*

(10) 'terms and conditions' means **all** terms, conditions, clauses **and other information, irrespective of their name or form**, which govern the contractual relationship between the provider of online intermediation services and their business users **and are unilaterally determined by the provider of online intermediation services**.

##### *Amendment*

(10) 'terms and conditions' means **the** terms, conditions **and** clauses which govern the contractual relationship between the provider of online intermediation services and their business users.

## AMC 6

AM 19, AM 20, AM 144, AM 149, AM 152 (Rapporteur), AM 145, AM 151 (Maštálka), AM 146 (Reda), AM 150 (Buda)

### Article 3 – paragraph 1

#### *Text proposed by the Commission*

1. Providers of online intermediation services shall ensure that their terms and conditions:
  - (a) are drafted in ***clear and unambiguous*** language;
  - (b) are easily available for business users at all stages of their commercial relationship with the provider of online intermediation services, including in the pre-contractual stage;
  - (c) set out the ***objective*** grounds for decisions to suspend or terminate, in whole or in part, the provision of their online intermediation services to business users.

#### *Amendment*

1. Providers of online intermediation services shall ensure that their terms and conditions:
  - (a) are ***fair and proportionate and*** drafted in ***plain and intelligible*** language;
  - (b) are easily available for business users at all stages of their commercial relationship with the provider of online intermediation services, including in the pre-contractual stage;
  - (c) set out the grounds ***consistent with those terms and conditions*** for decisions to ***sanction, restrict***, suspend or terminate, in whole or in part, the provision of their online intermediation services to business users. ***In making such decisions, online intermediation service providers must respect the fundamental rights enshrined in the Charter of Fundamental Rights of the EU and comply with the principle of proportionality.***
    - (ca) ***inform business users on their additional distribution channels and potential affiliate programmes that they are going to serve with the offer of business users. Business users shall be granted the right to ask for their removal from such additional distribution channels.***

## AMC 7

AM 21, AM 22, AM 23 (Rapporteur), AM 155 (Maštálka), AM 156, AM 157, AM 158, AM 161, AM 163 (Cavada), AM 159 (Buda)

### Article 3 – paragraph 3

#### *Text proposed by the Commission*

3. Providers of online intermediation services shall notify to the business users concerned any **envisaged** modification of their terms and conditions.

The envisaged modifications shall not be implemented before the expiry of a notice period which is reasonable and proportionate to the nature and extent of the envisaged modifications and to their consequences for the business user concerned. That notice period shall be at least **15** days from the date on which the provider of online intermediation services notifies the business users concerned about the envisaged modifications.

The business user concerned may, **either** by means of a written statement **or a clear affirmative action**, waive the notice period referred to in the second subparagraph.

#### *Amendment*

3. Providers of online intermediation services shall **without delay** notify **in a durable medium** to the business users concerned any **material** modification of their terms and conditions **or to the functionality, interoperability or other main performance features of the platform such as its accessibility, continuity and security, that adversely impact the business user or affect them in a non-negligible manner.**

The envisaged modifications shall not be implemented before the expiry of a notice period which is reasonable and proportionate to the nature and extent of the envisaged modifications and to their consequences for the business user concerned. That notice period shall be at least **10** days from the date on which the provider of online intermediation services notifies the business users concerned about the envisaged modifications.

The business user concerned may by means of a written statement waive the notice period referred to in the second subparagraph. **The business user shall be entitled to terminate their agreement free of any charges within 10 days from the receipt of the notice, where such modifications are materially detrimental to the business user.**

## AMC 8

AM 24 (Rapporteur), AM 165 (Cavada), AM 166 (Reda), AM 167 (Maštálka)

### Article 3 – paragraph 4

#### *Text proposed by the Commission*

4. Modifications to terms and conditions implemented by a provider of online intermediation services contrary to the provisions of paragraph 3 shall be null and void.

#### *Amendment*

4. Modifications to terms and conditions implemented by a provider of online intermediation services contrary to the provisions of paragraph 3 shall be null and void, ***as established by a competent court, for the remainder of the notice period, without prejudice to the validity of the remaining provisions, which shall remain valid in so far as they can be separated from the non-compliant provisions.***

## AMC 9

AM 25 (Rapporteur), AM 168 (Cavada), AM 169 (Reda), AM 170 (Gebhardt)

### Article 3 – paragraphs 5 and 5a

#### *Text proposed by the Commission*

5. Paragraph 3 shall not apply where a provider of online intermediation services is subject to a legal obligation which requires it to modify its terms and conditions in a manner which does not allow it to respect the notice period referred to in the second subparagraph of paragraph 3.

#### *Amendment*

5. ***The notice period set out in paragraph 3 shall not apply***

(a) where a provider of online intermediation services is subject to a legal obligation which requires it to modify its terms and conditions in a manner which does not allow it to respect the notice period referred to in the second subparagraph of paragraph 3 ***or***

(b) ***if the terms and conditions have been modified in order to protect the legitimate interests of users and consumers or the operation of the online intermediation service as such or***

(c) ***if a modification to the functionality, interoperability or other main performance features of the platform is necessary to protect the***

*legitimate interests of users and consumers or the operation of the online intermediation service as such.*

*5a. The online intermediation service provider has to ensure that business users retain full control over their brands. The brand attribution to the business user should be recognizable to the consumer throughout all the stages of the intermediation process.*

#### **AMC 10**

AM 172 (Rapporteur), AM 171, AM 174 (Buda), AM 175, AM 181 (Cavada), AM 178, AM 183 (Reda), AM 179 (Maštálka, Chrysogonos)

#### **Article 4**

##### *Text proposed by the Commission*

##### Suspension and termination

1. Where a provider of online intermediation services decides to suspend **or** terminate, in whole or in part, the provision of its online intermediation services to a given business user, it shall provide the business user concerned, without undue delay, with a statement of reasons for that decision.

2. The statement of reasons referred to in paragraph 1 shall contain a reference to the specific facts or circumstances that led to the decision of the provider of online intermediation services, as well as a reference to the applicable objective ground or grounds for that decision referred to in Article 3(1)(c).

##### *Amendment*

##### **Restriction**, suspension and termination

1. Where a provider of online intermediation services decides to **sanction perceived misconduct, or** suspend, terminate **or otherwise restrict**, in whole or in part, the provision of its online intermediation services to a given business user, it shall provide the business user concerned, without undue delay, with a **detailed** statement of reasons for that decision. **Such decision shall be proportionate.**

2. The statement of reasons referred to in paragraph 1 shall contain a reference to the specific facts or circumstances that led to the decision of the provider of online intermediation services, as well as a reference to the applicable objective ground or grounds for that decision referred to in Article 3(1)(c). **Where the restriction, suspension or termination results from a third party notification, the contents of said notification shall be included in the statement of reasons.**

**2a. Online intermediaries and providers of search engines shall not be permitted to suspend, terminate or**

*otherwise restrict, the provision of its online intermediation services to a business user which provides services that compete with those of the online intermediary, unless necessary for the following reasons:*

*(a) to avoid any unreasonable burden to the online intermediation service provider caused by the business user;*

*(b) to address any non-compliance by the business user with applicable laws or for the online intermediation service provider to comply with applicable laws;*

*(c) for privacy or security reasons.*

*2b. Restriction, termination and suspension shall be, where possible and proportionate, preceded by a notification and opportunity to clarify or re-establish compliance.*

## **AMC 11**

AM 26, AM 27 (Rapporteur), AM 188, AM 191, AM 192, AM 193, AM 194, AM 199, AM 201, AM 202 (Reda), AM 197 (Cavada, Rohde), AM 203 (Maštálka, Chrysogonos)

## **Article 5**

### *Text proposed by the Commission*

#### **Ranking**

1. Providers of online intermediation services shall set out in their terms and conditions the **main** parameters determining ranking and the reasons for the relative importance of those **main parameters as opposed to other** parameters.

Where those **main** parameters include the possibility to influence ranking against any direct or indirect remuneration paid by business users to the provider of online intermediation services concerned, that provider of online intermediation services shall also include in its terms and conditions a description of those possibilities and of the effects of such remuneration on ranking.

### *Amendment*

#### **Ranking**

1. Providers of online intermediation services shall set out in their terms and conditions the parameters determining ranking and the reasons for the relative importance of those parameters.

Where those parameters include the possibility to influence ranking against any direct or indirect remuneration paid by business users to the provider of online intermediation services concerned, that provider of online intermediation services shall also include in its terms and conditions a description of those possibilities and of the effects of such remuneration on ranking.

***When displaying the results, the online***



*intermediation service shall disclose close to each ranking whether and to what extent it has been influenced against direct or indirect remuneration, contractual or direct ownership relations.*

*1a. Where a provider of an online intermediation service has altered the ranking order in a specific case or delisted a particular product or service offered by a business user following a third party notification, the provider shall provide the business user concerned, without undue delay, with a statement of reasons for that decision. The statement of reasons shall include a reference to the specific facts and circumstances that have led to the decision of the provider of online intermediation services, as well as the contents of the notification.*

2. Providers of online search engines shall set out *for corporate website users the main* parameters determining ranking, by providing an easily and publicly available description, drafted in clear and unambiguous language on the online search engines of those providers. They shall keep that description up to date.

2. Providers of online search engines shall set out *the* parameters determining ranking *of all indexed websites and the reasons for the relative importance of those parameters*, by providing an easily and publicly available description, drafted in clear and unambiguous language on the online search engines of those providers. They shall keep that description up to date *with regard to material changes that can reasonably be expected to affect corporate website users in a non-negligible manner. By exception, in cases where the disclosure of all parameters would be against fair, reasonable and proportionate practices, only main parameters shall be always presented in detail. The parameters determining ranking shall not be applied in a discriminatory manner.*

*2a. Where a provider of an online search engine has altered the ranking order in a specific case or delisted a particular website following a third party notification, the provider shall offer the possibility for the business user to inspect the contents of the notice in a publicly accessible online database. The provider of an online search engine shall offer corporate business users a complaints and redress mechanism to correct delistings or changes to the ranking order following a*

3. The descriptions referred to in paragraphs 1 and 2 shall be sufficient to enable the business users or corporate website users to obtain an adequate understanding of whether, and if so how and to what extent, the ranking mechanism takes account of the following:

- (a) the characteristics of the goods and services offered to consumers through the online intermediation services or the online search engine;
- (b) the relevance of those characteristics for those consumers;
- (c) as regards online search engines, the design characteristics of the website *used by corporate website users*.

4. ***Providers of online intermediation services and providers of online search engines shall, when complying with the requirements of this Article, not be required to disclose any trade secrets as defined in Article 2(1) of Directive (EU) 2016/943.***

***wrongful notification.***

3. The descriptions referred to in paragraphs 1 and 2 shall be sufficient to enable the business users or corporate website users to obtain an adequate understanding of whether, and if so how and to what extent, the ranking mechanism takes account of the following:

- (a) the characteristics of the goods and services offered to consumers through the online intermediation services or the online search engine;
- (b) the relevance of those characteristics for those consumers;
- (c) as regards online search engines, the design characteristics of the website *indexed*.

4. This Article ***shall be without prejudice to*** Directive (EU) 2016/943.

***4a. Providers of online intermediation services and providers of online search engines shall make sure that fulfilling transparency obligations under this Article does not lead to a consumer harm following manipulation of ranking by business users and corporate business websites.***

***4b. The transparency requirements referred to in this Article shall be accompanied by guidelines issued by the Commission regarding the conditions under which an online intermediation service complies with this article. The Commission shall ensure the due compliance with these requirements.***

## AMC 12

AM 28, AM 29, AM 30 (Rapporteur), AM 211, AM 223 (Reda), AM 212, AM 213, AM 219, AM 222 (Gebhardt, Regner), AM 214 (Buda), AM 218 (Popa)

### Article 6

#### *Text proposed by the Commission*

1. Providers of online intermediation services shall include in their terms and conditions a description of any differentiated treatment which they give, or may give, in relation to, on the one hand, goods or services offered to consumers through those online intermediation services by either that provider itself or any business users which that provider controls and, on the other hand, other business users.

2. The description referred to in paragraph 1 shall cover at least, where applicable, any differentiated treatment through specific measures taken by, or the behaviour of, the provider of the online intermediation services relating to any of the following:

(a) access that the provider, or that the business users which that provider controls, may have to any personal data or

#### *Amendment*

1. Providers of online intermediation services shall include in their terms and conditions a description of any differentiated treatment which they give, or may give, in relation to, on the one hand, goods or services offered to consumers through those online intermediation services by either that provider itself or any business users which that provider controls and, on the other hand, other business users.

***1 a. Providers of online search engines should set out for corporate website users a description of any differentiated treatment which they give, or may give, in relation to, on the one hand, goods or services offered to consumers through those online search engine services by either that provider itself or any corporate website users which that provider controls and, on the other hand, other corporate website users.***

***1b. In relation to, on the one hand, goods or services offered to consumers through those online intermediation services by either that provider itself or any business users which that provider controls and, on the other hand, other business users, providers of online intermediation services shall use proportionate, fair and transparent practices.***

2. The description referred to in paragraph 1 ***and 2*** shall cover at least, where applicable, any differentiated treatment through specific measures taken by, or the behaviour of, the provider of the online intermediation services ***or the provider of online search engines*** relating to any of the following:

(a) access that the provider, or that the business users which that provider

other data, or both, which business users or consumers provide for the use of the online intermediation services concerned or which are generated through the provision of those services;

(b) ranking;

(c) any direct or indirect remuneration charged for the use of the online intermediation services concerned;

(d) access to, or conditions for use of, services that are directly connected or ancillary to the online intermediation services concerned.

controls, may have to any personal data or other data, or both, which business users or consumers provide for the use of the online intermediation services concerned or which are generated through the provision of those services;

(b) ranking *and default settings*;

(c) any direct or indirect remuneration charged for the use of the online intermediation services *or online search engine services* concerned

(d) access to, or conditions for use of, services that are directly connected or ancillary to the online intermediation services *or online search engine services* concerned.

***2a. Providers of online intermediation services that provide, directly or indirectly through businesses under their control, goods or services to consumers that compete with those provided by its business users, shall allow consumers to freely choose which good or service to use as default when using the online intermediation service.***

***2b. When displaying the results, the online intermediation service shall disclose close to each product or service to which it gave differentiated treatment, in a well recognisable manner whether it has been influenced against direct or indirect remuneration, contractual or direct ownership relationships.***

**AMC 13**

AM 224 (Gebhardt, Regner), AM 225 (Cavada)

**Article 6 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 6a**

***Unfair commercial practices***

***1. The provider of online intermediation services shall not engage in unfair commercial practices. A practice shall constitute an unfair commercial practice if the practice leads to situations where there is a materially detrimental impact on competition and consumer choice. In assessing whether a trading practice is unfair, account shall be taken of the following factors:***

***(a) the market position of the online intermediary and the business user; and***

***(b) whether there is a significant imbalance in the parties' negotiating abilities which results in the online intermediary imposing an unreasonable burden on the business user in its terms and conditions or its commercial practices.***

***2. Directive 2005/29/EC shall apply mutatis mutandis.***

***3. Annex I provides a non-exhaustive lists of commercial practices which shall be regarded as unfair in the meaning of this Regulation. The Annex shall apply in all Member States and periodically be reviewed by the Commission's expert group to the EU Observatory on the Online Platform Economy. The expert group may provide recommendations on further commercial practices, which should be considered as unfair within the meaning of this Regulation.***

## AMC 14

AM 31, AM 234, AM 235, AM 236, AM 237 (Rapporteur), AM 226, AM 229, AM 230, AM 231, AM 232, AM 233 (Reda)

### Article 7

#### *Text proposed by the Commission*

##### Access to data

1. Providers of online intermediation services shall include in their terms and conditions a description of the technical and contractual access, or absence thereof, of business users to any personal data or other data, or both, which business users or consumers provide for the use of the online intermediation services concerned or which are generated through the provision of those services.

2. Through the description referred to in paragraph 1, providers of online intermediation services shall adequately inform **business users** at least of the following:

(a) whether the provider of online intermediation services has access to personal data or other data, or both, which business users or consumers provide for the use of those services or which are generated through the provision of those services, and if so, to which categories of such data and under what conditions;

(b) whether a business user has access to personal data or other data, or both, provided by that business user in connection to his or her use of the online intermediation services concerned or generated through the provision of those services to that business user and the consumers of his or her goods or services, and if so, to which categories of such data and under what conditions;

(c) whether, in addition to point (b), a

#### *Amendment*

##### Access to data

1. Providers of online intermediation services **and online search engines** shall include in their terms and conditions a description of the technical and contractual access, or absence thereof, of business users to any personal data or other data, or both, which business users, **corporate website users** or consumers provide for the use of the online intermediation services **or online search engines** concerned or which are generated through the provision of those services.

2. Through the description referred to in paragraph 1, providers of online intermediation services **or online search engines** shall adequately inform **the public** at least of the following:

(a) whether the provider of online intermediation services **or online search engines** has access to personal data or other data, or both, which business **users, corporate website** users or consumers provide for the use of those services or which are generated through the provision of those services, and if so, to which categories of such data and under what conditions;

(b) whether a business user has access to personal data or other data, or both, provided by that business user in connection to his or her use of the online intermediation services **or online search engines** concerned or generated through the provision of those services to that business user and the consumers of his or her goods or services, and if so, to which categories of such data and under what conditions;

(c) whether, in addition to point (b), a business user has access to personal data or

business user has access to personal data or other data, or both, including in aggregated form, provided by or generated through the provision of the online intermediation services to all of the business users and consumers thereof, and if so, to which categories of such data and under what conditions.

other data, or both, including in aggregated form, provided by or generated through the provision of the online intermediation services *or online search engines* to all of the business users and consumers thereof, and if so, to which categories of such data and under what conditions.

*(ca) whether in case of a breach of contractual obligations or in case of a market failure by the provider of online intermediation services, business users have the right to access and to retrieve the data, or some categories of data, that they have submitted to the provider.*

*2a. Business users shall ensure that the data of their goods and services, in particular all element of the price, which they submit to providers of online intermediation services are accurate and that the data are adequate to allow them to respect their legal obligations, in particular vis-a-vis the consumer.*

*2b. Providers of online intermediation services shall grant each business user access to anonymised consumer data, in a machine readable commonly used and standardised format, which are generated through the facilitation of a transaction between consumers and the business user concerned. This obligation is without prejudice to the obligations with which online intermediation services must comply under the applicable data protection and privacy rules.*

*2c. Without prejudice to relevant Union law applicable to the protection of personal data and privacy, providers of online intermediation services shall grant business users access to all the data they have acquired as a result of the commercial activity of the respective business user.*

*2d. Without prejudice to relevant Union law applicable to the protection of personal data and privacy, providers of online search engines shall grant corporate website users access to all the data they have acquired as a result of the activity of the respective corporate website*

*user.*

***2e. The data referred to in paragraphs 2c and 2d shall be provided in a machine readable commonly used and standardised format.***

## **AMC 15**

AM 32 (Rapporteur), AM 242 (Gebhardt), AM 244, AM 248 (Reda), AM 249 (Cavada)

## **Article 8**

### *Text proposed by the Commission*

1. Where, in the provision of their services, providers of online intermediation services restrict the ability of business users to offer the same goods and services to consumers under different conditions through other means than through those services, they shall include grounds for that restriction in their terms and conditions and make those grounds easily available to the public. Those grounds shall include the main economic, commercial or legal considerations for those restrictions.

2. ***The obligation set out in paragraph 1*** shall not affect any prohibitions or limitations in respect of the imposition of such restrictions that result from the application of other Union rules or from national rules that are in accordance with Union law and to which the providers of the online intermediation services are subject.

### *Amendment*

1. ***Providers of online intermediation services shall not restrict the ability of business users to offer the same goods and services to consumers under different or the same conditions through other online intermediation services.*** Where, in the provision of their services, providers of online intermediation services restrict the ability of business users to offer the same goods and services to consumers under different conditions through other means than through those services, they shall include grounds for that restriction in their terms and conditions and make those grounds easily available to the public. Those grounds shall include the main economic, commercial or legal considerations for those restrictions. ***The restrictions shall be proportionate, temporary and represent a legitimate interest of the provider.***

2. ***This regulation*** shall not affect any prohibitions or limitations in respect of the imposition of such restrictions that result from the application of other Union rules or from national rules that are in accordance with Union law and to which the providers of the online intermediation services are subject. ***In particular, the risks pertaining to the practices referred to under paragraph 1 to create price collusion among providers of online intermediation services shall be closely***



*scrutinised.*

*2a. The obligation set out in paragraph 1 shall not result in the restriction of intellectual property rights, ~~wholly or partially~~ as enjoyed by their holders.*

## **AMC 16**

AM 35, AM 36, AM 37, AM 38, AM 39 (Rapporteur), AM 262, AM 268 (Karim), AM 263, AM 270, AM 273 (Cavada), AM 265, AM 272 (Geringer de Oedenberg), AM 266, 276 (Maštálka, Chrysogonos), AM 267, AM 271, AM 277 (Voss, Štefanec), AM 274 (Buda), AM 275 (Popa), AM 278 (Gebhardt)

## **Article 10**

### *Text proposed by the Commission*

1. Providers of online intermediation services **shall** identify in their terms and conditions one or more mediators with which they are willing to engage to attempt to reach an agreement with business users on the settlement, out of court, of any disputes between the provider and the business user arising in relation to the provision of the online intermediation services concerned, **including complaints that** could not be resolved by means of the internal complaint-handling system referred to in Article 9.

2. [...]

3. **Providers of online intermediation services** shall engage in good faith in any attempt to reach an agreement through the mediation of any of the mediators which they identified in accordance with paragraph 1, with a view to reaching an agreement on the settlement of the dispute.

4. Providers of online intermediation services shall bear a reasonable proportion

### *Amendment*

1. Providers of online intermediation services **should aim to** identify in their terms and conditions one or more mediators with which they are willing to engage to attempt to reach an agreement with business users on the settlement, out of court, of any disputes between the provider and the business user arising in relation to the provision of the online intermediation services concerned, **which** could not be resolved by means of the internal complaint-handling system referred to in Article 9.

2. [...]

3. **The parties involved in the mediation** shall engage in good faith in any attempt to reach an agreement through the **voluntary** mediation of any of the mediators which they identified in accordance with paragraph 1, with a view to reaching an agreement on the settlement of the dispute **within a time period of no longer than 25 days from commencement of the mediation, unless fulfilling this deadline would constitute an unreasonable burden taking into account the complexity of the dispute. In this case, an agreement should be reached within a time period of no longer than 90 days.**

4. Providers of online intermediation services **and business users** shall bear a reasonable proportion of the total costs of

of the total costs of mediation in each individual case. A reasonable proportion of those total costs shall be determined, on the basis of a suggestion by the mediator, by taking into account all relevant elements of the case at hand, in particular the relative merits of the claims of the parties to the dispute, the conduct of the parties, as well as the size and financial strength of the parties relative to one another. ***However, providers of online intermediation services shall in any case bear at least half of the total cost.***

5. Any attempt to reach an agreement through mediation on the settlement of a dispute in accordance with this Article shall not affect the rights of the providers of the online intermediation services and of the business users concerned to initiate judicial proceedings at any time during or after the mediation process.

mediation in each individual case. A reasonable proportion of those total costs shall be determined, on the basis of a suggestion by the mediator, by taking into account all relevant elements of the case at hand, in particular the relative merits of the claims of the parties to the dispute, the conduct of the parties, as well as the size and financial strength of the parties relative to one another. ***Should the mediator, however, find that the business user is acting in bad faith or is seeking to abuse the mediation process, it can decide to make the business user bear more than half of the total cost.***

5. Any attempt to reach an agreement through mediation on the settlement of a dispute in accordance with this Article shall not affect the rights of the providers of the online intermediation services and of the business users concerned to initiate judicial proceedings at any time ***before***, during or after the mediation process. ***Initiation of judicial proceedings is not conditional on the initiation of mediation process.***

***5 a. Providers of online intermediation services shall annually establish and make easily accessible to the general public information on the functioning and effectiveness of mediation related to the activities. Those reports shall include at least information on the total number of mediation cases, the subject matter of the complaints, the time period needed to process the complaints and the decision taken on the complaint.***

## AMC 17

AM 40, AM 41, AM 42, AM 285, AM 286, AM 290, AM 304, AM 307, AM 308, AM 311, AM 314 (Rapporteur), AM 283, AM 288, AM 293, AM 296, AM 300, AM 305, AM 309, AM 312 (Voss, Štefanec), AM 284, AM 316 (Cavada, Rohde), AM 289, AM 294, AM 297, AM 301, AM 306 (Geringer de Oedenberg), AM 282, AM 287, AM 295, AM 298, AM 302, AM 303, AM 310, AM 315 (Maštálka, Chrysogonos),

## Article 12

### *Text proposed by the Commission*

1. Organisations and associations that have a legitimate interest in representing business users or in representing corporate website users, as well as public bodies set up in Member States, shall have the right to take action before national courts in the Union, in accordance with the rules of the law of the Member State where the action is brought, to stop or prohibit any non-compliance by providers of online intermediation services or by providers of online search engines with the **relevant** requirements laid down in this Regulation.

2. Organisations or associations shall have the right referred to in paragraph 1 only where, at the time of bringing the action, **they** meet all of the following requirements:

(a) they are properly constituted according to the law of a Member State;

(b) they pursue objectives that are in the collective interest of the group of business users or corporate website users that they represent;

### *Amendment*

1. ***Without prejudice to Art. 80 of Regulation (EU) 2016/679 and after all the other options to settle a dispute between a platform and a business user provided for in this regulation in Article 9 and Article 10 have been exhausted,*** organisations and associations that have a ***genuine long-standing and*** legitimate interest in representing business users or in representing corporate website users ***and that are authorised and supervised by appropriate Member State public bodies,*** as well as public bodies set up in Member States, shall have the right to take action before national courts in the Union, in accordance with the rules of the law of the Member State where the action is brought, to stop or prohibit any non-compliance by providers of online intermediation services or by providers of online search engines with the ***information, non-discrimination and access to data*** requirements laid down in this Regulation.

2. Organisations or associations shall have the right referred to in paragraph 1 only where, at the time of bringing the action ***and for the duration of the action, they continue to*** meet all of the following requirements:

(a) they are properly constituted according to the law of a Member State ***and hold a current qualified entity licence issued by the relevant public body of that Member State;***

(b) they pursue objectives, ***publically stated in their statute or other relevant governance document,*** that are in the collective interest of the group of ***a majority of*** business users or corporate

(c) they are of a non-profit making character.

In Member States where such public bodies have been set up, those public bodies shall have the right referred to in paragraph 1, where they are charged with defending the collective interests of business users or corporate website users or with ensuring compliance with the requirements laid down in this Regulation, in accordance with the national law of the Member State concerned.

website users that they represent, ***which group must consist of at least 10 independent business users or corporate website users;***

(c) they are of a non-profit making character ***and are transparent about the source of funding for bringing and continuing the action and can demonstrate that they have sufficient financial resources to represent the best interests of their business or corporate website users and to meet any adverse costs should the action fail.***

***(ca) they have a governance structure that provides for independence from third parties and has internal procedure to prevent conflict of interest, in case of funding received from third parties;***

***(cb) they are transparent about the source of funding;***

***(cc) they have sufficient financial and human resources, as well as legal expertise to represent the best interests of their business or corporate website users;***

In Member States where such public bodies have been set up, those public bodies shall have the right referred to in paragraph 1, ***and shall be entitled to issue the required licence to an organisation or association***, where they are charged with defending the collective interests of business users or corporate website users or with ensuring compliance with the requirements laid down in this Regulation, in accordance with the national law of the Member State concerned.

***Member States shall ensure that representative organisations or associations make publicly available annual activity reports. Those reports shall include at least the following information relating to both domestic and cross-border representative actions:***

***(a) the number of action launched and the main types of complaints made;***

***(b) the number (the rate of percentage) of court decisions in favour of business users or corporate website***

*users;*

*(c) the number (the rate or percentage) of representative actions which were discontinued and, if known, the reasons for their discontinuation;*

*(d) the average time taken to resolve a representative action;*

*Where a Member State public body issues a qualified entity licence to an organisation or association, that public body shall be responsible for regularly reviewing the status and conduct of that organisation or association to ensure that it is complying with the requirements of this Article. The Member State public body shall immediately revoke the qualified entity licence of any organisation or association found to not to be in compliance with the requirements of this Article.*

*The compliance by an organisation or an association with the criteria referred to in this paragraph is without prejudice to the right of the court or administrative authority to examine whether the purpose of the organisation or the association justifies its taking action in a specific case in accordance with paragraph 1.*

*2a. The right referred to in paragraph 1 shall be without prejudice to the rights referred to in Directive XXXX/XX/EU (reference to the Directive on representative actions for the protection of the collective interests of consumers, and repealing Directive 2009/22/EC, (COM(2018)184)).*

3. [...]

3. [...]

*3 a. Member States may prohibit that private third party funders receive any direct or indirect financial benefit through the litigation process or decision;*

**AMC 18**

AM 322 (Rapporteur), AM 330 (Cavada)

**Article 13 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 13a**

***Applicable law and jurisdiction***

***In contracts concluded by business users having their habitual residence in a Member State, or where the fulfilment of the contract is to take place in one or more Member States, the following shall apply:***

***(a) the protection afforded to business users in this regulation shall apply regardless of the law applicable to other aspects of the contract by way of choice of the parties or otherwise; and***

***(b) unless the contract includes the rules of this Regulation, a choice of competent court shall only be valid if it designates a court in:***

***(i) the Member State where the business user has its habitual residence; or***

***(ii) a Member State where the fulfilment of the contract is to take place.***

## AMC 19

AM 43, AM 44 (Rapporteur)

### Article 14

#### *Text proposed by the Commission*

1. By [date: **three** years after the date of entry into force], and subsequently every **three** years, the Commission shall evaluate this Regulation and report to the European Parliament, the Council and the European Economic and Social Committee.

2. *The first evaluation of this Regulation shall be carried out, in particular, with a view to assessing the compliance with, and impact on the online platform economy of, the obligations laid down in Articles 5, 6, 7 and 8, and whether additional rules, including regarding enforcement, may be required to ensure a fair, predictable, sustainable and trusted online business environment within the internal market.*

#### *Amendment*

1. By [date: **two** years after the date of entry into force], and subsequently every **two** years, the Commission shall evaluate this Regulation and report to the European Parliament, the Council and the European Economic and Social Committee. **Where appropriate, the Commission shall submit a legislative proposal to amend this Regulation, particularly in order to ensure that the objectives set out in paragraph 2 are met.**

2. *The review shall at least include the assessment of:*

*i. the effectiveness of this Regulation, including the thresholds defined in paragraphs 4 to 6 of Article 1;*

*ii. the effectiveness of established codes of conduct to improve fairness and transparency;*

*iii. the need to more effectively tackle potentially harmful practices in commercial transactions between online search engines and their business users, particularly with regard to the issues identified in Article 2 (b) of the Commission Decision C(2018)2393 on setting up the group of experts for the Observatory on the Online Platform Economy;*

*iv. possible impacts of potentially harmful practices on consumers;*

*v. the need to include operating systems in*

*the scope of this Regulation;*

*vi. the need to update the list of unfair commercial practices.*

**AMC 20**

AM 329 (Gebhardt, Regner), AM 330 (Cavada)

**Annex I (new)**

*Text proposed by the Commission*

*Amendment*

***Annex I***

***Unfair commercial practices***

***Terms and conditions shall be regarded as unfair commercial practice within the meaning of this Regulation if they***

- require the business user to use the online intermediation service provider's ancillary services, including payment services, without the option to use any alternative method in circumstances where this leads to a material detriment to the business user;***
- burden the business user with a unilateral liability clause which causes an unfair transfer of risk;***
- impose retroactive contract clauses which are detrimental to the business user;***
- maintain the legal right to use the business user's confidential information after the contract between the online intermediary service provider and the business user has expired;***
- require business users to accept clauses of exclusivity as regards the choice of law which are outside the Union's jurisdiction;***
- prohibit the business user from also using a competing online intermediation service.***



## AMC 21

AM 1 (Rapporteur), AM 50 (Reda), AM 51 (Popa)

### Recital 5

#### *Text proposed by the Commission*

(5) Online intermediation services and online search engines, as well as the **commercial** transactions facilitated by those services, have an intrinsic cross-border potential and are of particular importance for the proper functioning of the Union's internal market in today's economy. The potentially unfair and harmful trading practices of certain providers of those services in respect of business users and corporate website users hamper the full realisation of that potential and negatively affect the proper functioning of the internal market. In addition, the full realisation of that potential is hampered, and the proper functioning of the internal market is negatively affected, by diverging laws of certain Member States which, with a varying degree of effectiveness, regulate those services, while other Member States are considering adopting such laws.

#### *Amendment*

(5) Online intermediation services and online search engines, as well as the transactions facilitated by those services, have an intrinsic cross-border potential and are of particular importance for the proper functioning of the Union's internal market in today's economy. The potentially unfair and harmful trading practices of certain providers of those services in respect of business users and corporate website users hamper the full realisation of that potential and negatively affect the proper functioning of the internal market. In addition, the full realisation of that potential is hampered, and the proper functioning of the internal market is negatively affected, by diverging laws of certain Member States which, with a varying degree of effectiveness, regulate those services, while other Member States are considering adopting such laws.

## AMC 22

AM 2 (Rapporteur), AM 53 (Reda)

### Recital 7

#### *Text proposed by the Commission*

(7) Since online intermediation services and online search engines typically have a global dimension, this Regulation should apply to providers of those services regardless of whether they are established in a Member State or outside the Union, provided that two cumulative conditions are met. Firstly, the business users or corporate website users

#### *Amendment*

(7) Since online intermediation services and online search engines typically have a global dimension, this Regulation should apply to providers of those services regardless of whether they are established in a Member State or outside the Union, provided that two cumulative conditions are met. Firstly, the business users or corporate website users

should be established in the Union. Secondly, the business users or corporate website users should, through the provision of those services, offer their goods or services to consumers located in the Union at least for part of the transaction. Such consumers should be located in the Union, but do not need to have their place of residence in the Union nor have the nationality of any Member State. Accordingly, this Regulation should not apply where the business users or corporate websites users are not established in the Union or where they are established in the Union but where they use online intermediation services or online search engines to offer goods or services exclusively to consumers located outside the Union or to persons who are not consumers.

should be established in the Union. Secondly, the business users or corporate website users should, through the provision of those services, offer their goods or services to consumers *or businesses* located in the Union at least for part of the transaction. Such consumers should be located in the Union, but do not need to have their place of residence in the Union nor have the nationality of any Member State. Accordingly, this Regulation should not apply where the business users or corporate websites users are not established in the Union or where they are established in the Union but where they use online intermediation services or online search engines to offer goods or services exclusively to consumers located outside the Union or *exclusively* to persons who are not consumers.

### AMC 23

AM 3, AM 55 (Rapporteur), AM 56 (Buda), AM 57 (Popa)

### Recital 8

#### *Text proposed by the Commission*

(8) A wide variety of business-to-consumer commercial relations are intermediated online by providers operating multi-sided services that are essentially based on the same ecosystem-building business model. In order to capture the relevant services, online intermediation services should be defined in a precise and technologically-neutral manner. In particular, the services should consist of information society services, which are characterised by the fact that they *aim to facilitate the initiating of direct* transactions between business users and consumers, irrespective of whether the transactions are ultimately concluded *either online*, on the online portal of the provider of the online intermediation services in question or that of the business user, *or offline*. In addition, the services

#### *Amendment*

(8) A wide variety of business-to-consumer commercial relations are intermediated online by providers operating multi-sided services that are essentially based on the same ecosystem-building business model. In order to capture the relevant services, online intermediation services should be defined in a precise and technologically-neutral manner. In particular, the services should consist of information society services, which are characterised by the fact that they *initiate* transactions between business users and consumers, irrespective of whether the transactions are ultimately concluded on the online portal of the provider of the online intermediation services in question or that of the business user. In addition, the services should be provided on the basis of contractual

should be provided on the basis of contractual relationships *both* between the providers *and* business users *and between the providers and the consumers*. Such a contractual relationship should be deemed to exist where both parties concerned express their intention to be bound in an unequivocal and verifiable manner, without an express written agreement necessarily being required.

relationships between the providers of *online intermediation services or between business users and consumers where providers act as intermediaries towards consumers*. Such a contractual relationship should be deemed to exist where both parties concerned express their intention to be bound in an unequivocal and verifiable manner, without an express written agreement necessarily being required. *The purpose of this Regulation is to establish provisions relating to those information society services which, in addition to the above requirements, perform a function of "intermediation" in an online marketplace. The mere presence of advertising on a webpage should not itself mean that the webpage falls under the scope of this Regulation.*

#### AMC 24

AM 4 (Rapporteur), AM 60 (Maštálka, Chrysogonos)

#### Recital 11

##### *Text proposed by the Commission*

(11) For reasons of consistency, the definition of online search engine used in this Regulation should be aligned with the definition used in Directive (EU) 2016/1148 of the European Parliament and of the Council<sup>21</sup>.

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<sup>21</sup> Directive (EU) 2016/1148 of the European Parliament and of the Council concerning measures for a high common

##### *Amendment*

(11) For reasons of consistency, the definition of online search engine used in this Regulation should be aligned with the definition used in Directive (EU) 2016/1148 of the European Parliament and of the Council<sup>21</sup>. *However, it is clarified that this definition covers voice search as well as online search engines that directly return the information related to the requested content. This regulation does not apply to search functionalities which do not encompass, at least in principle, all websites, such as search functions within an online intermediation services or which is a feature of an operating system software.*

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<sup>21</sup> Directive (EU) 2016/1148 of the European Parliament and of the Council concerning measures for a high common

level of security of network and information systems across the Union (OJ L 194, 19.7.2016, p. 1).

level of security of network and information systems across the Union (OJ L 194, 19.7.2016, p. 1).

## AMC 25

AM 68 (Rapporteur), AM 64 (Reda), AM 67 (Honeyball)

### Recital 12

#### *Text proposed by the Commission*

(12) In order to effectively protect business users where needed, this Regulation should apply ***where the terms and conditions of a contractual relationship, regardless of their name or form, are not individually negotiated by the parties to them. Whether or not terms and conditions were individually negotiated should be determined on the basis of an overall assessment, whereby the fact that certain provisions thereof may have been individually negotiated is, in itself, not decisive.***

#### *Amendment*

(12) In order to effectively protect business users where needed, this Regulation should apply regardless of ***whether the provider of an online intermediation service and a business user are parties to an agreement that they individually negotiated.***

## AMC 26

AM 7 (Rapporteur), AM 77 (Reda)

### Recital 16

#### *Text proposed by the Commission*

(16) A provider of online intermediation services can have legitimate reasons to decide to suspend or terminate the provision of its services, in whole or in part, to a given business user, including by delisting individual goods or services of a given business user or effectively removing search results. ***However***, given that such decisions can significantly affect the

#### *Amendment*

(16) A provider of online intermediation services can have legitimate reasons to decide ***to apply restrictions or sanctions to business users***, to suspend or terminate the provision of its services, in whole or in part, to a given business user, including by delisting individual goods or services of a given business user or effectively removing search results. ***This could include violation***

interests of the business user concerned, they should be properly informed of the reasons thereof. The statement of reasons should allow business users to ascertain whether there is scope to challenge the decision, thereby improving the possibilities for business users to seek effective redress where necessary. In addition, requiring a statement of reasons should help to prevent or remedy any unintended removal of online content provided by business users which the provider incorrectly considers to be illegal content, in line with Commission Recommendation (EU) No 2018/334<sup>22</sup>. The statement of reasons should identify the objective ground or grounds for the decision, based on the grounds that the provider had set out in advance in its terms and conditions, and refer in a proportionate manner to the relevant specific circumstances that led to that decision.

*of the terms and conditions, as well as business user violation which could be harmful to the consumer or to the platforms (for example, but not limited to: security issues, fraud, phishing, illegal and harmful content).* Given that such decisions can significantly affect the interests of the business user concerned *as well as the exercise of fundamental rights business users enjoy, such as the freedom to conduct business and freedom of expression*, they should be properly informed of the reasons thereof. The statement of reasons should allow business users to ascertain whether there is scope to challenge the decision, thereby improving the possibilities for business users to seek effective redress where necessary. In addition, requiring a statement of reasons should help to prevent or remedy any unintended removal of online content provided by business users which the provider incorrectly considers to be illegal content, in line with Commission Recommendation (EU) No 2018/334<sup>22</sup>. *In some cases, the decision of the provider of an online intermediation service is based on notifications by third parties. These notifications can be abused by competitors. Commission Recommendation (EU) No 2018/334 requires such notifications to be sufficiently precise and adequately substantiated to enable the hosting provider to take an informed and diligent decision in respect of the content to which the notice relates. Providers of online intermediation services should therefore be required to pass on the contents of the notification to the business user in cases where a decision to suspend or terminate the provision of its services following a notification from a third party, in order to allow the business user to easily refute obviously wrongful notices.* The statement of reasons should identify the objective ground or grounds for the decision, based on the grounds that the provider had set out in advance in its terms and conditions, and refer in a proportionate manner to the relevant specific circumstances that led to that decision. *Wherever possible a*

*proportionate and gradual system should be put in place, including prior and timely notification before taking measures that will result in severing the access of the business to its customers.*

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<sup>22</sup> Commission Recommendation (EU) No 2018/334 of 1 March 2018 on measures to effectively tackle illegal content online (OJ L 63, 6.3.2018, p. 50).

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<sup>22</sup> Commission Recommendation (EU) No 2018/334 of 1 March 2018 on measures to effectively tackle illegal content online (OJ L 63, 6.3.2018, p. 50).

## **AMC 27**

AM 9 (Rapporteur), AM 94 (Honeyball)

### **Recital 19 a (new)**

*Text proposed by the Commission*

*Amendment*

*(19 a) For the purposes of this Regulation, a provider's service competes with those of its other business users if it is regarded as interchangeable or substitutable by consumers of the online intermediation service, including by reason of the characteristics, prices, or intended uses of the services.*

## **AMC 28**

AM 10 (Rapporteur), AM 97 (Reda)

### **Recital 20**

*Text proposed by the Commission*

*Amendment*

(20) The ability to access and use data, including personal data, can enable important value creation in the online platform economy. Accordingly, it is important that providers of online intermediation services provide business users with a clear description of the scope, nature and conditions of their access to and use of certain categories of data. The description should be proportionate and

(20) The ability to access and use data, including personal data, can enable important value creation in the online platform economy. Accordingly, it is important that providers of online intermediation services provide business users with a clear description of the scope, nature and conditions of their access to and use of certain categories of data. The description should be proportionate and

might refer to general access conditions, rather than an exhaustive identification of actual data, or categories of data, in order to enable business users to understand whether they can use the data to enhance value creation, including by possibly retaining third-party data services. Processing of personal data should comply with Regulation (EU) 2016/679 of the European Parliament and of the Council.<sup>24</sup>

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<sup>24</sup> 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) (Text with EEA relevant) (OJ L 119, 4.5.2016, p. 1).

might refer to general access conditions, rather than an exhaustive identification of actual data, or categories of data, in order to enable business users to understand whether they can use the data to enhance value creation, including by possibly retaining third-party data services. ***This Regulation requires the online intermediation service providers to be transparent about what data they provide to their business users but does not establish any requirement to disseminate personal or non-personal data to the business users. In all cases, processing of personal data should comply with the Union legal framework on the protection of natural persons with regard to the processing of personal data, and on respect for private life and the protection of personal data in electronic communications, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>24</sup>, Directive (EU) 2016/680<sup>24a</sup> and Directive 2002/58/EC<sup>24b</sup>. This Regulation should not require online intermediation service providers to share personal data with third parties beyond what is set out in their privacy policies.***

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<sup>24</sup> 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) (Text with EEA relevant) (OJ L 119, 4.5.2016, p. 1).

<sup>24a</sup> ***Directive (EU) 2016/680 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 by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA.***

*<sup>24b</sup> 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).*

## **AMC 29**

AM 11 (Rapporteur), AM 99 (Reda)

## **Recital 21**

### *Text proposed by the Commission*

(21) Providers of online intermediation services might in certain cases restrict in the terms and conditions the ability of business users to offer goods or services to consumers under more favourable conditions through other means than through those online intermediation services. In those cases, the providers concerned should set out the grounds for doing so, in particular with reference to the main economic, commercial or legal considerations for the restrictions. ***This transparency obligation should however not be understood as affecting the assessment of the legality of such restrictions under other acts of Union law or the law of Member States in accordance with Union law, including in the areas of competition and unfair commercial practices, and the application of such laws.***

### *Amendment*

(21) Providers of online intermediation services might in certain cases restrict in the terms and conditions the ability of business users to offer goods or services to consumers under more favourable conditions through other means than through those online intermediation services. In those cases, the providers concerned should set out the grounds for doing so, in particular with reference to the main economic, commercial or legal considerations for the restrictions ***and ensure that the restriction is proportionate.***



## AMC 30

AM 12, AM 101 (Rapporteur), AM 100 (Voss), AM 102 (Reda)

### Recital 21 a (new)

*Text proposed by the Commission*

*Amendment*

***(21 a) This Regulation should be without prejudice to intellectual property rights held by business users. ~~Business users should be granted full control over their own intellectual property rights.~~ Providers of online intermediated services should make use of these rights only upon explicit consent of the business user, if they have obtained a license from the business user or their licensee, or under applicable exceptions and limitations. The terms of use of such rights should be adhered to. The intellectual property rights of third parties should also be respected.***

## AMC 31

AM 107 (Buda), AM 108 (Reda)

### Recital 25

*Text proposed by the Commission*

*Amendment*

(25) Providers of online intermediation services should bear a reasonable proportion of the total costs of the mediation, taking into account all relevant elements of the case at hand. To that aim, the mediator should suggest which proportion is reasonable in the individual case. ***However, that proportion should never be less than half of those costs.***

(25) Providers of online intermediation services should bear a reasonable proportion of the total costs of the mediation, taking into account all relevant elements of the case at hand. To that aim, the mediator should suggest which proportion is reasonable in the individual case.