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TEXTS ADOPTED

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**P9\_TA(2021)0499**

**Digital Markets Act \*\*\*I**

**Amendments adopted by the European Parliament on 15 December 2021 on the proposal for a regulation of the European Parliament and of the Council on contestable and fair markets in the digital sector (Digital Markets Act) (COM(2020)0842 – C9-0419/2020 – 2020/0374(COD))<sup>1</sup>**

**(Ordinary legislative procedure: first reading)**

**Amendment 1**

**Proposal for a regulation**

**Recital 1**

*Text proposed by the Commission*

(1) Digital services in general and online platforms in particular play an increasingly important role in the economy, in particular in the internal market, by providing *new* business *opportunities in* the Union and facilitating cross-border *trading*.

*Amendment*

(1) Digital services in general and online platforms in particular play an increasingly important role in the economy, in particular in the internal market, by providing business *users with gateways to reach end users throughout* the Union and *beyond, by* facilitating cross-border *trade and by opening entirely new business opportunities to a large number of companies in the Union to the benefit of Union's consumers*.

**Amendment 2**

**Proposal for a regulation**

**Recital 2**

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<sup>1</sup> The matter was referred back for interinstitutional negotiations to the committee responsible, pursuant to Rule 59(4), fourth subparagraph (A9-0332/2021).

*Text proposed by the Commission*

(2) Core platform services, at the same time, feature a number of characteristics that can be exploited by their providers. These characteristics of core platform services include among others extreme scale economies, which often result from nearly zero marginal costs to add business users or end users. Other characteristics of core platform services are very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, a significant degree of dependence of both business users and end users, lock-in effects, a lack of multi-homing for the same purpose by end users, vertical integration, and data driven-advantages. All these characteristics combined with unfair conduct by providers of these services can have the effect of substantially undermining the contestability of the core platform services, as well as impacting the fairness of the commercial relationship between providers of such services and their business users and end users, leading to rapid and potentially far-reaching decreases in business users' and end users' choice in practice, and therefore can confer to the provider of those services the position of a so-called gatekeeper.

*Amendment*

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**Amendment 3**

**Proposal for a regulation**

**Recital 4**

*Text proposed by the Commission*

(4) The combination of those features of gatekeepers is likely to lead in many cases

*Amendment*

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to serious imbalances in bargaining power and, consequently, to unfair practices and conditions for business users as well as end users of core platform services provided by gatekeepers, to the detriment of prices, quality, choice and innovation therein.

to serious imbalances in bargaining power and, consequently, to unfair practices and conditions for business users as well as end users of core platform services provided by gatekeepers, to the detriment of prices, quality, ***privacy and security standards, fair competition***, choice and innovation therein.

#### **Amendment 4**

##### **Proposal for a regulation**

##### **Recital 6**

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

(6) Gatekeepers have a significant impact on the internal market, providing gateways for a large number of business users, to reach end users, everywhere in the Union and on different markets. The adverse impact of unfair practices on the internal market and particularly weak contestability of core platform services, including their negative societal and economic implications, have led national legislators and sectoral regulators to act. A number of ***national*** regulatory solutions have already been adopted or proposed to address unfair practices and the contestability of digital services or at least with regard to some of them. This has created a risk of divergent regulatory solutions and thereby fragmentation of the internal market, thus raising the risk of increased compliance costs due to different sets of national regulatory requirements.

###### *Amendment*

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#### **Amendment 5**

##### **Proposal for a regulation**

##### **Recital 8**

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

(8) By approximating diverging national laws, obstacles to the freedom to provide and receive services, including retail

###### *Amendment*

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services, within the internal market should be eliminated. A targeted set of harmonised **mandatory rules** should therefore be established at Union level to ensure contestable and fair digital markets featuring the presence of gatekeepers within the internal market.

services, within the internal market should be eliminated. A targeted set of harmonised **legal obligations** should therefore be established at Union level to ensure contestable and fair digital markets featuring the presence of gatekeepers within the internal market **to the benefit of Union's economy as whole and Union's consumers in particular**.

## Amendment 6

### Proposal for a regulation Recital 9

#### *Text proposed by the Commission*

(9) A fragmentation of the internal market can only be effectively averted if Member States are prevented from applying **national rules which are specific to the types of undertakings and services covered by this Regulation**. At the same time, since this Regulation aims at complementing the enforcement of competition law, it should be specified that this Regulation is without prejudice to Articles 101 and 102 TFEU, to the corresponding national competition rules and to other national competition rules regarding unilateral behaviour that are based on an individualised assessment of market positions and behaviour, including its likely effects and the precise scope of the prohibited behaviour, and which provide for the possibility of undertakings to make efficiency and objective justification arguments for the behaviour in question. However, the application of the latter rules should not affect the obligations imposed on gatekeepers under this Regulation and their uniform and effective application in the internal market.

#### *Amendment*

(9) A fragmentation of the internal market can only be effectively averted if Member States are prevented from applying **on gatekeepers further rules or obligations for the purpose of ensuring contestable and fair markets. This is without prejudice to the ability of Member States to impose the same, stricter or different obligations on gatekeepers in order to pursue other legitimate public interests, in compliance with Union law. Those legitimate public interests can be, among others, consumer protection, fight against acts of unfair competition and fostering media freedom and pluralism, freedom of expression, as well as diversity in culture or in languages**. At the same time, since this Regulation aims at complementing the enforcement of competition law, it should be specified that this Regulation is without prejudice to Articles 101 and 102 TFEU, to the corresponding national competition rules and to other national competition rules regarding unilateral behaviour that are based on an individualised assessment of market positions and behaviour, including its likely effects and the precise scope of the prohibited behaviour, and which provide for the possibility of undertakings to make efficiency and objective justification arguments for the behaviour in

question. However, the application of the latter rules should not affect the obligations **and prohibitions** imposed on gatekeepers under this Regulation and their uniform and effective application in the internal market.

## Amendment 7

### Proposal for a regulation

#### Recital 10

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

(10) Articles 101 and 102 TFEU and the corresponding national competition rules concerning anticompetitive multilateral and unilateral conduct as well as merger control have as their objective the protection of undistorted competition on the market. This Regulation pursues an objective that is complementary to, but different from that of protecting undistorted competition on any given market, as defined in competition-law terms, which is to ensure that markets where gatekeepers are present are and remain contestable and fair, independently from the actual, likely or presumed effects of the conduct of a given gatekeeper covered by this Regulation on competition on a given market. This Regulation therefore aims at protecting a different legal interest from those rules and should be without prejudice to their application.

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## Amendment 8

### Proposal for a regulation

#### Recital 11

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

(11) This Regulation should also complement, without prejudice to their application, the rules resulting from other

##### *Amendment*

(11) This Regulation should also complement, without prejudice to their application, the rules resulting from other

acts of Union law regulating certain aspects of the provision of services covered by this Regulation, in particular Regulation (EU) 2019/1150 of the European Parliament and of the Council<sup>26</sup>, Regulation (EU) xx/xx/EU [DSA] of the European Parliament and of the Council<sup>27</sup>, Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>28</sup>, Directive (EU) 2019/790 of the European Parliament and of the Council<sup>29</sup>, Directive (EU) 2015/2366 of the European Parliament and of the Council<sup>30</sup>, and Directive 2010/13/EU of the European Parliament and of the Council<sup>31</sup>, as well as national *rules aimed at enforcing or, as the case may be, implementing that* Union legislation.

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<sup>26</sup> Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (OJ L 186, 11.7.2019, p. 57).

<sup>27</sup> Regulation (EU) .../.. of the European Parliament and of the Council – proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC.

<sup>28</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) (OJ L 119, 4.5.2016, p. 1).

<sup>29</sup> Directive (EU) 2019/790 of the European Parliament and of the Council of

acts of Union law regulating certain aspects of the provision of services covered by this Regulation, in particular Regulation (EU) 2019/1150 of the European Parliament and of the Council<sup>26</sup>, Regulation (EU) xx/xx/EU [DSA] of the European Parliament and of the Council<sup>27</sup>, Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>28</sup>, Directive (EU) 2019/790 of the European Parliament and of the Council<sup>29</sup>, ***Directive 2002/58/EC***, Directive (EU) 2015/2366 of the European Parliament and of the Council<sup>30</sup>, ***Directive (EU) 2019/882, Directive(EU) 2018/1808*** and Directive 2010/13/EU of the European Parliament and of the Council<sup>31</sup>, ***Directive 2005/29/EC of the European Parliament and of the Council and Council Directive 93/13/EEC*** as well as *rules at national level adopted in accordance with* Union legislation. ***Concerning specifically rules on consent to the processing of personal data set out in Regulation (EU) 2016/679 and Directive 2002/58/EC, this Regulation applies these rules without affecting them.***

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<sup>29</sup> Directive (EU) 2019/790 of the European Parliament and of the Council of

17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (OJ L 130, 17.5.2019, p. 92.).

<sup>30</sup> Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC ( OJ L 337, 23.12.2015, p. 35).

<sup>31</sup> Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).

17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (OJ L 130, 17.5.2019, p. 92.).

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<sup>31</sup> Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).

## **Amendment 9**

### **Proposal for a regulation Recital 12**

#### *Text proposed by the Commission*

(12) Weak contestability and unfair practices in the digital sector are more frequent and pronounced for certain digital services than for others. This is the case in particular for widespread and commonly used digital services that mostly directly intermediate between business users and end users and where features such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration are the most prevalent. Often, there is only one or very few large providers of those digital services. These providers of core platform services have emerged most frequently as gatekeepers for business users and end

#### *Amendment*

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users with far-reaching impacts, gaining the ability to easily set commercial conditions and terms in a unilateral and detrimental manner for their business users and end users. Accordingly, it is necessary to focus only on those digital services that are most broadly used by business users and end users and where, ***based on current market conditions***, concerns about weak contestability and unfair practices by gatekeepers are more apparent and pressing from an internal market perspective.

## Amendment 10

### Proposal for a regulation Recital 13

#### *Text proposed by the Commission*

(13) In particular, online intermediation services, online search engines, operating systems, online social networking, video sharing platform services, number-independent interpersonal communication services, cloud computing services and online advertising services all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They therefore should be included in the definition of core platform services and fall into the scope of this Regulation. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council<sup>32</sup>. In certain circumstances, the notion of end users should encompass users that are traditionally considered business users, but in a given situation do not use the core platform services to provide goods or services to other end users, such as for example businesses relying on cloud computing services for their own purposes.

users with far-reaching impacts, gaining the ability to easily set commercial conditions and terms in a unilateral and detrimental manner for their business users and end users. Accordingly, it is necessary to focus only on those digital services that are most broadly used by business users and end users and where concerns about weak contestability and unfair practices by gatekeepers are more apparent and pressing from an internal market perspective.

#### *Amendment*

(13) In particular, online intermediation services, online search engines, operating systems ***such as on smart devices, internet of things or embedded digital services in vehicles***, online social networking, video sharing platform services, number-independent interpersonal communication services, cloud computing services, ***virtual assistant services, web browsers, connected TV*** and online advertising services all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They therefore should be included in the definition of core platform services and fall into the scope of this Regulation. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council<sup>32</sup>. In certain circumstances, the notion of end users should encompass users that are traditionally considered business users, but in a given situation do not use the core platform services to provide goods or services to other end



users, such as for example businesses relying on cloud computing services for their own purposes.

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<sup>32</sup> Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ L 241, 17.9.2015, p. 1.

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<sup>32</sup> Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ L 241, 17.9.2015, p. 1.

## Amendment 11

### Proposal for a regulation

#### Recital 14

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

(14) A number of other ancillary services, such as identification *or* payment services *and* technical services which support the provision of payment services, may be provided by gatekeepers together with their core platform services. As gatekeepers frequently provide the portfolio of their services as part of an integrated ecosystem to which third-party providers of such ancillary services do not have access, at least not subject to equal conditions, and can link the access to the core platform service to take-up of one or more ancillary services, the gatekeepers are likely to have an increased ability and incentive to leverage their gatekeeper power from their core platform services to these ancillary services, to the detriment of choice and contestability of these services.

##### *Amendment*

(14) A number of other ancillary services, such as identification *services*, payment services, technical services which support the provision of payment services *or in-app payment systems*, may be provided by gatekeepers together with their core platform services. As gatekeepers frequently provide the portfolio of their services as part of an integrated ecosystem to which third-party providers of such ancillary services do not have access, at least not subject to equal conditions, and can link the access to the core platform service to take-up of one or more ancillary services, the gatekeepers are likely to have an increased ability and incentive to leverage their gatekeeper power from their core platform services to these ancillary services, to the detriment of choice and contestability of these services.

## Amendment 244

### Proposal for a regulation

#### Recital 14 a (new)

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

##### *Amendment*

*(14a) Gatekeepers may also provide other ancillary services, for instance retailing or distribution activities, that are targeted at end users alongside their core platform services. Such ancillary services can compete with business users of the core platform service and contribute significantly to the imbalance in a given market and ultimately increase unfairly the gatekeeper's power, including in relation to the gatekeeper's business partners, such as suppliers of goods or services, relying on such ancillary service. To prevent gatekeepers from unfairly benefiting from the leverage provided by provision of parallel services, such ancillary services should also be subject to the obligations applicable to core platform services.*

## **Amendment 12**

### **Proposal for a regulation**

#### **Recital 20**

*Text proposed by the Commission*

(20) A very high number of business users that depend on a core platform service to reach a very high number of monthly **active** end users allow the provider of that service to influence the operations of a substantial part of business users to its advantage and indicate in principle that the provider serves as an important gateway. The respective relevant levels for those numbers should be set representing a substantive percentage of the entire population of the Union when it comes to end users and of the entire population of businesses using platforms to determine the threshold for business users.

*Amendment*

(20) A very high number of business users that depend on a core platform service to reach a very high number of monthly end users allow the provider of that service to influence the operations of a substantial part of business users to its advantage and indicate in principle that the provider serves as an important gateway. The respective relevant levels for those numbers should be set representing a substantive percentage of the entire population of the Union when it comes to end users and of the entire population of businesses using platforms to determine the threshold for business users.

## **Amendment 13**

### **Proposal for a regulation**

#### **Recital 21**

*Text proposed by the Commission*

(21) An entrenched and durable position in its operations or the foreseeability of achieving such a position future occurs notably where the contestability of the position of the provider of the core platform service is limited. This is likely to be the case where that provider has provided a core platform service in at least three Member States to a very high number of business users and end users during at least three years.

*Amendment*

(21) An entrenched and durable position in its operations or the foreseeability of achieving such a position future occurs notably where the contestability of the position of the provider of the core platform service is limited. This is likely to be the case where that provider has provided a core platform service in at least three Member States to a very high number of business users and end users during at least three years. ***A list of indicators to be used by the providers of core platforms services when measuring monthly end users and yearly business users should be provided in an Annex to this Regulation.***

**Amendment 14**

**Proposal for a regulation**

**Recital 22**

*Text proposed by the Commission*

(22) Such thresholds can be impacted by market and technical developments. The Commission should therefore be empowered to adopt delegated acts to specify the methodology for determining whether the quantitative thresholds are met, and to regularly adjust it to market and technological developments where necessary. This is particularly relevant in relation to the threshold referring to market capitalisation, which should be indexed in appropriate intervals.

*Amendment*

(22) Such thresholds can be impacted by market and technical developments. The Commission should therefore be empowered to adopt delegated acts to specify the methodology for determining whether the quantitative thresholds are met ***and update the list of indicators set out in the Annex to this Regulation,*** and to regularly adjust it to market and technological developments where necessary. This is particularly relevant in relation to the threshold referring to market capitalisation, which should be indexed in appropriate intervals.

**Amendment 15**

**Proposal for a regulation**

**Recital 23**

*Text proposed by the Commission*

(23) Providers of core platform services ***which meet*** the quantitative thresholds ***but are able to present sufficiently substantiated arguments to demonstrate that, in the circumstances*** in which the relevant core platform service operates, they do not fulfil the objective requirements ***for a gatekeeper, should not be designated directly, but only subject to a further investigation.*** The burden of adducing evidence that the presumption deriving from the fulfilment of quantitative thresholds should not apply to a specific provider should be borne by that provider ***In its assessment, the Commission should take into account only the elements which directly relate to the requirements for constituting a gatekeeper, namely whether it is an important gateway which is operated by a provider with a significant impact in the internal market with an entrenched and durable position, either actual or foreseeable. Any justification on economic grounds seeking to demonstrate efficiencies deriving from a specific type of behaviour by the provider of core platform services should be discarded, as it is not relevant to the designation as a gatekeeper.*** The Commission should be able to take a decision by relying on the quantitative thresholds where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.

**Amendment 16**

**Proposal for a regulation**

**Recital 29**

*Text proposed by the Commission*

(29) Designated gatekeepers should comply with the obligations laid down in this Regulation in respect of each of the core platform services listed in the relevant

*Amendment*

(23) Providers of core platform services ***should be able to demonstrate that, despite meeting*** the quantitative thresholds, ***due to the exceptional circumstances*** in which the relevant core platform service operates, they do not fulfil the objective requirements ***to qualify as a gatekeeper only if they are able to present sufficiently compelling arguments to demonstrate this.*** The burden of adducing ***compelling*** evidence that the presumption deriving from the fulfilment of quantitative thresholds should not apply to a specific provider should be borne by that provider. The Commission should be able to take a decision by relying on the quantitative thresholds ***and facts available*** where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission. ***In view of improving market transparency, the Commission may require that information provided regarding business and end users is verified by third party audience measurement providers qualified to provide such services in accordance with market standards and codes of conduct applicable in the Union.***

*Amendment*

(29) Designated gatekeepers should comply with the obligations laid down in this Regulation in respect of each of the core platform services listed in the relevant

designation decision. The mandatory rules should apply taking into account the conglomerate position of gatekeepers, where applicable. Furthermore, implementing measures that the Commission may by decision impose on the gatekeeper *following a regulatory dialogue* should be designed in an effective manner, having regard to the features of core platform services as well as possible circumvention risks and in compliance with the principle of proportionality and the fundamental rights of the undertakings concerned as well as those of third parties.

designation decision. The mandatory rules should apply taking into account the conglomerate position of gatekeepers, where applicable. Furthermore, implementing measures that the Commission may by decision impose on the gatekeeper should be designed in an effective manner, having regard to the features of core platform services as well as possible circumvention risks and in compliance with the principle of proportionality and the fundamental rights of the undertakings concerned as well as those of third parties.

## **Amendment 17**

### **Proposal for a regulation Recital 30**

#### *Text proposed by the Commission*

(30) The very rapidly changing and complex technological nature of core platform services requires a regular review of the status of gatekeepers, including those that are foreseen to enjoy a durable and entrenched position in their operations in the near future. To provide all of the market participants, including the gatekeepers, with the required certainty as to the applicable legal obligations, a time limit for such regular reviews is necessary. It is also important to conduct such reviews on a regular basis and at least every *two years*.

#### *Amendment*

(30) The very rapidly changing and complex technological nature of core platform services requires a regular review of the status of gatekeepers, including those that are foreseen to enjoy a durable and entrenched position in their operations in the near future. To provide all of the market participants, including the gatekeepers, with the required certainty as to the applicable legal obligations, a time limit for such regular reviews is necessary. It is also important to conduct such reviews on a regular basis and at least every *year*.

## **Amendment 18**

### **Proposal for a regulation Recital 31**

#### *Text proposed by the Commission*

(31) To ensure the effectiveness of the review of gatekeeper status as well as the possibility to adjust the list of core platform services provided by a

#### *Amendment*

(31) To ensure the effectiveness of the review of gatekeeper status as well as the possibility to adjust the list of core platform services provided by a

gatekeeper, the gatekeepers should inform the Commission of all of their intended and concluded acquisitions of other providers of core platform services or any other services provided within the digital sector. Such information should not only serve the review process mentioned above, regarding the status of individual gatekeepers, but will also provide information that is crucial to monitoring broader contestability trends in the digital sector and can therefore be a useful factor for consideration in the context of the market investigations foreseen by this Regulation.

gatekeeper, the gatekeepers should inform the Commission of all of their intended and concluded acquisitions of other providers of core platform services or any other services provided within the digital sector. Such information should not only serve the review process mentioned above, regarding the status of individual gatekeepers, but will also provide information that is crucial to monitoring broader contestability trends in the digital sector and can therefore be a useful factor for consideration in the context of the market investigations foreseen by this Regulation. ***The Commission should inform competent national authorities of such notifications. The information gathered may be used to trigger the referral system set out in Article 22 of the Regulation (EC) No 139/2004.***

## **Amendment 19**

### **Proposal for a regulation Recital 32**

#### *Text proposed by the Commission*

(32) To safeguard the fairness and contestability of core platform services provided by gatekeepers, it is necessary to provide in a clear and unambiguous manner for a set of harmonised obligations with regard to those services. Such rules are needed to address the risk of harmful effects of unfair practices imposed by gatekeepers, to the benefit of the business environment in the services concerned, to the benefit of users and ultimately to the benefit of society as a whole. Given the fast-moving and dynamic nature of digital markets, and the substantial economic power of gatekeepers, it is important that these obligations are effectively applied without being circumvented. To that end, the obligations in question should apply to any **practices** by a gatekeeper, irrespective of its form and irrespective of whether it is of a contractual, commercial, technical or

#### *Amendment*

(32) To safeguard the fairness and contestability of core platform services provided by gatekeepers, it is necessary to provide in a clear and unambiguous manner for a set of harmonised obligations with regard to those services. Such rules are needed to address the risk of harmful effects of unfair practices imposed by gatekeepers, to the benefit of the business environment in the services concerned, to the benefit of users and ultimately to the benefit of society as a whole. Given the fast-moving and dynamic nature of digital markets, and the substantial economic power of gatekeepers, it is important that these obligations are effectively applied without being circumvented. To that end, the obligations in question should apply to any **behaviour** by a gatekeeper, irrespective of its form and irrespective of whether it is of a contractual, commercial,

any other nature, insofar as *a* practice *corresponds* to the *type of practice that is the subject of one of the obligations* of this Regulation.

technical or any other nature, insofar as *it could, in practice, have an equivalent object or effect* to the *practices that are prohibited under* this Regulation. *Such behaviour includes the design used by the gatekeeper, the presentation of end-user choices in a non-neutral manner, or using the structure, function or manner of operation of a user interface or a part thereof to subvert or impair user autonomy, decision-making, or choice.*

## Amendment 20

### Proposal for a regulation Recital 33

#### *Text proposed by the Commission*

(33) The obligations laid down in this Regulation are limited to what is necessary and justified to address the unfairness of the identified practices by gatekeepers and to ensure contestability in relation to core platform services provided by gatekeepers. Therefore, the obligations should correspond to those practices that are considered unfair by taking into account the features of the digital sector and where experience gained, for example in the enforcement of the EU competition rules, shows that they have a particularly negative direct impact on the business users and end users. In addition, it is necessary to provide for the possibility of a regulatory dialogue with gatekeepers to tailor those obligations that are likely to require specific implementing measures in order to ensure their effectiveness and proportionality. The obligations should only be updated after a thorough investigation on the nature and impact of specific practices that may be newly identified, *following an in-depth investigation*, as unfair or limiting contestability in the same manner as the unfair practices laid down in this Regulation while potentially escaping the scope of the current set of obligations.

#### *Amendment*

(33) The obligations laid down in this Regulation are limited to what is necessary and justified to address the unfairness of the identified practices by gatekeepers and to ensure contestability in relation to core platform services provided by gatekeepers. Therefore, the obligations should correspond to those practices that are considered unfair by taking into account the features of the digital sector and where experience gained, for example in the enforcement of the EU competition rules, shows that they have a particularly negative direct impact on the business users and end users. *The obligations laid down in the Regulation should take into account the nature of the core platform services provided and the presence of different business models.* In addition, it is necessary to provide for the possibility of a regulatory dialogue with gatekeepers to tailor those obligations that are likely to require specific implementing measures in order to ensure their effectiveness and proportionality. The obligations should only be updated after a thorough investigation on the nature and impact of specific practices that may be newly identified, as unfair or limiting contestability in the same manner as the

unfair practices laid down in this Regulation while potentially escaping the scope of the current set of obligations.

## Amendment 21

### Proposal for a regulation Recital 36

#### *Text proposed by the Commission*

(36) The conduct of combining end user data from different sources or signing in users to different services of gatekeepers gives them potential advantages in terms of accumulation of data, thereby raising barriers to entry. To ensure that gatekeepers do not unfairly undermine the contestability of core platform services, they should enable their end users to freely choose to opt-in to such business practices by offering a less personalised alternative. The possibility should cover all possible sources of personal data, including own services of the gatekeeper as well as third party websites, and should be proactively presented to the end user in an explicit, clear and straightforward manner.

#### *Amendment*

(36) The conduct of combining end user data from different sources or signing in users to different services of gatekeepers gives them potential advantages in terms of accumulation of data, thereby raising barriers to entry. To ensure that gatekeepers do not unfairly undermine the contestability of core platform services, they should enable their end users to freely choose to opt-in to such business practices by offering a less personalised ***but equivalent*** alternative. ***The less personalized alternative should not be different or of degraded quality compared to the service offered to the end users who provide consent to the combining of their personal data.*** The possibility should cover all possible sources of personal data, including own services of the gatekeeper as well as third party websites, and should be proactively presented to the end user in an explicit, clear and straightforward manner.

## Amendment 22

### Proposal for a regulation Recital 36 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

***(36a) Minors merit specific protection with regard to their personal data, in particular as regards the use for the purposes of marketing or creating personality or user profiles and the collection of personal data. Therefore, personal data of minors collected or***



*otherwise generated by gatekeepers should not be processed for commercial purposes, such as direct marketing, profiling and behaviourally targeted advertising.*

## Amendment 23

### Proposal for a regulation Recital 36 b (new)

*Text proposed by the Commission*

*Amendment*

*(36b) In order to safeguard a fair end user choice, refusing consent should not be more difficult than giving consent. In addition, to safeguard the end users rights and freedoms, the processing of personal data for advertising purposes should be in line with the requirements of data minimisation under Article 5 (1)(c) of Regulation (EU) 2016/679. Furthermore, the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, as well as the data concerning health or a natural person's sex life or sexual orientation should be strictly limited and subject to the appropriate safeguards as outlined in Article 9 of the Regulation (EU) 2016/679.*

## Amendment 24

### Proposal for a regulation Recital 37

*Text proposed by the Commission*

*Amendment*

(37) Because of their position, gatekeepers might in certain cases restrict the ability of business users of their online intermediation services to offer their goods or services to end users under more favourable conditions, including price, through other online intermediation services. Such restrictions have a

(37) Because of their position, gatekeepers might in certain cases, ***through the imposition of contractual terms and conditions***, restrict the ability of business users of their online intermediation services to offer their goods or services to end users under more favourable conditions, including price,

significant deterrent effect on the business users of gatekeepers in terms of their use of alternative online intermediation services, limiting inter-platform contestability, which in turn limits choice of alternative online intermediation channels for end users. To ensure that business users of online intermediation services of gatekeepers can freely choose alternative online intermediation services and differentiate the conditions under which they offer their products or services to their end users, it should not be accepted that gatekeepers limit business users from choosing to differentiate commercial conditions, including price. Such a restriction should apply to any measure with equivalent effect, such as for example increased commission rates or de-listing of the offers of business users.

through other online intermediation services ***or through direct business channels***. Such restrictions have a significant deterrent effect on the business users of gatekeepers in terms of their use of alternative online intermediation services ***or direct distribution channels***, limiting inter-platform contestability, which in turn limits choice of alternative online intermediation channels for end users. To ensure that business users of online intermediation services of gatekeepers can freely choose alternative online intermediation services ***or other direct distribution channels*** and differentiate the conditions under which they offer their products or services to their end users, it should not be accepted that gatekeepers limit business users from choosing to differentiate commercial conditions, including price. Such a restriction should apply to any measure with equivalent effect, such as for example increased commission rates or de-listing of the offers of business users.

## Amendment 25

### Proposal for a regulation Recital 38

#### *Text proposed by the Commission*

(38) To prevent further reinforcing their dependence on the core platform services of gatekeepers, the business users of these gatekeepers should be free in promoting and choosing the distribution channel they consider most appropriate to interact with any end users that these business users have already acquired through core platform services provided by the gatekeeper. Conversely, end users should also be free to choose offers of such business users and to enter into contracts with them either through core platform services of the gatekeeper, if applicable, or from a direct distribution channel of the business user or another indirect

#### *Amendment*

(38) To prevent further reinforcing their dependence on the core platform services of gatekeepers, the business users of these gatekeepers should be free in promoting and choosing the distribution channel they consider most appropriate to interact with any end users that these business users have already acquired through core platform services provided by the gatekeeper ***or through other channels. An acquired end user is an end user who has already entered into a contractual relationship with the business user. Such contractual relationships may be on either a paid or a free basis (e.g., free trials, free service tiers) and may have been entered***

distribution channel such business user may use. This should apply to the promotion of offers and conclusion of contracts between business users and end users. Moreover, the ability of end users to freely acquire content, subscriptions, features or other items outside the core platform services of the gatekeeper should not be undermined or restricted. In particular, it should be avoided that gatekeepers restrict end users from access to and use of such services via a software application running on their core platform service. For example, subscribers to online content purchased outside a software application download or purchased from a software application store should not be prevented from accessing such online content on a software application on the gatekeeper's core platform service simply because it was purchased outside such software application or software application store.

*into either on the gatekeeper's core platform service or through any other channel.* Conversely, end users should also be free to choose offers of such business users and to enter into contracts with them either through core platform services of the gatekeeper, if applicable, or from a direct distribution channel of the business user or another indirect distribution channel such business user may use. This should apply to the promotion of offers, **communication** and conclusion of contracts between business users and end users. Moreover, the ability of end users to freely acquire content, subscriptions, features or other items outside the core platform services of the gatekeeper should not be undermined or restricted. In particular, it should be avoided that gatekeepers restrict end users from access to and use of such services via a software application running on their core platform service. For example, subscribers to online content purchased outside a software application download or purchased from a software application store should not be prevented from accessing such online content on a software application on the gatekeeper's core platform service simply because it was purchased outside such software application or software application store.

## Amendment 26

### Proposal for a regulation

#### Recital 39

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

(39) To safeguard a fair commercial environment and protect the contestability of the digital sector it is important to safeguard the right of business users to raise concerns about unfair behaviour by gatekeepers with any relevant administrative or other public authorities. For example, business users may want to complain about different types of unfair practices, such as discriminatory access

##### *Amendment*

(39) To safeguard a fair commercial environment and protect the contestability of the digital sector it is important to safeguard the right of business users **and end users, including whistleblowers** to raise concerns about unfair behaviour by gatekeepers with any relevant administrative or other public authorities. For example, business **users or end** users may want to complain about different types

conditions, unjustified closing of business user accounts or unclear grounds for product de-listings. Any practice that would in any way inhibit such a possibility of raising concerns or seeking available redress, for instance by means of confidentiality clauses in agreements or other written terms, should therefore be prohibited. This should be without prejudice to the right of business users and gatekeepers to lay down in their agreements the terms of use including the use of lawful complaints-handling mechanisms, including any use of alternative dispute resolution mechanisms or of the jurisdiction of specific courts in compliance with respective Union and national law. This should therefore also be without prejudice to the role gatekeepers play in the fight against illegal content online.

of unfair practices, such as discriminatory access conditions, unjustified closing of business user accounts or unclear grounds for product de-listings. Any practice that would in any way inhibit *or hinder* such a possibility of raising concerns or seeking available redress, for instance by means of confidentiality clauses in agreements or other written terms, should therefore be prohibited. This should be without prejudice to the right of business users and gatekeepers to lay down in their agreements the terms of use including the use of lawful complaints-handling mechanisms, including any use of alternative dispute resolution mechanisms or of the jurisdiction of specific courts in compliance with respective Union and national law. This should therefore also be without prejudice to the role gatekeepers play in the fight against illegal content online.

## Amendment 27

### Proposal for a regulation Recital 40

#### *Text proposed by the Commission*

(40) **Identification** services **are** crucial **for** business users to conduct their business, as these can allow them not only to optimise services, to the extent allowed under Regulation (EU) 2016/679 and Directive 2002/58/EC of the European Parliament and of the Council<sup>33</sup>, but also to inject trust in online transactions, in compliance with Union or national law. Gatekeepers should therefore not use their position as provider of core platform services to require their dependent business users to include any identification services provided by the gatekeeper itself as part of the provision of services or products by these business users to their end users, where other identification services are available to such business users.

#### *Amendment*

(40) **Gatekeepers offer a range of ancillary services. To ensure contestability, it is** crucial **that** business users **are free to choose such ancillary services without having to fear any detrimental effects for the provision of the core platform service and** to conduct their business, as these can allow them not only to optimise services, to the extent allowed under Regulation (EU) 2016/679 and Directive 2002/58/EC of the European Parliament and of the Council<sup>33</sup>, but also to inject trust in online transactions, in compliance with Union or national law. Gatekeepers should therefore **not use their position as provider of core platform services to require their dependent business users to use, offer or include any ancillary service provided by the**

***gatekeeper or a particular third party, where other ancillary services are available to such business users.***

***Gatekeepers should eventually*** not use their position as provider of core platform services to require their dependent business users to include any identification services provided by the gatekeeper itself as part of the provision of services or products by these business users to their end users, where other identification services are available to such business users.

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<sup>33</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) (OJ L 201, 31.7.2002, p. 37).

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<sup>33</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) (OJ L 201, 31.7.2002, p. 37).

## **Amendment 28**

### **Proposal for a regulation Recital 41**

#### *Text proposed by the Commission*

(41) Gatekeepers should not restrict the free choice of end users by technically preventing switching between or subscription to different software applications and services. Gatekeepers should therefore ensure a free choice irrespective of whether they are the manufacturer of any hardware by means of which such software applications or services are accessed and should not raise artificial technical barriers so as to make switching ***impossible*** or ineffective. The mere offering of a given product or service to end users, including by means of pre-installation, as well the improvement of end user offering, such as better prices or increased quality, would not in itself constitute a barrier to switching.

#### *Amendment*

(41) Gatekeepers should not restrict the free choice of end users by technically preventing switching between or subscription to different software applications and services. Gatekeepers should therefore ensure a free choice irrespective of whether they are the manufacturer of any hardware by means of which such software applications or services are accessed and should not raise artificial technical barriers so as to make switching ***more difficult*** or ineffective. The mere offering of a given product or service to end users, including by means of pre-installation, as well the improvement of end user offering, such as better prices or increased quality, would not in itself constitute a barrier to switching.

## Amendment 29

### Proposal for a regulation

#### Recital 42

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

(42) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This opacity is partly linked to the practices of a few platforms, but is also due to the sheer complexity of modern day programmatic advertising. The sector is considered to have become more non-transparent after the introduction of new privacy legislation, and is expected to become even more opaque with the announced removal of third-party cookies. This often leads to a lack of information and knowledge for advertisers and publishers about the conditions of the advertising services they purchased and undermines their ability to switch to alternative providers of online advertising services. Furthermore, the costs of online advertising are likely to be higher than they would be in a fairer, more transparent and contestable platform environment. These higher costs are likely to be reflected in the prices that end users pay for many daily products and services relying on the use of online advertising. Transparency obligations should therefore require gatekeepers to provide advertisers and publishers to whom they supply online advertising services, when requested and to the extent possible, with information that allows both sides to understand the price paid for each of the different advertising services provided as part of the relevant advertising value chain.

##### *Amendment*

(42) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This opacity is partly linked to the practices of a few platforms, but is also due to the sheer complexity of modern day programmatic advertising. The sector is considered to have become more non-transparent after the introduction of new privacy legislation, and is expected to become even more opaque with the announced removal of third-party cookies. This often leads to a lack of information and knowledge for advertisers and publishers about the conditions of the advertising services they purchased and undermines their ability to switch to alternative providers of online advertising services. Furthermore, the costs of online advertising are likely to be higher than they would be in a fairer, more transparent and contestable platform environment. These higher costs are likely to be reflected in the prices that end users pay for many daily products and services relying on the use of online advertising. Transparency obligations should therefore require gatekeepers to provide advertisers and publishers to whom they supply online advertising services, ***with free of charge, effective, high-quality, continuous and real-time*** when requested and to the extent possible, with information that allows both sides to understand the price paid for each of the different advertising services provided as part of the relevant advertising value chain ***and the availability and visibility of advertisement.***

## Amendment 30

**Proposal for a regulation**  
**Recital 44**

*Text proposed by the Commission*

(44) Business users may also purchase advertising services from a provider of core platform services for the purpose of providing goods and services to end users. In this case, it may occur that the data are not generated on the core platform service, but are provided to the core platform service by the business user or are generated based on its operations through the core platform service concerned. In certain instances, that core platform service providing advertising may have a dual role, as intermediary and as provider of advertising services. Accordingly, the obligation prohibiting a dual role gatekeeper from using data of business users should apply also with respect to the data that a core platform service has received from businesses for the purpose of providing advertising services related to that core platform service.

*Amendment*

(44) Business users may also purchase advertising services from a provider of core platform services for the purpose of providing goods and services to end users. In this case, it may occur that the data are not generated on the core platform service, but are provided to the core platform service by the business user or are generated based on its operations through the core platform service concerned. In certain instances, that core platform service providing advertising may have a dual role, as intermediary and as provider of advertising services. Accordingly, the obligation prohibiting a dual role gatekeeper from using data of business users should apply also with respect to the data that a core platform service has received from businesses for the purpose of providing advertising services related to that core platform service. ***Moreover the gatekeeper should refrain from disclosing any commercially sensitive information obtained in connection with one of its advertising services to any third party belonging to the same undertaking and from using such commercially sensitive information for any purposes other than the provision of the specific advertising service unless this is necessary for carrying out a business transaction.***

**Amendment 31**

**Proposal for a regulation**  
**Recital 46**

*Text proposed by the Commission*

(46) A gatekeeper may use different means to favour its own services or products on its core platform service, to the detriment of the same or similar services that end users could obtain through third

*Amendment*

(46) A gatekeeper may use different means to favour its own services or products on its core platform service, to the detriment of the same or similar services that end users could obtain through third

parties. This may for instance be the case where certain software applications or services are pre-installed by a gatekeeper. To enable end user choice, gatekeepers should not prevent end users from un-installing any pre-installed software applications on its core platform service and thereby favour their own software applications.

parties. This may for instance be the case where certain software applications or services are pre-installed by a gatekeeper. To enable end user choice, gatekeepers should not prevent end users from un-installing any pre-installed software applications on its core platform service and thereby favour their own software applications. ***The gatekeeper may restrict such un-installation when such applications are essential to the functioning of the operating system or the device.***

## **Amendment 32**

### **Proposal for a regulation**

#### **Recital 47**

*Text proposed by the Commission*

(47) The rules that the gatekeepers set for the distribution of software applications may in certain circumstances restrict the ability of end users to install and effectively use third party software applications or software application stores on operating systems or hardware of the relevant gatekeeper and restrict the ability of end users to access these software applications or software application stores outside the core platform services of that gatekeeper. Such restrictions may limit the ability of developers of software applications to use alternative distribution channels and the ability of end users to choose between different software applications from different distribution channels and should be prohibited as unfair and liable to weaken the contestability of core platform services. In order to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper the gatekeeper concerned may implement proportionate technical or contractual measures to achieve that goal if the gatekeeper demonstrates that such

*Amendment*

(47) The rules that the gatekeepers set for the distribution of software applications may in certain circumstances restrict the ability of end users to install and effectively use third party software applications or software application stores on operating systems or hardware of the relevant gatekeeper and restrict the ability of end users to access these software applications or software application stores outside the core platform services of that gatekeeper. Such restrictions may limit the ability of developers of software applications to use alternative distribution channels and the ability of end users to choose between different software applications from different distribution channels and should be prohibited as unfair and liable to weaken the contestability of core platform services. ***To ensure contestability, the gatekeeper should prompt where relevant the end user to decide whether the downloaded application or app store should become the default.*** In order to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating



measures are necessary and justified and that there are no less restrictive means to safeguard the integrity of the hardware or operating system.

system provided by the gatekeeper the gatekeeper concerned may implement proportionate technical or contractual measures to achieve that goal if the gatekeeper demonstrates that such measures are necessary and justified and that there are no less restrictive means to safeguard the integrity of the hardware or operating system.

### **Amendment 33**

#### **Proposal for a regulation**

##### **Recital 48**

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

(48) Gatekeepers are often vertically integrated and offer certain products or services to end users through their own core platform services, or through a business user over which they exercise control which frequently leads to conflicts of interest. This can include the situation whereby a gatekeeper offers its own online intermediation services through an online search engine. When offering those products or services on the core platform service, gatekeepers can reserve a better position to their own offering, in terms of ranking, as opposed to the products of third parties also operating on that core platform service. This can occur for instance with products or services, including other core platform services, which are ranked in the results communicated by online search engines, or which are partly or entirely embedded in online search engines results, groups of results specialised in a certain topic, displayed along with the results of an online search engine, which are considered or used by certain end users as a service distinct or additional to the online search engine. Other instances are those of software applications which are distributed through software application stores, or products or services that are given prominence and display in the newsfeed of a social network, or products or services

###### *Amendment*

(48) Gatekeepers are often vertically integrated and offer certain products or services to end users through their own core platform services, or through a business user over which they exercise control which frequently leads to conflicts of interest. This can include the situation whereby a gatekeeper offers its own online intermediation services through an online search engine. When offering those products or services on the core platform service, gatekeepers can reserve a better position to their own offering, in terms of ranking, as opposed to the products of third parties also operating on that core platform service. This can occur for instance with products or services, including other core platform services, which are ranked in the results communicated by online search engines, or which are partly or entirely embedded in online search engines results, groups of results specialised in a certain topic, displayed along with the results of an online search engine, which are considered or used by certain end users as a service distinct or additional to the online search engine. ***Such preferential or embedded display of a separate online intermediation service should constitute a favouring irrespective of whether the information or results within the favoured groups of specialised results may also be***

ranked in search results or displayed on an online marketplace. In those circumstances, the gatekeeper is in a dual-role position as intermediary for third party providers and as direct provider of products or services of the gatekeeper. Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper.

***provided by competing services and are as such ranked in a non-discriminatory way.*** Other instances are those of software applications which are distributed through software application stores, or products or services that are given prominence and display in the newsfeed of a social network, or products or services ranked in search results or displayed on an online marketplace. In those circumstances, the gatekeeper is in a dual-role position as intermediary for third party providers and as direct provider of products or services of the gatekeeper ***leading to conflicts of interest.*** Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper.

## **Amendment 34**

### **Proposal for a regulation Recital 49**

#### *Text proposed by the Commission*

(49) In such situations, the gatekeeper should not engage in any form of differentiated or preferential treatment in ranking on the core platform service, whether through legal, commercial or technical means, in favour of products or services it offers itself or through a business user which it controls. To ensure that this obligation is effective, it should also be ensured that the conditions that apply to such ranking are also generally fair. Ranking should in this context cover all forms of relative prominence, including display, rating, linking or voice results. To ensure that this obligation is effective and cannot be circumvented it should also apply to any measure that may have an equivalent effect to the differentiated or preferential treatment in ranking. The guidelines adopted pursuant to Article 5 of Regulation (EU) 2019/1150 should also

#### *Amendment*

(49) In such situations, the gatekeeper should not engage in any form of differentiated or preferential treatment in ranking on the core platform service, whether through legal, commercial or technical means, in favour of products or services it offers itself or through a business user which it controls. To ensure that this obligation is effective, it should also be ensured that the conditions that apply to such ranking are also generally fair. Ranking should in this context cover all forms of relative prominence, including display, rating, linking or voice results. To ensure that this obligation is effective and cannot be circumvented it should also apply to any measure that may have an equivalent effect to the differentiated or preferential treatment in ranking. ***In addition, to avoid any conflicts of interest, gatekeepers should be required to treat its***

facilitate the implementation and enforcement of this obligation.<sup>34</sup>

*own product or services, as a separate commercial entity that is commercially viable as a stand-alone service.* The guidelines adopted pursuant to Article 5 of Regulation (EU) 2019/1150 should also facilitate the implementation and enforcement of this obligation.<sup>34</sup>

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<sup>34</sup> Commission Notice: Guidelines on ranking transparency pursuant to Regulation (EU) 2019/1150 of the European Parliament and of the Council (OJ C 424, 8.12.2020, p. 1).

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<sup>34</sup> Commission Notice: Guidelines on ranking transparency pursuant to Regulation (EU) 2019/1150 of the European Parliament and of the Council (OJ C 424, 8.12.2020, p. 1).

## **Amendment 35**

### **Proposal for a regulation Recital 52 a (new)**

*Text proposed by the Commission*

*Amendment*

*(52a) The lack of interconnection features among the gatekeeper services may substantially affect users choice and ability to switch due to the incapacity for end user to reconstruct social connections and networks provided by the gatekeeper even if multi-homing is possible. Therefore, it should be allowed for any providers of equivalent core platform services to interconnect with the gatekeepers number independent interpersonal communication services or social network services upon their request and free of charge. Interconnection should be provided under the conditions and quality that are available or used by the gatekeeper, while ensuring a high level of security and personal data protection. In the particular case of number-dependant intercommunication services, interconnection requirements should mean giving the possibility for third-party providers to request access and interconnection for features such as text, video, voice and picture, while it should provide access and interconnection on basic features such as posts, likes and*

*comments for social networking services. Interconnection measures of number-independent interpersonal communication services should be imposed in accordance with the provisions of the Electronic Communications Code and particularly the conditions and procedures laid down in Article 61 thereof. It should nevertheless presume that the providers of number-independent interpersonal communications services that has been designated as a gatekeeper, reaches the conditions required to trigger the procedures, namely they reach a significant level of coverage and user uptake, and should therefore provide for minimum applicable interoperability requirements.*

## Amendment 36

### Proposal for a regulation Recital 53

#### *Text proposed by the Commission*

(53) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This often leads to a lack of information for advertisers and publishers about the effect of a given ad. To further enhance fairness, transparency and contestability of online advertising services designated under this Regulation as well as those that are fully integrated with other core platform services of the same provider, the designated gatekeepers should therefore provide advertisers and publishers, when requested, with free of charge access to the performance measuring tools of the gatekeeper and the information necessary for advertisers, advertising agencies acting on behalf of a company placing advertising, as well as for publishers to carry out their own independent verification of the provision of the relevant online advertising services.

#### *Amendment*

(53) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This often leads to a lack of information for advertisers and publishers about the effect of a given ad. To further enhance fairness, transparency and contestability of online advertising services designated under this Regulation as well as those that are fully integrated with other core platform services of the same provider, the designated gatekeepers should therefore provide advertisers and publishers ***for entire disclosure and transparency of the parameters and data used for decision making, execution and measurement of the intermediation services. A gatekeeper should further provide*** when requested, with free of charge access to the performance measuring tools of the gatekeeper and the information necessary for advertisers,

advertising agencies acting on behalf of a company placing advertising, as well as for publishers to carry out their own independent verification of the provision of the relevant online advertising services.

## Amendment 37

### Proposal for a regulation

#### Recital 57

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

(57) In particular gatekeepers which provide access to **software application stores** serve as an important gateway for business users that seek to reach end users. In view of the imbalance in bargaining power between those gatekeepers and business users of their **software application stores**, those gatekeepers should not be allowed to impose general conditions, including pricing conditions, that would be unfair or lead to unjustified differentiation. Pricing or other general access conditions should be considered unfair if they lead to an imbalance of rights and obligations imposed on business users or confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users or lead to a disadvantage for business users in providing the same or similar services as the gatekeeper. The following benchmarks can serve as a yardstick to determine the fairness of general access conditions: prices charged or conditions imposed for the same or similar services by other providers of **software application stores**; prices charged or conditions imposed by the provider of the software application store for different related or similar services or to different types of end users; prices charged or conditions imposed by the provider of the software application store for the same service in different geographic regions; prices charged or conditions imposed by the provider of the software application store for the same

##### *Amendment*

(57) In particular gatekeepers which provide access to **core platform services** serve as an important gateway for business users that seek to reach end users. In view of the imbalance in bargaining power between those gatekeepers and business users of their **core platform services**, those gatekeepers should not be allowed to impose general conditions, including pricing conditions, that would be unfair or lead to unjustified differentiation. Pricing or other general access conditions should be considered unfair if they lead to an imbalance of rights and obligations imposed on business users or confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users or lead to a disadvantage for business users in providing the same or similar services as the gatekeeper. The following benchmarks can serve as a yardstick to determine the fairness of general access conditions: prices charged or conditions imposed for the same or similar services by other providers of **core platform services**; prices charged or conditions imposed by the provider of the software application store for different related or similar services or to different types of end users; prices charged or conditions imposed by the provider of the software application store for the same service in different geographic regions; prices charged or conditions imposed by the provider of the software application store for the same service the

service the gatekeeper offers to itself. This obligation should not establish an access right and it should be without prejudice to the ability of providers of *software application stores* to take the required responsibility in the fight against illegal and unwanted content as set out in Regulation [Digital Services Act].

gatekeeper offers to itself. This obligation should not establish an access right and it should be without prejudice to the ability of providers of *core platform services* to take the required responsibility in the fight against illegal and unwanted content as set out in Regulation [Digital Services Act].

## Amendment 38

### Proposal for a regulation Recital 57 a (new)

*Text proposed by the Commission*

*Amendment*

***(57a) The implementation of gatekeepers' obligations related to access, installation, portability or interoperability could be facilitated by the use of technical standards. In this respect the Commission should identify appropriate, widely-used ICT technical standards from standards organisations as provided for under Article 13 of Regulation (EU) No 1025/2012 or where appropriate ask/request European standardisation bodies to develop them.***

## Amendment 39

### Proposal for a regulation Recital 58

*Text proposed by the Commission*

*Amendment*

(58) To ensure the effectiveness of the obligations laid down by this Regulation, while also making certain that these obligations are limited to what is necessary to ensure contestability and tackling the harmful effects of the unfair behaviour by gatekeepers, it is important to clearly define and circumscribe them so as to allow the gatekeeper to immediately comply with them, in full respect of Regulation (EU) 2016/679 and Directive 2002/58/EC, consumer protection, cyber

***(58) This aim of this Regulation is to ensure that the digital economy remains fair and contestable in order to promote innovation, high quality of digital products and services, fair and competitive prices and a high quality and choice for end users in the digital sector.*** To ensure the effectiveness of the obligations laid down by this Regulation, while also making certain that these obligations are limited to what is necessary to ensure contestability and tackling the

security and product safety. The gatekeepers should ensure the compliance with this Regulation by design. The necessary measures should therefore be as much as possible and where relevant integrated into the technological design used by the gatekeepers. However, it may in certain cases be appropriate for the Commission, following a dialogue with the gatekeeper concerned, to further specify some of the measures that the gatekeeper concerned should adopt in order to effectively comply with those obligations that are susceptible of being further specified. This possibility of a regulatory dialogue should facilitate compliance by gatekeepers and expedite the correct implementation of the Regulation.

harmful effects of the unfair behaviour by gatekeepers, it is important to clearly define and circumscribe them so as to allow the gatekeeper to immediately comply with them, in full respect of Regulation (EU) 2016/679 and Directive 2002/58/EC, consumer protection, cyber security and product safety ***as well as with accessibility requirements for the persons with disabilities in accordance with the Directive (EU) 2019/882***. The gatekeepers should ensure the compliance with this Regulation by design. The necessary measures should therefore be as much as possible and where relevant integrated into the technological design used by the gatekeepers. However, it may in certain cases be appropriate for the Commission, following a dialogue with the gatekeeper concerned, ***and, where appropriate, a consultation of interested third parties***, to further specify ***in a decision*** some of the measures that the gatekeeper concerned should adopt in order to effectively comply with those obligations that are susceptible of being further specified. This possibility of a regulatory dialogue should facilitate compliance by gatekeepers and expedite the correct implementation of the Regulation.

## **Amendment 40**

### **Proposal for a regulation Recital 59**

#### *Text proposed by the Commission*

(59) As an additional element to ensure proportionality, gatekeepers should be given an opportunity to request the suspension, to the extent necessary, of a specific obligation in exceptional circumstances that lie beyond the control of the gatekeeper, such as for example an unforeseen external shock that has temporarily eliminated a significant part of end user demand for the relevant core platform service, where compliance with a

#### *Amendment*

(59) As an additional element to ensure proportionality, gatekeepers should be given an opportunity to request the suspension, to the extent necessary, of a specific obligation in exceptional circumstances that lie beyond the control of the gatekeeper, such as for example an unforeseen external shock that has temporarily eliminated a significant part of end user demand for the relevant core platform service, where compliance with a

specific obligation is shown by the gatekeeper to endanger the economic viability of the Union operations of the gatekeeper concerned.

specific obligation is shown by the gatekeeper to endanger the economic viability of the Union operations of the gatekeeper concerned. ***The Commission should state in its decision the reasons for granting the suspension and review it on a regular basis to assess whether the conditions for granting it are still viable or not.***

## **Amendment 41**

### **Proposal for a regulation Recital 60**

*Text proposed by the Commission*

(60) In exceptional circumstances justified on the limited grounds of public morality, public health or public security, the Commission should be able to decide that the obligation concerned does not apply to a specific core platform service. Affecting these public interests can indicate that the cost to society as a whole of enforcing a certain obligation would in a certain exceptional case be too high and thus disproportionate. The regulatory dialogue to facilitate compliance with limited suspension and exemption possibilities should ensure the proportionality of the obligations in this Regulation without undermining the intended ex ante effects on fairness and contestability.

*Amendment*

(60) In exceptional circumstances justified on the limited grounds of public morality, public health or public security, the Commission should be able to decide that the obligation concerned does not apply to a specific core platform service. Affecting these public interests can indicate that the cost to society as a whole of enforcing a certain obligation would in a certain exceptional case be too high and thus disproportionate. The regulatory dialogue to facilitate compliance with limited ***and duly justified*** suspension and exemption possibilities should ensure the proportionality of the obligations in this Regulation without undermining the intended ex ante effects on fairness and contestability. ***Where such an exemption is granted, the Commission should review its decision every year.***

## **Amendment 42**

### **Proposal for a regulation Recital 61**

*Text proposed by the Commission*

(61) The data protection and privacy interests of end users are relevant to any assessment of potential negative effects of

*Amendment*

(61) The data protection and privacy interests of end users are relevant to any assessment of potential negative effects of



the observed practice of gatekeepers to collect and accumulate large amounts of data from end users. Ensuring an adequate level of transparency of profiling practices employed by gatekeepers facilitates contestability of core platform services, by putting external pressure on gatekeepers to prevent making deep consumer profiling the industry standard, given that potential entrants or start-up providers cannot access data to the same extent and depth, and at a similar scale. Enhanced transparency should allow other providers of core platform services to differentiate themselves better through the use of superior privacy guaranteeing facilities. To ensure a minimum level of effectiveness of this transparency obligation, gatekeepers should at least provide a description of the basis upon which profiling is performed, including whether personal data and data derived from user activity is relied on, the processing applied, the purpose for which the profile is prepared and eventually used, the impact of such profiling on the gatekeeper's services, and the steps taken to enable end users to be aware of the relevant use of such profiling, as well as to seek their consent.

the observed practice of gatekeepers to collect and accumulate large amounts of data from end users. Ensuring an adequate level of transparency of profiling practices employed by gatekeepers facilitates contestability of core platform services, by putting external pressure on gatekeepers to prevent making deep consumer profiling the industry standard, given that potential entrants or start-up providers cannot access data to the same extent and depth, and at a similar scale. Enhanced transparency should allow other providers of core platform services to differentiate themselves better through the use of superior privacy guaranteeing facilities. To ensure a minimum level of effectiveness of this transparency obligation, gatekeepers should at least provide a description of the basis upon which profiling is performed, including whether personal data and data derived from user activity is relied on, the processing applied, the purpose for which the profile is prepared and eventually used, the impact of such profiling on the gatekeeper's services, and the steps taken to enable end users to be aware of the relevant use of such profiling, as well as to seek their consent. *The expertise of consumer protection authorities', as members of the High Level Group of Digital Regulators, should be especially taken into consideration for assessing consumer profiling techniques. The Commission should develop, in consultation with the EU Data Protection Supervisor, the European Data Protection Board, civil society and experts, the standards and process of the audit.*

## **Amendment 43**

### **Proposal for a regulation Recital 62**

*Text proposed by the Commission*

(62) In order to ensure the full and lasting achievement of the objectives of this

*Amendment*

(62) In order to ensure the full and lasting achievement of the objectives of this

Regulation, the Commission should be able to assess whether a provider of core platform services should be designated as a gatekeeper without meeting the quantitative thresholds laid down in this Regulation; whether systematic non-compliance by a gatekeeper warrants imposing additional remedies; **and** whether the list of obligations addressing unfair practices by gatekeepers should be reviewed and additional practices that are similarly unfair and limiting the contestability of digital markets **should be identified**. Such assessment should be based on market investigations to be **run** in an appropriate timeframe, by using clear procedures and deadlines, in order to support the ex ante effect of this Regulation on contestability and fairness in the digital sector, and to provide the requisite degree of legal certainty.

#### Amendment 44

##### Proposal for a regulation Recital 64

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

(64) The Commission should investigate and assess whether additional behavioural, or, where appropriate, structural remedies are justified, in order to ensure that the gatekeeper cannot frustrate the objectives of this Regulation by **systematic non-compliance** with one or several of the obligations laid down in this Regulation, **which has further strengthened its gatekeeper position. This would be the case if the gatekeeper's size in the internal market has further increased, economic dependency of business users and end users on the gatekeeper's core platform services has further strengthened as their number has further increased and the gatekeeper benefits from increased entrenchment of its position.** The Commission should therefore in such cases

Regulation, the Commission should be able to assess whether a provider of core platform services should be designated as a gatekeeper without meeting the quantitative thresholds laid down in this Regulation; whether systematic non-compliance by a gatekeeper warrants imposing additional remedies; whether the list of obligations addressing unfair practices by gatekeepers should be reviewed; **and whether** additional practices that are similarly unfair and limiting the contestability of digital markets **need to be investigated**. Such assessment should be based on market investigations to be **carried out** in an appropriate timeframe, by using clear procedures and **binding** deadlines, in order to support the ex ante effect of this Regulation on contestability and fairness in the digital sector, and to provide the requisite degree of legal certainty.

###### *Amendment*

(64) The Commission should investigate and assess whether additional behavioural, or, where appropriate, structural remedies are justified, in order to ensure that the gatekeeper cannot frustrate the objectives of this Regulation by **systematically failing to comply** with one or several of the obligations laid down in this Regulation. The Commission should therefore in such cases **of systematic non-compliance** have the power to impose any remedy, whether behavioural or structural **that is necessary to ensure effective compliance with this Regulation. The Commission might prohibit gatekeepers from engaging on acquisitions (including "killer-acquisitions") in the areas relevant to this regulation such as digital or to the use of data related sectors e.g. gaming, research**

have the power to impose any remedy, whether behavioural or structural, *having due regard to the principle of proportionality. Structural remedies, such as legal, functional or structural separation, including the divestiture of a business, or parts of it, should only be imposed either where there is no equally effective behavioural remedy or where any equally effective behavioural remedy would be more burdensome for the undertaking concerned than the structural remedy. Changes to the structure of an undertaking as it existed before the systematic non-compliance was established would only be proportionate where there is a substantial risk that this systematic non-compliance results from the very structure of the undertaking concerned.*

#### Amendment 45

##### Proposal for a regulation Recital 65 a (new)

*Text proposed by the Commission*

*institutes, consumer goods, fitness devices, health tracking financial services, and for a limited period of time where this is necessary and proportionate to undue the damage caused by repeated infringements or to prevent further damage to the contestability and fairness of the internal market. In doing so, the Commission might take into account different elements, such as likely network effects, data consolidation, and possible long-term effects or whether and when the acquisition of targets with specific data resources can significantly put in danger the contestability and the competitiveness of the markets through horizontal, vertical or conglomerate effects.*

*Amendment*

*(65a) Interim measures can be an important tool to ensure that, while an investigation is ongoing, the infringement being investigated does not lead to serious and immediate damage for business users or end users of gatekeepers. In case of urgency, where a risk of serious and immediate damage for business users or end-users of gatekeepers could result from new practices that may undermine contestability of core platform services, the Commission should be empowered to impose interim measures by temporarily imposing obligations to the gatekeeper concerned. These interim measures should be limited to what is necessary and justified. They should apply pending the conclusion of the market investigation and the corresponding final decision of the Commission pursuant to Article 17.*

## Amendment 46

### Proposal for a regulation Recital 67

*Text proposed by the Commission*

***(67) Where, in the course of a proceeding into non-compliance or an investigation into systemic non-compliance, a gatekeeper offers commitments to the Commission, the latter should be able to adopt a decision making these commitments binding on the gatekeeper concerned, where it finds that the commitments ensure effective compliance with the obligations of this Regulation. This decision should also find that there are no longer grounds for action by the Commission.***

*Amendment*

*deleted*

## Amendment 47

### Proposal for a regulation Recital 70

*Text proposed by the Commission*

(70) The Commission should be able to directly request that undertakings or association of undertakings provide any relevant evidence, data and information. In addition, the Commission should be able to request any relevant information from any public authority, body or agency within the Member State, or from any natural person or legal person for the purpose of this Regulation. When complying with a decision of the Commission, undertakings are obliged to answer factual questions and to provide documents.

*Amendment*

(70) The Commission should be able to directly request that undertakings or association of undertakings provide any relevant evidence, data and information. ***The time limits fixed by the Commission for the request of information should respect the size and capabilities of an undertaking or association of undertakings.*** In addition, the Commission should be able to request any relevant information from any public authority, body or agency within the Member State, or from any natural person or legal person for the purpose of this Regulation. When complying with a decision of the Commission, undertakings are obliged to answer factual questions and to provide documents.

## Amendment 48

**Proposal for a regulation**  
**Recital 75**

*Text proposed by the Commission*

(75) In the context of proceedings carried out under this Regulation, the undertakings concerned should be accorded the right to be heard by the Commission and the decisions taken should be widely publicised. While ensuring the rights to good administration and the rights of defence of the undertakings concerned, in particular, the right of access to the file and the right to be heard, it is essential that confidential information be protected. Furthermore, while respecting the confidentiality of the information, the Commission should ensure that any information relied on for the purpose of the decision is disclosed to an extent that allows the addressee of the decision to understand the facts and considerations that led up to the decision. Finally, under certain conditions certain business records, such as communication between lawyers and their clients, may be considered confidential if the relevant conditions are met.

*Amendment*

(75) In the context of proceedings carried out under this Regulation, the undertakings concerned should be accorded the right to be heard by the Commission and the decisions taken should be widely publicised. While ensuring the rights to good administration and the rights of defence of the undertakings concerned, in particular, the right of access to the file and the right to be heard, it is essential that confidential ***and sensitive commercial*** information, ***which could affect the privacy of trade secrets***, be protected. Furthermore, while respecting the confidentiality of the information, the Commission should ensure that any information relied on for the purpose of the decision is disclosed to an extent that allows the addressee of the decision to understand the facts and considerations that led up to the decision. Finally, under certain conditions certain business records, such as communication between lawyers and their clients, may be considered confidential if the relevant conditions are met.

**Amendment 49**

**Proposal for a regulation**  
**Recital 75 a (new)**

*Text proposed by the Commission*

*Amendment*

***(75a) In order to facilitate cooperation and coordination between the Commission and Member States in their enforcement actions, a high-level group of regulators with responsibilities in the digital sector should be established with the power to advise the Commission. Establishing that group of regulators should enable the exchange of***

*information and best practices among the Members States, and enhance better monitoring and thus strengthen the implementation of this Regulation.*

## **Amendment 50**

### **Proposal for a regulation Recital 75 b (new)**

*Text proposed by the Commission*

*Amendment*

*(75b) The Commission should apply the provisions of this Regulation in close cooperation with the competent national authorities, to ensure effective enforceability as well as coherent implementation of this Regulation and to facilitate the cooperation with national authorities.*

## **Amendment 51**

### **Proposal for a regulation Recital 76**

*Text proposed by the Commission*

*Amendment*

(76) In order to ensure uniform conditions for the implementation of Articles 3, 6, 12, 13, 15, 16, 17, 20, 22, 23, 25 and 30, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>35</sup>.

(76) In order to ensure uniform conditions for the implementation of Articles 3, 5, 6, 12, 13, 15, 16, 17, 20, 22, 23, 25 and 30, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>35</sup>.

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<sup>35</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, (OJ L 55, 28.2.2011, p. 13).

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<sup>35</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, (OJ L 55, 28.2.2011, p. 13).

## Amendment 52

### Proposal for a regulation Recital 77

#### *Text proposed by the Commission*

(77) The advisory committee established in accordance with Regulation (EU) No 182/2011 should also deliver opinions on certain individual decisions of the Commission issued under this Regulation. In order to ensure contestable and fair markets in the digital sector across the Union where gatekeepers are present, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to supplement this Regulation. In particular, delegated acts should be adopted in respect of the methodology for determining the quantitative thresholds for designation of gatekeepers under this Regulation ***and in respect of the update of the obligations laid down in this Regulation where, based on a market investigation the Commission has identified the need for updating the obligations addressing practices that limit the contestability of core platform services or are unfair.*** It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016<sup>36</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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<sup>36</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L

#### *Amendment*

(77) The advisory committee established in accordance with Regulation (EU) No 182/2011 should also deliver opinions on certain individual decisions of the Commission issued under this Regulation. In order to ensure contestable and fair markets in the digital sector across the Union where gatekeepers are present, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to supplement this Regulation. In particular, delegated acts should be adopted in respect of the methodology for determining the quantitative thresholds for designation of gatekeepers under this Regulation. It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016<sup>36</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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<sup>36</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L

123, 12.5.2016, p. 1).

123, 12.5.2016, p. 1).

### **Amendment 53**

#### **Proposal for a regulation Recital 77 a (new)**

*Text proposed by the Commission*

*Amendment*

***(77a) National courts will have an important role in applying this Regulation and should be allowed to ask the Commission to send them information or opinions on questions concerning the application of this Regulation. At the same time, the Commission should be able to submit oral or written observations to courts of the Member States.***

### **Amendment 54**

#### **Proposal for a regulation Recital 77 b (new)**

*Text proposed by the Commission*

*Amendment*

***(77b) Whistleblowers can bring new information to the attention of competent authorities which helps them in detecting infringements of this Regulation and imposing penalties. This Regulation should therefore ensure that adequate arrangements are in place to enable whistleblowers to alert competent authorities to actual or potential infringements of this Regulation and to protect them from retaliation.***

### **Amendment 55**

#### **Proposal for a regulation Recital 77 c (new)**

*Text proposed by the Commission*

*Amendment*

***(77c) End users should be entitled to enforce their rights in relation to the***



***obligations imposed on gatekeepers under this Regulation through representative actions in accordance with Directive (EU) 2020/1828.***

**Amendment 56**

**Proposal for a regulation**

**Recital 78**

*Text proposed by the Commission*

(78) The Commission should periodically evaluate this Regulation and closely monitor its effects on the contestability and fairness of commercial relationships in the online platform economy, in particular with a view to determining the need for amendments in light of relevant technological or commercial developments. This evaluation should include the regular review of the list of core platform services ***and the obligations addressed to gatekeepers*** as well as enforcement of these, in view of ensuring that digital markets across the Union are contestable and fair. In order to obtain a broad view of developments in the sector, the evaluation should take into account the experiences of Member States and relevant stakeholders. The Commission may in this regard also consider the opinions and reports presented to it by the Observatory on the Online Platform Economy that was first established by Commission Decision C(2018)2393 of 26 April 2018. Following the evaluation, the Commission should take appropriate measures. The Commission should ***to*** maintain a high level of protection and respect for the common EU rights and values, particularly equality and non-discrimination, as an objective when conducting the assessments and reviews of the practices and obligations provided in this Regulation.

*Amendment*

(78) The Commission should periodically evaluate this Regulation and closely monitor its effects on the contestability and fairness of commercial relationships in the online platform economy, in particular with a view to determining the need for amendments in light of relevant technological or commercial developments. This evaluation should include the regular review of the list of core platform services as well as enforcement of these, in view of ensuring that digital markets across the Union are contestable and fair. In order to obtain a broad view of developments in the sector, the evaluation should take into account the experiences of Member States and relevant stakeholders. The Commission may in this regard also consider the opinions and reports presented to it by the Observatory on the Online Platform Economy that was first established by Commission Decision C(2018)2393 of 26 April 2018. Following the evaluation, the Commission should take appropriate measures. The Commission should maintain a high level of protection and respect for the common EU rights and values, particularly equality and non-discrimination, as an objective when conducting the assessments and reviews of the practices and obligations provided in this Regulation.

**Amendment 57**

**Proposal for a regulation**  
**Recital 78 a (new)**

*Text proposed by the Commission*

*Amendment*

***(78a) Without prejudice to the budgetary procedure and through existing financial instruments, adequate human, financial and technical resources should be allocated to the Commission to ensure that it can effectively perform its duties and exercise its powers in respect of the enforcement of this Regulation.***

**Amendment 58**

**Proposal for a regulation**  
**Recital 79**

*Text proposed by the Commission*

*Amendment*

This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, in particular Articles 16, 47 and 50 thereof. Accordingly, this Regulation should be interpreted and applied with respect to those rights and principles.

***(79)*** This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, in particular Articles 16, 47 and 50 thereof. Accordingly, this Regulation should be interpreted and applied with respect to those rights and principles.

**Amendment 59**

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

*Text proposed by the Commission*

*Amendment*

1. This Regulation *lays* down harmonised rules ensuring contestable and fair markets in the digital sector across the Union where gatekeepers are present.

1. ***The purpose of*** this Regulation ***is to contribute to the proper functioning of the internal market by laying*** down harmonised rules ensuring contestable and fair markets ***for all businesses to the benefit of both business users and end users*** in the digital sector across the Union where gatekeepers are present ***so as to foster innovation and increase consumer welfare.***

## Amendment 231

### Proposal for a regulation Article 1 - paragraph 2

*Text proposed by the Commission*

2. This Regulation shall apply to core platform services provided or offered by gatekeepers to ***business users established in the Union*** or end users established or located in the Union, irrespective of the place of establishment or residence of the gatekeepers and irrespective of the law otherwise applicable to the provision of service.

*Amendment*

2. This Regulation shall apply to core platform services provided or offered by gatekeepers to end users established or located in the Union ***and business users***, irrespective of the place of establishment or residence of the gatekeepers ***or business users*** and irrespective of the law otherwise applicable to the provision of service. ***This Regulation shall apply and be interpreted in full respect of fundamental rights and the principles recognised by the Charter of Fundamental Rights of the European Union, in particular Articles 11, 16, 47 and 50 thereof.***

## Amendment 60

### Proposal for a regulation Article 1 – paragraph 3 – point b

*Text proposed by the Commission*

(b) related to electronic communications services as defined in point (4) of Article 2 of Directive (EU) 2018/1972 other than those related to interpersonal communication services as defined in point ***(4)(b)*** of Article 2 of that Directive.

*Amendment*

(b) related to electronic communications services as defined in point (4) of Article 2 of Directive (EU) 2018/1972 other than those related to ***number-independent*** interpersonal communication services as defined in point ***(7)*** of Article 2 of that Directive.

## Amendment 61

### Proposal for a regulation Article 1 – paragraph 5

*Text proposed by the Commission*

5. Member States shall not impose on gatekeepers further obligations by way of

*Amendment*

5. ***In order to avoid the fragmentation of the internal market***, Member States

laws, regulations or administrative action for the purpose of ensuring contestable and fair markets. This is without prejudice to rules pursuing other legitimate public interests, in compliance with Union law. In particular, nothing in this Regulation precludes Member States from imposing obligations, which are compatible with Union law, on undertakings, including providers of core platform services where these obligations are unrelated to the relevant undertakings having a status of gatekeeper within the meaning of this Regulation in order to protect consumers **or** to fight against acts of unfair competition.

shall not impose on gatekeepers ***within the meaning of this Regulation*** further obligations by way of laws, regulations or administrative action for the purpose of ensuring contestable and fair markets. This is without prejudice to rules pursuing other legitimate public interests, in compliance with Union law. In particular, nothing in this Regulation precludes Member States from imposing obligations, which are compatible with Union law, on undertakings, including providers of core platform services where these obligations are unrelated to the relevant undertakings having a status of gatekeeper within the meaning of this Regulation in order to protect consumers, to fight against acts of unfair competition ***or to pursue other legitimate public interests.***

## Amendment 62

### Proposal for a regulation

#### Article 1 – paragraph 6

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

6. This Regulation is without prejudice to the application of Articles 101 and 102 TFEU. It is also without prejudice to the application of: national rules prohibiting anticompetitive agreements, decisions by associations of undertakings, concerted practices and abuses of dominant positions; national competition rules prohibiting other forms of unilateral conduct insofar as ***they*** are applied to undertakings other than gatekeepers or amount to imposing additional obligations on gatekeepers; Council Regulation (EC) No 139/2004<sup>38</sup> and national rules concerning merger control; Regulation (EU) 2019/1150 ***and Regulation (EU) .../.. of the European Parliament and of the Council***<sup>39</sup> .

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<sup>38</sup> Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the

##### *Amendment*

6. This Regulation is without prejudice to the application of Articles 101 and 102 TFEU. It is also without prejudice to the application of: national rules prohibiting anticompetitive agreements, decisions by associations of undertakings, concerted practices and abuses of dominant positions; national competition rules prohibiting other forms of unilateral conduct insofar as ***these rules*** are applied to undertakings other than gatekeepers ***within the meaning of this Regulation*** or amount to imposing additional obligations on gatekeepers; Council Regulation (EC) No 139/2004<sup>38</sup> and national rules concerning merger control ***and*** Regulation (EU) 2019/1150.

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<sup>38</sup> Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the

EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).

EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).

*<sup>39</sup> Regulation (EU) .../.. of the European Parliament and of the Council – proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC.*

## **Amendment 63**

### **Proposal for a regulation Article 1 – paragraph 7**

*Text proposed by the Commission*

7. National authorities shall not take decisions which would run counter to a decision adopted by the Commission under this Regulation. The Commission and Member States shall work in close cooperation and coordination in their enforcement actions.

*Amendment*

7. National authorities shall not take decisions which would run counter to a decision adopted by the Commission under this Regulation. The Commission and Member States shall work in close cooperation and coordination in their enforcement actions *on the basis of the principles established in Article 31d.*

## **Amendment 64**

### **Proposal for a regulation Article 2 – paragraph 1 – point 2 – point f a (new)**

*Text proposed by the Commission*

*Amendment*

*(fa) web browsers;*

## **Amendment 65**

### **Proposal for a regulation Article 2 – paragraph 1 – point 2 – point f b (new)**

*Text proposed by the Commission*

*Amendment*

*(fb) virtual assistants;*

## **Amendment 66**

**Proposal for a regulation**

**Article 2 – paragraph 1 – point 2 – point f c (new)**

*Text proposed by the Commission*

*Amendment*

**(fc) connected TV;**

**Amendment 67**

**Proposal for a regulation**

**Article 2 – paragraph 1 – point 2 – point h**

*Text proposed by the Commission*

*Amendment*

(h) advertising services, including any advertising networks, advertising exchanges and any other advertising intermediation services, provided by a provider of any of the core platform services listed in points (a) to (g);

(h) **online** advertising services, including any advertising networks, advertising exchanges and any other advertising intermediation services, provided by a provider **where the undertaking to which it belongs is also a provider** of any of the core platform services listed in points (a) to (g);

**Amendment 68**

**Proposal for a regulation**

**Article 2 – paragraph 1 – point 6**

*Text proposed by the Commission*

*Amendment*

(6) ‘Online search engine’ means a digital service as defined in point 5 of Article 2 of Regulation (EU) 2019/1150;

(6) ‘Online search engine’ means a digital service as defined in point 5 of Article 2 of Regulation (EU) 2019/1150 **thus excluding the search functions on other online intermediation services;**

**Amendment 69**

**Proposal for a regulation**

**Article 2 – paragraph 1 – point 10 a (new)**

*Text proposed by the Commission*

*Amendment*

**(10a) Web browser’ means software application that enables users to access and interact with web content hosted on servers that are connected to networks**

*such as the Internet, including standalone web browsers as well as web browsers integrated or embedded in software or similar*

#### **Amendment 70**

##### **Proposal for a regulation Article 2 – paragraph 1 – point 10 b (new)**

*Text proposed by the Commission*

*Amendment*

*(10b) ‘Virtual assistants’ means software that is incorporated or inter-connected with a good, within the meaning of Directive (EU) 2019/771, that can process demands, tasks or questions based on audio, imaging or other cognitive-computing technologies, including augmented reality services, and based on those demands, tasks or questions access their own and third party services or control their own and third party devices.*

#### **Amendment 71**

##### **Proposal for a regulation Article 2 – paragraph 1 – point 10 c (new)**

*Text proposed by the Commission*

*Amendment*

*(10c) ”connected TV” means a system software or software application that controls a television set connected to the internet that enables software applications to run on it including for the provision of music and video streaming, or viewing of pictures;*

#### **Amendment 72**

##### **Proposal for a regulation Article 2 – paragraph 1 – point 14**

*Text proposed by the Commission*

*Amendment*

(14) ‘Ancillary service’ means services

(14) ‘Ancillary service’ means services

provided in the context of or together with core platform services, including payment services as defined in point 3 of Article 4 **and** technical services which support the provision of payment services as defined in Article 3(j) of Directive (EU) 2015/2366, fulfilment, identification or advertising services;

provided in the context of or together with core platform services, including payment services as defined in point 3 of Article 4, technical services which support the provision of payment services as defined in Article 3(j) of Directive (EU) 2015/2366, ***in-app payment systems***, fulfilment, ***including parcel delivery as defined in Article 2 paragraph 2 of Regulation (EU) 2018/644, freight transport***, identification or advertising services;

### Amendment 73

#### Proposal for a regulation Article 2 – paragraph 1 – point 14 a (new)

*Text proposed by the Commission*

*Amendment*

***(14a) In-app payment system’ means an application, service or user interface to process the payments from users of an app.***

### Amendment 74

#### Proposal for a regulation Article 2 – paragraph 1 – point 18

*Text proposed by the Commission*

*Amendment*

(18) ‘Ranking’ means the relative prominence given to goods or services offered through ***online intermediation services or online social networking services***, or the relevance given to search results by online search engines, as presented, organised or communicated by the ***providers of online intermediation services or of online social networking services or by providers of online search engines, respectively, whatever*** the technological means used for such presentation, organisation or communication;

(18) ‘Ranking’ means the relative prominence given to goods or services offered through ***core platform*** services, or the relevance given to search results by online search engines, as presented, organised or communicated by the ***core platform service*** providers, ***irrespective*** of the technological means used for such presentation, organisation or communication;

### Amendment 75



**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 18 a (new)**

*Text proposed by the Commission*

*Amendment*

***(18a) ‘Search results’ means any information in any format, including texts, graphics, voice or other output, returned in response and related to a written or oral search query, irrespective of whether the information is an organic result, a paid result, a direct answer or any product, service or information offered in connection with, or displayed along with, or partly or entirely embedded in, the organic results;***

**Amendment 76**

**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 23 a (new)**

*Text proposed by the Commission*

*Amendment*

***(23a) ‘Interoperability’ means the ability to exchange information and mutually use the information which has been exchanged so that all elements of hardware or software relevant for a given service and used by its provider effectively work with hardware or software relevant for a given services provided by third party providers different from the elements through which the information concerned is originally provided. This shall include the ability to access such information without having to use an application software or other technologies for conversion.***

**Amendment 77**

**Proposal for a regulation**  
**Article 3 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. *A provider of core platform services* shall be designated as gatekeeper if:

*Amendment*

1. *An undertaking* shall be designated as gatekeeper if:

#### **Amendment 78**

##### **Proposal for a regulation Article 3 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) it operates a core platform service which serves as an important gateway for business users to reach end users; and

*Amendment*

(b) it operates a core platform service which serves as an important gateway for business users *and end users* to reach *other* end users; and

#### **Amendment 79**

##### **Proposal for a regulation Article 3 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. *A provider of core platform services* shall be presumed to satisfy:

*Amendment*

2. *An undertaking* shall be presumed to satisfy:

#### **Amendment 80**

##### **Proposal for a regulation Article 3 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) the requirement in paragraph 1 point (a) where *the undertaking to which it belongs* achieves an annual EEA turnover equal to or above EUR **6.5** billion in the last three financial years, or where the average market capitalisation or the equivalent fair market value of the undertaking *to which it belongs* amounted to at least EUR **65** billion in the last financial year, and it provides a core platform service in at least three Member

*Amendment*

(a) the requirement in paragraph 1 point (a) where *it* achieves an annual EEA turnover equal to or above EUR **8** billion in the last three financial years, or where the average market capitalisation or the equivalent fair market value of the undertaking amounted to at least EUR **80** billion in the last financial year, and it provides a core platform service in at least three Member States;

States;

## Amendment 81

### Proposal for a regulation

#### Article 3 – paragraph 2 – point b – subparagraph 1

*Text proposed by the Commission*

the requirement in paragraph 1 point (b) where it provides **a** core platform **service that** has more than 45 million monthly **active** end users established or located in the **Union** and more than 10 000 yearly **active** business users established in the **Union** in the last financial year;

*Amendment*

the requirement in paragraph 1 point (b) where it provides **one or more** core platform **services each of which** has more than 45 million monthly end users established or located in the **EEA** and more than 10 000 yearly business users established in the **EEA** in the last financial year.

## Amendment 82

### Proposal for a regulation

#### Article 3 – paragraph 2 – point b – subparagraph 2

*Text proposed by the Commission*

**for the purpose of the first subparagraph, monthly active end users shall refer to the average number of monthly active end users throughout the largest part of the last financial year;**

*Amendment*

**deleted**

## Amendment 83

### Proposal for a regulation

#### Article 3 – paragraph 2 – point c

*Text proposed by the Commission*

(c) the requirement in paragraph 1 point (c) where the thresholds in point (b) were met in each of the last **three** financial years.

*Amendment*

(c) the requirement in paragraph 1 point (c) where the thresholds in point (b) were met in each of the last **two** financial years.

## Amendment 84

## Proposal for a regulation

### Article 3 – paragraph 2 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***For the purpose of point (b),***

***(i) monthly end users and yearly business users shall be measured taking into account the indicators set out in the Annex to this Regulation; and***

***(ii) monthly end users shall refer to the average number of monthly end users during a period of at least six months within the last financial year;***

## Amendment 85

### Proposal for a regulation

#### Article 3 – paragraph 3

*Text proposed by the Commission*

*Amendment*

3. Where ***a provider of*** core platform services meets all the thresholds in paragraph 2, it shall notify the Commission thereof within ***three*** months after those thresholds are satisfied and provide it with the relevant information identified in paragraph 2.. That notification shall include the relevant information identified in paragraph 2 for each of the core platform services of the ***provider*** that meets the thresholds in paragraph 2 point (b). The notification shall be updated whenever other core platform services individually meet the thresholds in paragraph 2 point (b).

A failure by a relevant ***provider of*** core platform service to notify the required information pursuant to this paragraph shall not prevent the Commission from designating these ***providers*** as gatekeepers pursuant to paragraph 4 at any time.

3. Where ***an undertaking providing*** core platform services meets all the thresholds in paragraph 2, it shall notify the Commission thereof ***without delay and in any case*** within ***two*** months after those thresholds are satisfied and provide it with the relevant information identified in paragraph 2. That notification shall include the relevant information identified in paragraph 2 for each of the core platform services of the ***undertaking*** that meets the thresholds in paragraph 2 point (b). The notification shall be updated whenever other core platform services individually meet the thresholds in paragraph 2 point (b).

A failure by a relevant ***undertaking providing*** core platform service to notify the required information pursuant to this paragraph shall not prevent the Commission from designating these ***undertakings*** as gatekeepers pursuant to paragraph 4 at any time.

## Amendment 86

**Proposal for a regulation**  
**Article 3 – paragraph 4 – subparagraph 1**

*Text proposed by the Commission*

The Commission shall, without undue delay and at the latest 60 days after receiving the complete information referred to in paragraph 3, designate the **provider of** core platform services that meets all the thresholds of paragraph 2 as a gatekeeper, **unless that provider**, with its notification, **presents sufficiently substantiated** arguments to demonstrate that, in the circumstances in which the relevant core platform service operates, **and taking into account the elements listed in paragraph 6, the provider** does not satisfy the requirements of paragraph 1.

*Amendment*

The Commission shall, without undue delay and at the latest 60 days after receiving the complete information referred to in paragraph 3, designate the **undertaking providing** core platform services that meets all the thresholds of paragraph 2 as a gatekeeper. **The undertaking may present**, with its notification, **compelling** arguments to demonstrate that, in the circumstances in which the relevant core platform service operates, **the undertaking** does not satisfy the requirements of paragraph 1.

**Amendment 87**

**Proposal for a regulation**  
**Article 3 – paragraph 4 – subparagraph 2**

*Text proposed by the Commission*

**Where the gatekeeper presents such sufficiently substantiated arguments to demonstrate that it does not satisfy the requirements of paragraph 1, the Commission shall apply paragraph 6 to assess whether the criteria in paragraph 1 are met.**

*Amendment*

**deleted**

**Amendment 88**

**Proposal for a regulation**  
**Article 3 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**4a. Where the undertaking providing the core platform service fails to notify the Commission, to provide the information required in paragraph 3 or to provide within the deadline set by the Commission**

*all the relevant information that is required to assess its designation as gatekeeper pursuant to paragraphs (2) and (6), the Commission shall be entitled to designate that undertaking as a gatekeeper at any time based on information available to the Commission pursuant to paragraph 4.*

## Amendment 89

### Proposal for a regulation Article 3 – paragraph 5

*Text proposed by the Commission*

5. The Commission is empowered to adopt delegated acts in accordance with Article 37 to specify the methodology for determining whether the quantitative thresholds laid down in paragraph 2 are met, and to regularly adjust *it* to market and technological developments where necessary, *in particular as regards the threshold in paragraph 2, point (a).*

*Amendment*

5. The Commission is empowered to adopt delegated acts in accordance with Article 37 to specify the methodology for determining whether the quantitative thresholds laid down in paragraph 2 *of this Article* are met, and to regularly adjust *the methodology* to market and technological developments where necessary. *The Commission is empowered to adopt delegated acts in accordance with Article 37 to update the list of indicators set out in the Annex to this Regulation.*

## Amendment 90

### Proposal for a regulation Article 3 – paragraph 6 – subparagraph 1

*Text proposed by the Commission*

The Commission *may* identify as a gatekeeper, in accordance with the procedure laid down in Article 15, any *provider of* core platform services that meets each of the requirements of paragraph 1, but does not satisfy each of the thresholds of paragraph 2, *or has presented sufficiently substantiated arguments in accordance with paragraph 4.*

*Amendment*

The Commission *shall* identify as a gatekeeper, in accordance with the procedure laid down in Article 15, any *undertaking providing* core platform services, *excluding Medium-sized, Small or Micro enterprises as defined in the Commission Recommendation 2003/361/EC*, that meets each of the requirements of paragraph 1 *of this Article*, but does not satisfy each of the thresholds of paragraph 2 *of this Article*.

## Amendment 91

### Proposal for a regulation

#### Article 3 – paragraph 6 – subparagraph 2 – point a

*Text proposed by the Commission*

(a) the size, including turnover and market capitalisation, operations and position of the **provider of** core platform services;

*Amendment*

(a) the size, including turnover and market capitalisation, operations and position of the **undertaking providing** core platform services;

## Amendment 92

### Proposal for a regulation

#### Article 3 – paragraph 6 – subparagraph 2 – point c

*Text proposed by the Commission*

(c) entry barriers derived from network effects and data driven advantages, in particular in relation to the **provider's** access to and collection of personal and non-personal data or analytics capabilities;

*Amendment*

(c) entry barriers derived from network effects and data driven advantages, in particular in relation to the **undertaking's** access to and collection of personal and non-personal data or analytics capabilities;

## Amendment 93

### Proposal for a regulation

#### Article 3 – paragraph 6 – subparagraph 2 – point d

*Text proposed by the Commission*

(d) scale and scope effects the **provider** benefits from, including with regard to data;

*Amendment*

(d) scale and scope effects the **undertaking** benefits from, including with regard to data;

## Amendment 94

### Proposal for a regulation

#### Article 3 – paragraph 6 – subparagraph 2 – point e a (new)

*Text proposed by the Commission*

*Amendment*

**(ea) the degree of multi-homing among business;**

## Amendment 95

### Proposal for a regulation

#### Article 3 – paragraph 6 – subparagraph 2 – point e b (new)

*Text proposed by the Commission*

*Amendment*

***(eb) the ability of the undertaking to implement conglomerate strategies, in particular through its vertical integration or its significant leverage in related markets;***

## Amendment 96

### Proposal for a regulation

#### Article 3 – paragraph 6 – subparagraph 3

*Text proposed by the Commission*

*Amendment*

In conducting its assessment, the Commission shall take into account foreseeable developments of these elements.

In conducting its assessment, the Commission shall take into account foreseeable developments of these elements ***including any planned concentrations involving another provider of core platform services or of any other services provided in the digital sector.***

## Amendment 97

### Proposal for a regulation

#### Article 3 – paragraph 6 – subparagraph 4

*Text proposed by the Commission*

*Amendment*

***Where the provider of a core platform service that satisfies the quantitative thresholds of paragraph 2 fails to comply with the investigative measures ordered by the Commission in a significant manner and the failure persists after the provider has been invited to comply within a reasonable time-limit and to submit observations, the Commission shall be entitled to designate that provider as a gatekeeper.***

***deleted***



## Amendment 98

### Proposal for a regulation Article 3 – paragraph 6 – subparagraph 5

*Text proposed by the Commission*

*Where the provider of a core platform service that does not satisfy the quantitative thresholds of paragraph 2 fails to comply with the investigative measures ordered by the Commission in a significant manner and the failure persists after the provider has been invited to comply within a reasonable time-limit and to submit observations, the Commission shall be entitled to designate that provider as a gatekeeper based on facts available.*

*Amendment*

*deleted*

## Amendment 99

### Proposal for a regulation Article 3 – paragraph 7

*Text proposed by the Commission*

7. For each gatekeeper **identified** pursuant to paragraph 4 or paragraph 6, the Commission shall identify **the relevant undertaking to which it belongs and list** the relevant core platform services that are provided within that same undertaking and which individually serve as an important gateway for business users to reach end users as referred to in paragraph 1(b).

*Amendment*

7. For each **undertaking designated as** gatekeeper pursuant to paragraph 4 or paragraph 6, the Commission shall identify **within the deadline set under paragraph 4** the relevant core platform services that are provided within that same undertaking and which individually serve as an important gateway for business users to reach end users as referred to in paragraph 1(b).

## Amendment 100

### Proposal for a regulation Article 3 – paragraph 8

*Text proposed by the Commission*

8. The gatekeeper shall comply with the obligations laid down in Articles 5 and 6

*Amendment*

8. The gatekeeper shall comply with the obligations laid down in Articles 5 and 6 **as**

*within six* months after a core platform service has been included in the list pursuant to paragraph 7 of this Article.

*soon as possible, and in any case no later than four* months after a core platform service has been included in the list pursuant to paragraph 7 of this Article.

## Amendment 101

### Proposal for a regulation Article 4 – paragraph 2 – subparagraph 1

#### *Text proposed by the Commission*

The Commission shall regularly, and at least every **2** years, review whether the designated gatekeepers continue to satisfy the requirements laid down in Article 3(1), **or** whether new **providers of** core platform services satisfy those requirements. The regular review shall also examine whether the list of affected core platform services of the gatekeeper needs to be adjusted.

#### *Amendment*

The Commission shall regularly, and at least every **three** years, review whether the designated gatekeepers continue to satisfy the requirements laid down in Article 3(1), **and at least every year** whether new core platform services satisfy those requirements. The regular review shall also examine whether the list of affected core platform services of the gatekeeper needs to be adjusted. **The review shall have no suspending effect on the gatekeeper's obligations.**

## Amendment 102

### Proposal for a regulation Article 4 – paragraph 2 – subparagraph 2

#### *Text proposed by the Commission*

Where the Commission, on the basis of that review pursuant to the first subparagraph, finds that the facts on which the designation of the **providers of** core platform services as gatekeepers was based, have changed, it shall adopt a corresponding decision.

#### *Amendment*

Where the Commission, on the basis of that review pursuant to the first subparagraph, finds that the facts on which the designation of the **undertakings providing** core platform services as gatekeepers was based, have changed, it shall adopt a corresponding decision.

## Amendment 103

### Proposal for a regulation Article 4 – paragraph 3

*Text proposed by the Commission*

3. The Commission shall publish and update the list of gatekeepers and the list of the core platform services for which they need to comply with the obligations laid down in Articles 5 and 6 on an on-going basis.

*Amendment*

3. The Commission shall publish and update the list of ***undertakings designated as*** gatekeepers and the list of the core platform services for which they need to comply with the obligations laid down in Articles 5 and 6 on an on-going basis. ***The Commission shall publish an annual report setting out the findings of its monitoring activities including the impact on business-users especially small and medium-sized enterprises and end-users and present it to the European Parliament and the Council.***

**Amendment 104**

**Proposal for a regulation  
Article 5 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) refrain from combining personal data sourced from these core platform services with personal data from any other services offered by the gatekeeper or with personal data from third-party services, and from signing in end users to other services of the gatekeeper in order to combine personal data, unless the end user has been presented with the specific choice ***and*** provided consent in the sense of Regulation (EU) 2016/679. ;

*Amendment*

(a) refrain from combining ***and cross-using*** personal data sourced from these core platform services with personal data from any other services offered by the gatekeeper or with personal data from third-party services, and from signing in end users to other services of the gatekeeper in order to combine personal data, unless the end user has been presented with the specific choice ***in a explicit and clear manner, and has*** provided consent in the sense of Regulation (EU) 2016/679;

**Amendment 105**

**Proposal for a regulation  
Article 5 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) ***allow*** business users ***to offer*** the same products or services to end users through third party online intermediation

*Amendment*

(b) ***refrain from applying contractual obligations that prevent*** business users ***from offering*** the same products or

services at prices or conditions that are different from those offered through the online intermediation services of the gatekeeper;

services to end users through third party online intermediation services ***or through their own direct online sales channel*** at prices or conditions that are different from those offered through the online intermediation services of the gatekeeper;

## Amendment 106

### Proposal for a regulation Article 5 – paragraph 1 – point c

*Text proposed by the Commission*

(c) allow business users to promote offers to end users acquired via the core platform service, and to conclude contracts with these end users regardless of whether for that purpose ***they use the core platform services of the gatekeeper or not, and allow end users to access and use, through the core platform services of the gatekeeper, content, subscriptions, features or other items by using the software application of a business user, where these items have been acquired by the end users from the relevant business user without using*** the core platform services of the gatekeeper;

*Amendment*

(c) allow business users to ***communicate and*** promote offers ***including under different purchasing conditions*** to end users acquired via the core platform service ***or through other channels***, and to conclude contracts with these end users ***or receive payments for services provided*** regardless of whether ***they use*** for that purpose the core platform services of the gatekeeper;

## Amendment 107

### Proposal for a regulation Article 5 – paragraph 1 – point c a (new)

*Text proposed by the Commission*

***(ca) allow end users to access and use, through the core platform services of the gatekeeper, content, subscriptions, features or other items by using the software application of a business user, including where these items have been acquired by the end users from the relevant business user without using the core platform services of the gatekeeper, unless the gatekeeper can demonstrate that such access undermines end users***

*data protection or cybersecurity;*

## Amendment 108

### Proposal for a regulation

#### Article 5 – paragraph 1 – point d

*Text proposed by the Commission*

(d) refrain from preventing or restricting business users from raising issues with any relevant public authority relating to any practice of gatekeepers;

*Amendment*

(d) refrain from ***directly or indirectly*** preventing or restricting business ***users or end*** users from raising issues with any relevant public authority, ***including national courts***, relating to any practice of gatekeepers;

## Amendment 109

### Proposal for a regulation

#### Article 5 – paragraph 1 – point e

*Text proposed by the Commission*

(e) refrain from requiring business users to use, offer or interoperate with an identification service of the gatekeeper in the context of services offered by the business users using the core platform services of that gatekeeper;

*Amendment*

(e) refrain from requiring business users to use, offer or interoperate with an identification ***service or any other ancillary*** service of the gatekeeper in the context of services offered by the business users using the core platform services of that gatekeeper;

## Amendment 110

### Proposal for a regulation

#### Article 5 – paragraph 1 – point f

*Text proposed by the Commission*

(f) ***refrain from requiring*** business users or end users to subscribe to or register with any other core platform services ***identified pursuant to Article 3 or which meets the thresholds in Article 3(2)(b)*** as a condition ***to*** access, sign up ***or register to*** any of their core platform services identified pursuant to that Article;

*Amendment*

(f) ***not require*** business users or end users to subscribe to or register with any other core platform services as a condition ***for being able to use***, access, sign up ***for or registering with*** any of their core platform services identified pursuant to that Article;

## Amendment 111

### Proposal for a regulation

#### Article 5 – paragraph 1 – point g

*Text proposed by the Commission*

(g) provide advertisers and publishers to which it supplies advertising services, ***upon their request***, with information ***concerning the price paid by the advertiser and publisher, as well as the amount or remuneration paid to the publisher, for the publishing of a given ad and for each of the relevant advertising services provided by the gatekeeper.***

*Amendment*

(g) provide advertisers and publishers ***or third parties authorised by the advertisers or publishers***, to which it supplies ***digital*** advertising services, with ***free of charge, high-quality, effective, continuous and real-time access to full*** information ***on the visibility and availability of advertisement portfolio, including:***

## Amendment 112

### Proposal for a regulation

#### Article 5 – paragraph 1 – point g – point i (new)

*Text proposed by the Commission*

*Amendment*

***i) the pricing conditions concerning the bids placed by advertisers and advertising intermediaries;***

## Amendment 113

### Proposal for a regulation

#### Article 5 – paragraph 1 – point g – point ii (new)

*Text proposed by the Commission*

*Amendment*

***ii) the price-setting mechanisms and schemes for the calculation of the fees including the non-price criteria in the auction process;***

## Amendment 114

### Proposal for a regulation

#### Article 5 – paragraph 1 – point g – point iii (new)

*Text proposed by the Commission*

*Amendment*

**iii) the price and fees paid by the advertiser and publisher, including any deductions and surcharges;**

#### **Amendment 115**

**Proposal for a regulation**

**Article 5 – paragraph 1 – point g – point iv (new)**

*Text proposed by the Commission*

*Amendment*

**iv) the amount and remuneration paid to the publisher, for the publishing of a given advertisement; and**

#### **Amendment 116**

**Proposal for a regulation**

**Article 5 – paragraph 1 – point g – point v (new)**

*Text proposed by the Commission*

*Amendment*

**v) the amount and remuneration paid to the publisher for each of the relevant advertising services provided by the gatekeeper.**

#### **Amendment 117**

**Proposal for a regulation**

**Article 5 – paragraph 1 – point g a (new)**

*Text proposed by the Commission*

*Amendment*

**(ga) refrain from using, in competition with business users, any data not publicly available, which is generated through or in the context of the use of the relevant core platform services or ancillary services by those business users including by the end users of these business users of its core platform services or ancillary services or provided by those business users of its core platform services or**

*ancillary services or by the end users of these business users;*

#### **Amendment 235**

##### **Proposal for a regulation**

##### **Article 5 – paragraph 1 – point g b(new)**

*Text proposed by the Commission*

*Amendment*

*(gb) from the moment of end users' first use of any pre-installed core platform service on an operating system, prompt end-users to change the default settings for that core platform service to another option from among a list of the main third-party services available, and allow and technically enable end users to un-install pre-installed software applications on a core platform service at any stage without prejudice to the possibility for a gatekeeper to restrict such un-installation in relation to software applications that are essential for the functioning of the operating system or of the device and which cannot technically be offered on a standalone basis by third-parties;*

#### **Amendment 119**

##### **Proposal for a regulation**

##### **Article 6 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

*(a) refrain from using, in competition with business users, any data not publicly available, which is generated through activities by those business users, including by the end users of these business users, of its core platform services or provided by those business users of its core platform services or by the end users of these business users;*

*deleted*

#### **Amendment 120**



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

*Text proposed by the Commission*

*Amendment*

*(aa) for its own commercial purposes, and the placement of third-party advertising in its own services, refrain from combining personal data for the purpose of delivering targeted or micro-targeted advertising, except if a clear, explicit, renewed, informed consent has been given to the gatekeeper in line with the procedure laid down in the Regulation (EU) 2016/679 by an end-user that is not a minor.*

**Amendment 121**

**Proposal for a regulation**  
**Article 6 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

*(b) allow end users to un-install any pre-installed software applications on its core platform service without prejudice to the possibility for a gatekeeper to restrict such un-installation in relation to software applications that are essential for the functioning of the operating system or of the device and which cannot technically be offered on a standalone basis by third-parties;*

*deleted*

**Amendment 122**

**Proposal for a regulation**  
**Article 6 – paragraph 1 – point c**

*Text proposed by the Commission*

*Amendment*

(c) allow the installation and effective use of third party software applications or software application stores using, or interoperating with, operating systems of that gatekeeper and allow these software

(c) allow **and technically enable** the installation and effective use of third party software applications or software application stores using, or interoperating with, operating systems of that gatekeeper

applications or software application stores to be accessed by means other than the core platform services of that gatekeeper. The gatekeeper shall not be prevented from taking proportionate *measures* to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper;

and allow these software applications or software application stores to be accessed by means other than the *relevant* core platform services of that gatekeeper. The gatekeeper shall, *where relevant, ask the end users to decide whether they want to make the downloaded application or application store their default setting. The gatekeeper shall* not be prevented from taking *measures that are both necessary and* proportionate to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper *or undermine end-user data protection or cyber security provided that such necessary and proportionate measures are duly justified by the gatekeeper;*

## Amendment 123

### Proposal for a regulation Article 6 – paragraph 1 – point d

*Text proposed by the Commission*

(d) *refrain from treating* more favourably in ranking services and products offered by the gatekeeper itself or by any third party belonging to the same undertaking compared to similar services or products of third party and apply fair and non-discriminatory conditions to such *ranking*;

*Amendment*

(d) *not treat* more favourably in ranking *or other settings*, services and products offered by the gatekeeper itself or by any third party belonging to the same undertaking compared to similar services or products of third party and apply *transparent*, fair and non-discriminatory conditions to such *third party services or products*;

## Amendment 124

### Proposal for a regulation Article 6 – paragraph 1 – point e

*Text proposed by the Commission*

(e) *refrain from* technically *restricting* the ability of end users to switch between and subscribe to different software applications and services *to be accessed*

*Amendment*

(e) *not restrict* technically *or otherwise* the ability of end users to switch between and subscribe to different software applications and services, including as

*using the operating system of the gatekeeper*, including as regards the choice of Internet access provider for end users;

regards the choice of Internet access provider for end users;

#### Amendment 125

##### Proposal for a regulation Article 6 – paragraph 1 – point e a (new)

*Text proposed by the Commission*

*Amendment*

***(ea) refrain from practices that obstruct the possibility for the end-user to unsubscribe from a core platform service;***

#### Amendment 126

##### Proposal for a regulation Article 6 – paragraph 1 – point f

*Text proposed by the Commission*

*Amendment*

(f) allow business users **and** providers of ancillary services access to and interoperability with the same operating system, hardware or software features that are available **or used in the provision by the gatekeeper of any** ancillary services;

(f) allow business users, ***providers of services and providers of hardware free of charge access to and interoperability with the same hardware and software features accessed or controlled via an operating system, provided that the operating system is identified pursuant to Article 3(7), that are available to services or hardware provided by the gatekeeper.*** Providers of ancillary services ***shall further be allowed*** access to and interoperability with the same operating system, hardware or software features, ***regardless of whether those software features are part of an operating system,*** that are available to ancillary services ***provided by a gatekeeper. The gatekeeper shall not be prevented from taking indispensable measures to ensure that interoperability does not compromise the integrity of the operating system, hardware or software features provided by the gatekeeper or undermine end-user data protection or cyber security provided that such indispensable measures are duly justified***

*by the gatekeeper.*

## Amendment 127

### Proposal for a regulation

#### Article 6 – paragraph 1 – point f a (new)

*Text proposed by the Commission*

*Amendment*

***(fa) allow any providers of number independent interpersonal communication services upon their request and free of charge to interconnect with the gatekeepers number independent interpersonal communication services identified pursuant to Article 3(7). Interconnection shall be provided under objectively the same conditions and quality that are available or used by the gatekeeper, its subsidiaries or its partners, thus allowing for a functional interaction with these services, while guaranteeing a high level of security and personal data protection;***

## Amendment 128

### Proposal for a regulation

#### Article 6 – paragraph 1 – point f b (new)

*Text proposed by the Commission*

*Amendment*

***(fb) allow any providers of social network services upon their request and free of charge to interconnect with the gatekeepers social network services identified pursuant to Article 3(7). Interconnection shall be provided under objectively the same conditions and quality that are available or used by the gatekeeper, its subsidiaries or its partners, thus allowing for a functional interaction with these services, while guaranteeing a high level of security and personal data protection. The implementation of this obligation is subjected to the Commission's specification under Article***

10(2a);

## Amendment 129

### Proposal for a regulation

#### Article 6 – paragraph 1 – point g

*Text proposed by the Commission*

(g) provide advertisers and publishers, upon their request and free of charge, with access to the performance measuring tools of the gatekeeper and the information necessary for advertisers and publishers to carry out their own independent verification of the ad inventory;

*Amendment*

(g) provide advertisers and publishers, ***and third parties authorised by advertisers and publishers*** upon their request and free of charge, with access to the performance measuring tools of the gatekeeper and the information necessary for advertisers and publishers to carry out their own independent verification of the ad inventory ***including aggregated and non-aggregated data and performance data in a manner that would allow advertisers and publishers to run their own verification and measurement tools to assess performance of the core services provided for by the gatekeepers;***

## Amendment 130

### Proposal for a regulation

#### Article 6 – paragraph 1 – point h

*Text proposed by the Commission*

(h) provide effective portability of data generated through ***the activity of a business user or end user and shall, in particular, provide*** tools ***for end users*** to facilitate the exercise of data portability, in line with Regulation EU 2016/679, including by the provision of continuous and real-time access ;

*Amendment*

(h) provide ***end users or third parties authorised by an end user, upon their request and free of charge, with*** effective portability of data ***provided by the end user or*** generated through ***their activity in the context of the use on the relevant core platform service including by providing free of charge*** tools to facilitate the ***effective*** exercise of ***such*** data portability, in line with Regulation (EU) 2016/679, ***and*** including by the provision of continuous and real-time access;

## Amendment 131

**Proposal for a regulation**  
**Article 6 – paragraph 1 – point i**

*Text proposed by the Commission*

(i) provide business users, or third parties authorised by a business user, free of charge, with **effective, high-quality**, continuous and real-time access and use of aggregated **or** non-aggregated data, that is provided for or generated in the context of the use of the relevant core platform services by those business users and the end users engaging with the products or services provided by those business users; for personal data, provide access and use only where directly connected with the use effectuated by the end user in respect of the products or services offered by the relevant business user through the relevant core platform service, and when the end user opts in to such sharing with a consent in the sense of the Regulation (EU) 2016/679;

*Amendment*

(i) provide business users, or third parties authorised by a business user, **upon their request**, free of charge, with continuous and real-time access and use of aggregated **and** non-aggregated data, that is provided for or generated in the context of the use of the relevant core platform services **or ancillary services offered by the gatekeeper** by those business users and the end users engaging with the products or services provided by those business users; **this shall include, at the request of the business user, the possibility and necessary tools to access and analyse data “in-situ” without a transfer from the gatekeeper**; for personal data, provide access and use only where directly connected with the use effectuated by the end user in respect of the products or services offered by the relevant business user through the relevant core platform service, and when the end user opts in to such sharing with a consent in the sense of the Regulation (EU) 2016/679;

**Amendment 132**

**Proposal for a regulation**  
**Article 6 – paragraph 1 – point k**

*Text proposed by the Commission*

(k) apply **fair** and non-discriminatory general conditions of access for business users to its **software application store** designated pursuant to Article 3 of this Regulation.

*Amendment*

(k) apply **transparent, fair, reasonable** and non-discriminatory general conditions of access **and conditions that are not less favourable than the conditions applied to its own service** for business users to its **core platform services** designated pursuant to Article 3 of this Regulation.

**Amendment 133**

**Proposal for a regulation**  
**Article 6 – paragraph 2**

*Text proposed by the Commission*

Article 6 – paragraph 2

2. For the purposes of point **(a)** of paragraph 1 data that is not publicly available shall include any aggregated and non-aggregated data generated by business users that can be inferred from, or collected through, the commercial activities of business users or their customers on the core platform service of the gatekeeper.

**Amendment 134**

**Proposal for a regulation**  
**Article 7 – paragraph 1**

*Text proposed by the Commission*

1. ***The measures implemented by*** the gatekeeper to ensure compliance with the obligations laid down in Articles 5 and 6 shall ***be effective in achieving the objective of the relevant obligation.*** The gatekeeper shall ensure that ***these*** measures ***are implemented in compliance*** with Regulation (EU) 2016/679 and Directive 2002/58/EC, and with legislation on cyber security, consumer protection and product safety.

**Amendment 135**

**Proposal for a regulation**  
**Article 7 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

Article 5 – paragraph 2

2. For the purposes of point **(g a)** of paragraph 1 data that is not publicly available shall include any aggregated and non-aggregated data generated by business users that can be inferred from, or collected through, the commercial activities of business users or their customers on the core platform service ***or ancillary services*** of the gatekeeper.

*Amendment*

1. The gatekeeper ***shall implement effective measures*** to ensure ***its*** compliance with the obligations laid down in Articles 5 and 6, ***and shall demonstrate that compliance, when called upon to do so.*** The gatekeeper shall ensure that ***the*** measures ***that it implements comply*** with Regulation (EU) 2016/679, and Directive 2002/58/EC, and with legislation on cyber security, consumer protection and product safety ***as well as with accessibility requirements for the persons with disabilities in accordance with Directive (EU) 2019/882.***

***1a. Within six months after its designation and in application of paragraph 8 of Article 3, the gatekeeper***

*shall provide the Commission with a report describing in a detailed and transparent manner the measures implemented to ensure compliance with the obligations laid down in Articles 5 and 6. This report shall be updated at least annually.*

## Amendment 136

### Proposal for a regulation Article 7 – paragraph 1 b (new)

*Text proposed by the Commission*

*Amendment*

*1b. Along with the report mentioned in paragraph 1a and within the same timeframe, the gatekeeper shall provide the Commission with a non-confidential summary of its report that will be published by the Commission without delay. The non-confidential summary shall be updated at least annually according to the detailed report.*

*In order to comply with the obligations laid down in Article 6 and where the gatekeeper holds reasonable doubt as to the appropriate method or methods of compliance, the gatekeeper may request that the Commission engage in a process to receive and address requests for clarification and thereafter further specify relevant measures that the gatekeeper shall adopt in order to comply in an effective and proportionate manner with those obligations. Further specification of obligations laid down in Article 6 shall be limited to issues relating to ensuring effective and proportionate compliance with the obligations. When doing so, the Commission may decide to consult third parties whose views it considers necessary in relation to the measures that the gatekeeper is expected to implement. The duration of the process shall not extend beyond the period set out in Article 3(8), with the possibility for an extension of two months, at the discretion of the Commission, should the dialogue process*



*have not been concluded prior to the expiry of the said period.*

*The Commission shall retain discretion in deciding whether to engage in such a process, with due regard to principles of equal treatment, proportionality and due process. Where the Commission decides not to engage in such a process, it shall provide a written justification to the relevant gatekeeper. At the end of this process, the Commission may also by decision specify the measures that the gatekeeper concerned is to implement arising from the conclusion of this process set out in paragraph 1b.*

## **Amendment 137**

### **Proposal for a regulation Article 7 – paragraph 2**

#### *Text proposed by the Commission*

2. Where the Commission finds that the measures that the gatekeeper intends to implement pursuant to paragraph 1, or has implemented, do not ensure effective compliance with the relevant obligations laid down in Article 6, it may by decision specify the measures that the gatekeeper concerned **shall** implement. The Commission shall adopt such a decision **within six months from** the opening of proceedings pursuant to Article 18.

#### *Amendment*

2. Where the Commission finds that the measures that the gatekeeper intends to implement pursuant to paragraph 1, or has implemented, do not ensure effective compliance with the relevant obligations laid down in Article 6, it may by decision specify the measures that the gatekeeper concerned **is to** implement. The Commission shall adopt such a decision **as soon as possible and in any event no later than four months after** the opening of proceedings pursuant to Article 18.

## **Amendment 138**

### **Proposal for a regulation Article 7 – paragraph 4**

#### *Text proposed by the Commission*

4. **In view of** adopting the decision under paragraph 2, the Commission shall communicate its preliminary findings **within three** months from the opening of

#### *Amendment*

4. **With a view to** adopting the decision under paragraph 2, the Commission shall communicate its preliminary findings **and publish a concise summary as soon as**

the proceedings. In the preliminary findings, the Commission shall explain the measures ***it considers to take or*** it considers that the provider of core platform services concerned should take in order to effectively address the preliminary findings.

***possible and, in any event no later than two*** months from the opening of the proceedings. In the preliminary findings, the Commission shall explain the measures ***that it is considering taking or that*** it considers that the provider of core platform services concerned should take in order to effectively address the preliminary findings. ***The Commission may decide to invite interested third parties to submit their observations within a time limit, which is fixed by the Commission in its publication. When publishing, due regard shall be given by the Commission to the legitimate interest of undertakings in the protection of their business secrets.***

## Amendment 139

### Proposal for a regulation Article 7 – paragraph 7

#### *Text proposed by the Commission*

7. A gatekeeper may request the opening of proceedings pursuant to Article 18 for the Commission to determine whether the measures that the gatekeeper intends to implement or has implemented under Article 6 are effective in achieving the objective of the relevant obligation in the specific circumstances. ***A gatekeeper may, with*** its request, provide a reasoned submission to explain in particular why the measures that it intends to implement or has implemented are effective in achieving the objective of the relevant obligation in the specific circumstances.

#### *Amendment*

7. A gatekeeper may request ***within the implementation deadline of Article 3 (8)*** the opening of proceedings pursuant to Article 18 for the Commission to determine whether the measures that the gatekeeper intends to implement or has implemented under Article 6 are effective in achieving the objective of the relevant obligation in the specific circumstances. ***In*** its request, ***the gatekeeper shall*** provide a reasoned submission to explain in particular why the measures that it intends to implement or has implemented are effective in achieving the objective of the relevant obligation in the specific circumstances. ***The Commission shall adopt its decision within six months from the opening of proceedings pursuant to Article 18.***

## Amendment 140

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

*Text proposed by the Commission*

1. The Commission may, on a reasoned request by the gatekeeper, **exceptionally** suspend, in whole or in part, a specific obligation laid down in Articles 5 and 6 for a core platform **service by** decision adopted in accordance with the advisory procedure referred to in Article 32(4), where the gatekeeper demonstrates that compliance with that specific obligation would endanger, due to exceptional circumstances beyond the control of the gatekeeper, the economic viability of the operation of the gatekeeper in the Union, and only to the extent necessary to address such threat to its viability. The Commission shall aim to adopt the suspension decision without delay and at the latest **3 months following** receipt of a complete reasoned request.

*Amendment*

1. The Commission may, on a reasoned request by the gatekeeper, suspend, **on an exceptional basis**, in whole or in part, a specific obligation laid down in Articles 5 and 6 for a core platform **serviceby** decision adopted in accordance with the advisory procedure referred to in Article 32(4), where the gatekeeper demonstrates that compliance with that specific obligation would endanger, due to exceptional circumstances beyond the control of the gatekeeper, the economic viability of the operation of the gatekeeper in the Union, and only to the extent necessary to address such threat to its viability. The Commission shall aim to adopt the suspension decision without delay and at the latest **within three months after** receipt of a complete reasoned request. **The suspension decision shall be accompanied by a reasoned statement explaining the grounds for the suspension.**

**Amendment 141**

**Proposal for a regulation  
Article 8 – paragraph 2**

*Text proposed by the Commission*

2. Where **the** suspension is granted pursuant to paragraph 1, the Commission shall review its suspension decision every year. Following such a review the Commission shall either lift the suspension or decide that the conditions of paragraph 1 continue to be met.

*Amendment*

2. Where suspension is granted pursuant to paragraph 1, the Commission shall review its suspension decision every year. Following such a review the Commission shall either **wholly or partly** lift the suspension or decide that the conditions of paragraph 1 continue to be met.

**Amendment 142**

**Proposal for a regulation  
Article 8 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

The Commission may, acting on a reasoned request by a gatekeeper, provisionally suspend the application of the relevant obligation to one or more individual core platform services already prior to the decision pursuant to paragraph 1.

*Amendment*

***In cases of urgency***, the Commission may, acting on a reasoned request by a gatekeeper, provisionally suspend the application of the relevant obligation to one or more individual core platform services already prior to the decision pursuant to paragraph 1.

**Amendment 143**

**Proposal for a regulation  
Article 8 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

In assessing the request, the Commission shall take into account, in particular, the impact of the compliance with the specific obligation on the economic viability of the operation of the gatekeeper in the Union as well as on third parties. The suspension may be made subject to conditions and obligations to be defined by the Commission in order to ensure a fair balance between these interests and the objectives of this Regulation. Such a request may be made and granted at any time pending the assessment of the Commission pursuant to paragraph 1.

*Amendment*

In assessing the request, the Commission shall take into account, in particular, the impact of the compliance with the specific obligation on the economic viability of the operation of the gatekeeper in the Union as well as on third parties, ***in particular smaller business users and consumers***. The suspension may be made subject to conditions and obligations to be defined by the Commission in order to ensure a fair balance between these interests and the objectives of this Regulation. Such a request may be made and granted at any time pending the assessment of the Commission pursuant to paragraph 1.

**Amendment 144**

**Proposal for a regulation  
Article 9 – title**

*Text proposed by the Commission*

Exemption ***for overriding reasons*** of public ***interest***

*Amendment*

Exemption ***on grounds*** of public ***morality, public health or public security***

**Amendment 145**

**Proposal for a regulation**  
**Article 9 – paragraph 1**

*Text proposed by the Commission*

1. The Commission may, acting on a reasoned request by a gatekeeper or on its own initiative, by decision adopted in accordance with the advisory procedure referred to in Article 32(4), exempt it, in whole or in part, from a specific obligation laid down in Articles 5 and 6 in relation to an individual core platform service identified pursuant to Article 3(7), where such exemption is justified on the grounds set out in paragraph 2 of this Article. The Commission shall adopt the exemption decision at the latest **3** months after receiving a complete reasoned request.

*Amendment*

1. The Commission may, acting on a reasoned request by a gatekeeper or on its own initiative, by decision adopted in accordance with the advisory procedure referred to in Article 32(4), exempt it, in whole or in part, from a specific obligation laid down in Articles 5 and 6 in relation to an individual core platform service identified pursuant to Article 3(7), where such exemption is justified on the grounds set out in paragraph 2 of this Article. The Commission shall adopt the exemption decision at the latest **three** months after receiving a complete reasoned request. ***Such decision shall be accompanied by a reasoned statement explaining the grounds for the exemption.***

**Amendment 146**

**Proposal for a regulation**  
**Article 9 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Where the exemption is granted pursuant to paragraph 1, the Commission shall review its exemption decision every year. Following such a review the Commission shall either wholly or partially lift the exemption or decide that the conditions of paragraph 1 continue to be met.***

**Amendment 147**

**Proposal for a regulation**  
**Article 9 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

The Commission may, acting on a reasoned request by a gatekeeper or on its

*Amendment*

***In cases of urgency,*** the Commission may, acting on a reasoned request by a

own initiative, provisionally suspend the application of the relevant obligation to one or more individual core platform services already prior to the decision pursuant to paragraph 1.

gatekeeper or on its own initiative, provisionally suspend the application of the relevant obligation to one or more individual core platform services already prior to the decision pursuant to paragraph 1.

## Amendment 148

### Proposal for a regulation Article 10 – paragraph 1

*Text proposed by the Commission*

1. The Commission is empowered to adopt delegated acts in accordance with Article 34 **to update the obligations laid down in** Articles 5 and 6 where, based on a market investigation pursuant to Article 17, it has identified **the need for new obligations addressing** practices that limit the contestability of core platform services or are unfair in the same way as the practices addressed by the obligations laid down in Articles 5 and 6.

*Amendment*

1. The Commission is empowered to adopt delegated acts in accordance with Article 37 **amending** Articles 5 and 6 **by adding obligations** where, based on a market investigation pursuant to Article 17, it has identified **that this is needed in order to address** practices that limit the contestability of core platform services or are unfair in the same way as the practices addressed by the obligations laid down in Articles 5 and 6. **Those delegated acts may only add new obligations to those listed under Articles 5 and 6.**

## Amendment 149

### Proposal for a regulation Article 10 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

**1a. The Commission is empowered to adopt delegated acts in accordance with Article 37 supplementing this Regulation in respect of the obligations laid down in Article 5 and 6. Those delegated acts shall provide for only the following:**

**(a) the extent to which an obligation applies to certain core platform services;**

**(b) the extent to which an obligation applies only to a subset of business users or end users; or**

*(c) how the obligations shall be performed in order to ensure the effectiveness of those obligations*

## **Amendment 150**

### **Proposal for a regulation Article 10 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) there is an imbalance of rights and obligations on business users and the gatekeeper is obtaining an advantage from business users that is disproportionate to the service provided by the gatekeeper to business users; or

*Amendment*

(a) there is an imbalance of rights and obligations on business users and the gatekeeper is obtaining an advantage from business users that is disproportionate to the service provided by the gatekeeper to business users *or end users*; or

## **Amendment 151**

### **Proposal for a regulation Article 10 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. In relation to the obligation laid down in article 6(1) fb, the Commission shall adopt by ... [18 months after the entry into force of this Regulation] a delegated act in accordance with Article 37 supplementing this Regulation by defining the appropriate scope and features for the interconnection of the gatekeepers online social networking services as well as standards or technical specifications of such interconnection. Such standards or technical specifications shall ensure high level of security and protection of personal data. When developing standards or technical specifications the Commission may consult standardisation bodies or other relevant stakeholders as foreseen in the in Regulation (EU) No 1025/2012.***

## **Amendment 152**

## Proposal for a regulation

### Article 11

*Text proposed by the Commission*

#### Article 11

Anti-circumvention

1. A gatekeeper shall ensure that the obligations of Articles 5 and 6 are fully and effectively complied with. ***While the obligations of Articles 5 and 6 apply in respect of core platform services designated pursuant to Article 3, their implementation shall not be undermined by any behaviour of the undertaking to which the gatekeeper belongs, regardless of whether this behaviour is of a contractual, commercial, technical or any other nature.***

2. Where consent for collecting ***and*** processing of personal data is required to ensure compliance with this Regulation, a gatekeeper shall take the necessary steps ***to*** either enable business users to directly obtain the required consent to their processing, where required under Regulation (EU) 2016/679 and Directive 2002/58/EC, or to comply with Union data

*Amendment*

#### Article 6a

Anti-circumvention

1. A gatekeeper shall ensure that the obligations of Articles 5 and 6 are fully and effectively complied with.

***1a. While the obligations of Articles 5 and 6 apply in respect of core platform services designated pursuant to Article 3, a gatekeeper, including any undertaking to which the gatekeeper belongs, shall not engage in any behaviour regardless of whether is of a contractual, commercial, technical or any other nature, that, while formally, conceptually or technically distinct to a behaviour prohibited pursuant to Articles 5 and 6, is capable in practice of having an equivalent object or effect.***

***1b. The gatekeeper shall not engage in any behaviour discouraging interoperability by using technical protection measures, discriminatory terms of service, subjecting application programming interfaces to copyright or providing misleading information.***

2. Where consent for collecting, processing ***and sharing*** of personal data is required to ensure compliance with this Regulation, a gatekeeper shall take the necessary steps either ***to*** enable business users to directly obtain the required consent to their processing, where required ***to do so*** under Regulation (EU) 2016/679 and Directive 2002/58/EC, or to comply



protection and privacy rules and principles in other ways including by providing business users with duly anonymised data where appropriate. ***The gatekeeper shall not make the obtaining of this consent by the business user more burdensome than for its own services.***

3. A gatekeeper shall not degrade the conditions or quality of any of the core platform services provided to business users or end users who avail themselves of the rights or choices laid down in Articles 5 and 6, or make the exercise of those rights or choices unduly difficult.

with Union data protection and privacy rules and principles in other ways including by providing business users with duly anonymised data where appropriate.

3. A gatekeeper shall not degrade the conditions or quality of any of the core platform services provided to business users or end users who avail themselves of the rights or choices laid down in Articles 5 and 6, or make the exercise of those rights or choices unduly difficult ***including by offering choices to the end-user in a non-neutral manner, or by subverting user's autonomy, decision-making, or choice via the structure, design, function or manner of operation of a user interface or a part thereof.***

## **Amendment 153**

### **Proposal for a regulation Article 12 – paragraph 1 –subparagraph 1**

#### *Text proposed by the Commission*

A gatekeeper shall inform the Commission of any intended concentration within the meaning of Article 3 of Regulation (EC) No 139/2004 ***involving another provider of core platform services or of any other services provided in the digital sector*** irrespective of whether it is notifiable to a Union competition authority under Regulation (EC) No 139/2004 or to a competent national competition authority under national merger rules.

#### *Amendment*

A gatekeeper shall inform the Commission of any intended concentration within the meaning of Article 3 of Regulation (EC) No 139/2004 irrespective of whether it is notifiable to a Union competition authority under Regulation (EC) No 139/2004 or to a competent national competition authority under national merger rules.

## **Amendment 154**

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

*Text proposed by the Commission*

*Amendment*

***The Commission shall inform competent national authorities of such notifications.***

## **Amendment 155**

### **Proposal for a regulation Article 12 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. If, following any concentration as provided in paragraph 1, additional core platform services individually satisfy the thresholds in point (b) of Article 3(2), the gatekeeper concerned shall inform the Commission thereof within three months from the implementation of the concentration and provide the Commission with the information referred to in Article 3(2).

3. If, following any concentration as provided in paragraph 1, ***it is demonstrated that*** additional core platform services individually satisfy the thresholds in point (b) of Article 3(2), the gatekeeper concerned shall inform the Commission thereof within three months from the implementation of the concentration and provide the Commission with the information referred to in Article 3(2).

## **Amendment 156**

### **Proposal for a regulation Article 12 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. The competent national authorities may use the information received under paragraph 1 to request the Commission to examine the concentration pursuant to Article 22 of Regulation (EC) No 139/2004.***

## **Amendment 157**

### **Proposal for a regulation Article 12 – paragraph 3 b (new)**

*Text proposed by the Commission*

*Amendment*

***3b. The Commission shall publish annually the list of acquisitions of which***

*it has been informed by gatekeepers.*

## **Amendment 158**

### **Proposal for a regulation Article 13 – paragraph 1**

*Text proposed by the Commission*

Within six months after its designation pursuant to Article 3, a gatekeeper shall submit to the Commission an independently audited description of any techniques for profiling of consumers that the gatekeeper applies to or across its core platform services identified pursuant to Article 3. This description shall be updated at least annually.

*Amendment*

Within six months after its designation pursuant to Article 3, a gatekeeper shall submit to the Commission ***and the High Level Group of Digital Regulators*** an independently audited description of any techniques for profiling of consumers that the gatekeeper applies to or across its core platform services identified pursuant to Article 3. This description shall be updated at least annually. ***The Commission shall develop, in consultation with the EU Data Protection Supervisor, the European Data Protection Board, civil society and experts, the standards and procedure of the audit.***

## **Amendment 159**

### **Proposal for a regulation Article 13 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***The gatekeeper shall make publicly available an overview of the audited description referred to in the first paragraph, taking into account the need to respect business secrecy.***

## **Amendment 160**

### **Proposal for a regulation Article 14 – paragraph 3 – point a**

*Text proposed by the Commission*

*Amendment*

(a) there has been a material change in any of the facts on which the decision was

(a) there has been a material change in any of the facts on which the decision was

based;

based; *or*

## Amendment 161

### Proposal for a regulation

#### Article 14 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

**3a.** *The Commission may also ask one or more competent national authorities to support its market investigation.*

## Amendment 162

### Proposal for a regulation

#### Article 15 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. The Commission may conduct a market investigation for the purpose of examining whether a provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6), or in order to identify core platform services for a gatekeeper pursuant to Article 3(7). ***It shall endeavour to*** conclude its investigation by adopting a decision ***in accordance with the advisory procedure referred to in Article 32(4)*** within twelve months ***from the opening of the market investigation.***

1. The Commission may conduct a market investigation for the purpose of examining whether a provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6), or in order to identify core platform services for a gatekeeper pursuant to Article 3(7). ***The Commission*** shall conclude its investigation by adopting a decision within twelve months.

## Amendment 163

### Proposal for a regulation

#### Article 15 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. In the course of a market investigation pursuant to paragraph 1, the Commission shall ***endeavour to*** communicate its preliminary findings to the provider of core platform services concerned ***within*** six months from the

2. In the course of a market investigation pursuant to paragraph 1, the Commission shall communicate its preliminary findings to the provider of core platform services concerned ***as soon as possible and in any case no later than*** six

opening of the investigation. In the preliminary findings, the Commission shall explain whether it considers, on a provisional basis, that the provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6).

months from the opening of the investigation. In the preliminary findings, the Commission shall explain whether it considers, on a provisional basis, that the provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6).

## Amendment 164

### Proposal for a regulation Article 15 – paragraph 3

*Text proposed by the Commission*

*Amendment*

3. *Where the provider of core platform services satisfies the thresholds set out in Article 3(2), but has presented significantly substantiated arguments in accordance with Article 3(4), the Commission shall endeavour to conclude the market investigation within five months from the opening of the market investigation by a decision pursuant to paragraph 1. In that case the Commission shall endeavour to communicate its preliminary findings pursuant to paragraph 2 to the provider of core platform services within three months from the opening of the investigation.*

*deleted*

## Amendment 165

### Proposal for a regulation Article 15 – paragraph 4

*Text proposed by the Commission*

*Amendment*

4. When the Commission pursuant to Article 3(6) designates as a gatekeeper a provider of core platform services that does not yet enjoy an entrenched and durable position in its operations, but it is foreseeable that it will enjoy such a position in the near future, it shall declare applicable to that gatekeeper *only* obligations laid down in Article 5(b) and Article 6(1) *points (e), (f), (h) and (i) as*

4. When the Commission pursuant to Article 3(6) designates as a gatekeeper a provider of core platform services that does not yet enjoy an entrenched and durable position in its operations, but it is foreseeable that it will enjoy such a position in the near future, it shall declare applicable to that gatekeeper *the* obligations laid down in Article 5 and Article 6. The Commission shall review

*specified in the designation decision. The Commission shall only declare applicable those obligations that are appropriate and necessary to prevent that the gatekeeper concerned achieves by unfair means an entrenched and durable position in its operations.* The Commission shall review such a designation in accordance with *the procedure laid down in* Article 4.

such a designation in accordance with Article 4.

## Amendment 166

### Proposal for a regulation Article 16 – paragraph 1

*Text proposed by the Commission*

1. Where the market investigation shows that a gatekeeper has systematically infringed the obligations laid down in Articles 5 and 6 *and has further strengthened or extended its gatekeeper position in relation to the characteristics under Article 3(1)*, the Commission may *by decision adopted in accordance with the advisory procedure referred to in Article 32(4)* impose on *such* gatekeeper *any* behavioural or structural remedies which are *proportionate to the infringement committed* and necessary to ensure compliance with this Regulation. The Commission shall conclude its investigation by adopting a decision *within* twelve months from the opening of the market investigation.

*Amendment*

1. *The Commission may conduct a market investigation for the purpose of examining whether a gatekeeper has engaged in systematic non-compliance.* Where the market investigation shows that a gatekeeper has systematically infringed the obligations laid down in Articles 5 and 6, the Commission may impose on *that* gatekeeper *such* behavioural or structural remedies which are *effective* and necessary to ensure compliance with this Regulation. The Commission shall, *where appropriate, be entitled to require the remedies to be tested to optimise their effectiveness.* *The Commission shall* conclude its investigation by adopting a decision *as soon as possible and in any event no later than* twelve months from the opening of the market investigation.

## Amendment 167

### Proposal for a regulation Article 16 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

*1a. Pursuant to paragraph 1, the Commission may for a limited period restrict gatekeepers from making acquisitions in areas relevant to this*

***Regulation provided that such restrictions are proportionate, and necessary in order to remedy the damage caused by repeated infringements or to prevent further damage to the contestability and fairness of the internal market.***

## **Amendment 168**

### **Proposal for a regulation Article 16 – paragraph 2**

*Text proposed by the Commission*

2. ***The Commission may only impose structural remedies pursuant to paragraph 1 either where there is no equally effective behavioural remedy or where any equally effective behavioural remedy would be more burdensome for the gatekeeper concerned than the structural remedy.***

*Amendment*

***deleted***

## **Amendment 169**

### **Proposal for a regulation Article 16 – paragraph 3**

*Text proposed by the Commission*

3. A gatekeeper shall be deemed to have engaged in a systematic non-compliance with the obligations laid down in Articles 5 and 6, where the Commission has issued at least ***three*** non-compliance or fining decisions pursuant to Articles 25 and 26 respectively against a gatekeeper in relation to any of its core platform services within a period of ***five*** years prior to the adoption of the decision opening a market investigation in view of the possible adoption of a decision pursuant to this Article.

*Amendment*

3. A gatekeeper shall be deemed to have engaged in a systematic non-compliance with the obligations laid down in Articles 5 and 6, where the Commission has issued at least ***two*** non-compliance or fining decisions pursuant to Articles 25 and 26 respectively against a gatekeeper in relation to any of its core platform services within a period of ***ten*** years prior to the adoption of the decision opening a market investigation in view of the possible adoption of a decision pursuant to this Article.

## **Amendment 170**

**Proposal for a regulation**  
**Article 16 – paragraph 4**

*Text proposed by the Commission*

4. *A gatekeeper shall be deemed to have further strengthened or extended its gatekeeper position in relation to the characteristics under Article 3(1), where its impact on the internal market has further increased, its importance as a gateway for business users to reach end users has further increased or the gatekeeper enjoys a further entrenched and durable position in its operations.*

*Amendment*

*deleted*

**Amendment 171**

**Proposal for a regulation**  
**Article 16 – paragraph 5**

*Text proposed by the Commission*

5. The Commission shall communicate its objections to the gatekeeper concerned *within six* months from the opening of the investigation. In its objections, the Commission shall explain whether it preliminarily considers that the conditions of paragraph 1 are met and which remedy or remedies it *preliminarily* considers necessary *and proportionate*.

*Amendment*

5. The Commission shall communicate its objections to the gatekeeper concerned *as soon as possible and in any event no later than four* months from the opening of the investigation. In its objections, the Commission shall explain whether it preliminarily considers that the conditions of paragraph 1 are met and which remedy or remedies it considers *on a preliminary basis, to be effective and* necessary.

**Amendment 172**

**Proposal for a regulation**  
**Article 16 – paragraph 6**

*Text proposed by the Commission*

6. *The Commission may at any time during* the market investigation extend its duration where *the* extension is justified on objective grounds and proportionate. The extension may apply to the deadline by which the Commission has to issue its objections, or to the deadline for adoption

*Amendment*

6. *In the course of* the market investigation, *the Commission may* extend its duration where *such* extension is justified on objective grounds and proportionate. The extension may apply to the deadline by which the Commission has to issue its objections, or to the deadline for



of the final decision. The total duration of any extension or extensions pursuant to this paragraph shall not exceed six *months. The Commission may consider commitments pursuant to Article 23 and make them binding in its decision.*

#### **Amendment 173**

##### **Proposal for a regulation Article 16 – paragraph 6 a (new)**

*Text proposed by the Commission*

adoption of the final decision. The total duration of any extension or extensions pursuant to this paragraph shall not exceed six *months.*

*Amendment*

***6a. In order to ensure effective compliance by the gatekeeper with its obligations laid down in Articles 5 or 6, the Commission shall regularly review the remedies that it imposes in accordance with paragraph 1 of this Article. The Commission shall be entitled to modify those remedies if, following an investigation, it finds that they are not effective.***

#### **Amendment 174**

##### **Proposal for a regulation Article 17 – paragraph 1**

*Text proposed by the Commission*

The Commission may conduct a market investigation with the purpose of examining whether one or more services within the digital sector should be added to the list of core platform services or to detect types of practices that may limit the contestability of core platform services or may be unfair and which are not effectively addressed by this Regulation. It shall issue a public report at the latest within **24** months from the opening of the market investigation.

*Amendment*

The Commission may conduct a market investigation with the purpose of examining whether one or more services within the digital sector should be added to the list of core platform services or to detect types of practices that may limit the contestability of core platform services or may be unfair and which are not effectively addressed by this Regulation. It shall issue a public report at the latest within **18** months from the opening of the market investigation.

#### **Amendment 175**

**Proposal for a regulation**  
**Article 17 – paragraph 2 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

***(ba) The Commission shall be entitled to impose interim measures if there is a risk of serious and immediate damage for business users or end users of gatekeepers.***

**Amendment 176**

**Proposal for a regulation**  
**Article 19 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. The Commission may by simple request or by decision require information from undertakings and associations of undertakings to provide all necessary information, including for the purpose of monitoring, implementing and enforcing the rules laid down in this Regulation. The Commission may also request access to data bases **and** algorithms of undertakings and request explanations on those by a simple request or by a decision.

1. The Commission may by simple request or by decision require information from undertakings and associations of undertakings to provide all necessary information, including for the purpose of monitoring, implementing and enforcing the rules laid down in this Regulation. The Commission may also request access to data bases, algorithms of undertakings **and information about testings** and request explanations on those by a simple request or by a decision.

**Amendment 177**

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

*Text proposed by the Commission*

*Amendment*

2. The Commission may request information from undertakings and associations of undertakings pursuant to paragraph 1 also prior to opening a market investigation pursuant to Article 14 **or proceedings pursuant to Article 18.**

2. The Commission may request information from undertakings and associations of undertakings pursuant to paragraph 1 also prior to opening a market investigation pursuant to Article 14.

**Amendment 178**

**Proposal for a regulation**  
**Article 19 – paragraph 4**

*Text proposed by the Commission*

4. Where the Commission requires undertakings and associations of undertakings to supply information by decision, it shall state the purpose of the request, specify what information is required and fix the time-limit within which it is to be provided. Where the Commission requires undertakings to provide access to its data-bases and algorithms, it shall state the **legal basis and the purpose** of the request, and fix the time-limit within which it is to be provided. It shall also indicate the penalties provided for in Article 26 and indicate or impose the periodic penalty payments provided for in Article 27. It shall further indicate the right to have the decision reviewed by the Court of Justice.

*Amendment*

4. Where the Commission requires undertakings and associations of undertakings to supply information by decision, it shall state the purpose of the request, specify what information is required and fix the time-limit within which it is to be provided. Where the Commission requires undertakings to provide access to its data-bases and algorithms, it shall state the purpose of the request, **specify what information is required** and fix the time-limit within which it is to be provided. It shall also indicate the penalties provided for in Article 26 and indicate or impose the periodic penalty payments provided for in Article 27. It shall further indicate the right to have the decision reviewed by the Court of Justice.

**Amendment 179**

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

*Text proposed by the Commission*

The Commission may interview any natural or legal person which consents to being interviewed for the purpose of collecting information, relating to the subject-matter of an investigation, including in relation to the monitoring, implementing and enforcing of the rules laid down in this Regulation.

*Amendment*

The Commission, **and the national competent authorities in accordance with Article 31c**, may interview any natural or legal person which consents to being interviewed for the purpose of collecting information, relating to the subject-matter of an investigation, including in relation to the monitoring, implementing and enforcing of the rules laid down in this Regulation.

**Amendment 180**

**Proposal for a regulation**  
**Article 21 – paragraph 2**

*Text proposed by the Commission*

2. On-site inspections may also be carried out with the assistance of auditors or experts appointed by the Commission pursuant to Article 24(2).

*Amendment*

2. On-site inspections may also be carried out with the assistance of **rotating** auditors or experts appointed by the Commission pursuant to Article 24(2).

**Amendment 181**

**Proposal for a regulation**

**Article 22 – paragraph 1**

*Text proposed by the Commission*

1. In **case** of urgency due to the risk of serious and **irreparable** damage for business users or end users of gatekeepers, the Commission may, by decision adopt in accordance with the advisory procedure referred to in Article 32(4), order interim measures **against** a gatekeeper on the basis of a prima facie finding of an infringement of Articles 5 or 6.

*Amendment*

1. In **cases** of urgency due to the risk of serious and **immediate** damage for business users or end users of gatekeepers, the Commission may, by decision adopt in accordance with the advisory procedure referred to in Article 32(4), order interim measures **on** a gatekeeper on the basis of a prima facie finding of an infringement of Articles 5 or 6.

**Amendment 182**

**Proposal for a regulation**

**Article 22 – paragraph 2**

*Text proposed by the Commission*

2. A decision pursuant to paragraph 1 **may** only be adopted in the context of proceedings opened **in view of** the possible adoption of a decision of non-compliance pursuant to Article 25(1). **This** decision shall apply for a specified period of time and may be renewed in so far this is necessary and appropriate.

*Amendment*

2. A decision pursuant to paragraph 1 **shall** only be adopted in the context of proceedings opened **with a view to** the possible adoption of a decision of non-compliance pursuant to Article 25(1). **That** decision shall apply for a specified period of time and may be renewed in so far this is necessary and appropriate.

**Amendment 183**

**Proposal for a regulation**

**Article 22 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. In cases of urgency due to the risk of serious and immediate damage to business users or end users of gatekeepers, resulting from new practices implemented by one or more gatekeepers that could undermine contestability of core platform services or that could be unfair pursuant to Article 10(2), the Commission may impose interim measures on the gatekeepers concerned in order to prevent such a risk materialising.***

#### **Amendment 184**

##### **Proposal for a regulation Article 22 – paragraph 2 b (new)**

*Text proposed by the Commission*

*Amendment*

***2b. A decision referred to in paragraph 2a of this Article shall only be adopted in the context of a market investigation pursuant to Article 17 and within 6 months of the opening of such an investigation. The interim measures shall apply for a specified period of time and, in any case, shall be renewed or withdrawn in order to take account of the final decision resulting from the market investigation pursuant to Article 17.***

#### **Amendment 185**

##### **Proposal for a regulation Article 23**

*Text proposed by the Commission*

*Amendment*

***Article 23***

***deleted***

***Commitments***

***1. If during proceedings under Articles 16 or 25 the gatekeeper concerned offers commitments for the relevant core platform services to ensure compliance***

*with the obligations laid down in Articles 5 and 6, the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) make those commitments binding on that gatekeeper and declare that there are no further grounds for action.*

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

*(a) there has been a material change in any of the facts on which the decision was based;*

*(b) the gatekeeper concerned acts contrary to its commitments;*

*(c) the decision was based on incomplete, incorrect or misleading information provided by the parties.*

*3. Should the Commission consider that the commitments submitted by the gatekeeper concerned cannot ensure effective compliance with the obligations laid down in Articles 5 and 6, it shall explain the reasons for not making those commitments binding in the decision concluding the relevant proceedings.*

## **Amendment 186**

### **Proposal for a regulation Article 24 – paragraph 1**

*Text proposed by the Commission*

1. The Commission *may* take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in Articles 5 and 6 and the decisions taken pursuant to Articles 7, 16, 22 and 23.

*Amendment*

1. The Commission *shall* take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in Articles 5 and 6 and the decisions taken pursuant to Articles 7, 16, 22 and 23.

## **Amendment 187**

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

*Text proposed by the Commission*

*Amendment*

**Article 24a**

**Complaint mechanism**

**1. Business users, competitors, end-users of the core platform services as well as their representatives or other person with a legitimate interest may complain to the competent national authorities about any practice or behaviour by gatekeepers that falls into the scope of this Regulation, including non-compliance.**

**The competent national authorities shall assess such complaints and shall report them to the Commission.**

**The Commission shall examine whether there are reasonable grounds to open proceedings pursuant to Article 18 or a market investigation pursuant to Article 14.**

**2. Directive (EU) 2019/1937 shall apply to the complaints and the reporting of breaches of this Regulation and the protection of persons reporting such breaches.**

**Amendment 188**

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

*Text proposed by the Commission*

*Amendment*

**Article 24b**

**Compliance function**

**1. Gatekeepers shall establish a compliance function, which is independent from the operational functions of the gatekeeper and appoint one or more compliance officers, including the head of the compliance function.**

**2. The gatekeeper shall ensure that compliance function pursuant to paragraph 1 has sufficient authority,**

*stature and resources, as well as access to the management body of the gatekeeper to monitor the compliance of the gatekeeper with this Regulation.*

*3. Gatekeeper shall ensure that compliance officers appointed pursuant to paragraph 1 have the professional qualifications, knowledge, experience and ability necessary to fulfil the tasks referred to in paragraph 4.*

*Gatekeeper shall also ensure that the head of the compliance function appointed pursuant to paragraph 1 is a senior manager with distinct responsibility for the compliance function and shall be independent from the operational functions and management body of the gatekeeper.*

*4. The head of the compliance function shall report directly to the management body of the gatekeeper and shall have the powers to raise concerns and warn that body where risks of non-compliance with this Regulation arise, without prejudice to the responsibilities of the management body in its supervisory and managerial functions.*

*The head of the compliance function shall not be removed without prior approval of the management body of the gatekeeper.*

*5. Compliance officers appointed by the gatekeeper pursuant to paragraph 1 shall oversee compliance of the gatekeeper with the obligations in this Regulation, including at least the following tasks:*

*(a) organising, monitoring and supervising the measures and activities of the gatekeepers that aim to ensure compliance with the obligations laid down in this Regulation;*

*(b) informing and advising the management and employees of the gatekeeper about relevant obligations under this Regulation;*

*(c) where applicable, monitoring compliance with commitments made*



*binding pursuant to Article 23, without prejudice to the Commission being able to appoint independent external experts pursuant to Article 24(2).*

*(d) cooperating with the Commission for the purpose of this Regulation.*

*6. Gatekeepers shall communicate the name and contact details of the head of the compliance function to the Commission.*

*7. The management body of the gatekeeper shall define, oversee and be accountable for the implementation of the governance arrangements of the gatekeeper that ensure independence of the compliance function, including the segregation of duties in the organisation of the gatekeeper and the prevention of conflicts of interest.*

#### **Amendment 189**

##### **Proposal for a regulation Article 25 – paragraph 1 – point e**

*Text proposed by the Commission*

*Amendment*

*(e) commitments made legally binding pursuant to Article 23.*

*deleted*

#### **Amendment 190**

##### **Proposal for a regulation Article 25 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*1a. The Commission shall adopt its decision within 12 months from the opening of proceedings pursuant to Article 18.*

#### **Amendment 191**

**Proposal for a regulation**  
**Article 25 – paragraph 2**

*Text proposed by the Commission*

2. Before adopting the decision pursuant to paragraph 1, the Commission shall communicate its preliminary findings to the gatekeeper concerned. In ***the*** preliminary findings, the Commission shall explain the measures it ***considers to take or*** it considers that the gatekeeper should take in order to effectively address the preliminary findings.

**Amendment 192**

**Proposal for a regulation**  
**Article 25 – paragraph 4**

*Text proposed by the Commission*

4. The gatekeeper shall provide the Commission with the description of the measures ***it took*** to ensure compliance with the decision adopted pursuant to paragraph 1.

**Amendment 193**

**Proposal for a regulation**  
**Article 26 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. In the decision pursuant to Article 25, the Commission may impose on a gatekeeper fines not exceeding ***10%*** of its total turnover in the preceding financial year where it finds that the gatekeeper, intentionally or negligently, fails to comply with:

**Amendment 194**

*Amendment*

2. Before adopting the decision pursuant to paragraph 1, the Commission shall communicate its preliminary findings to the gatekeeper concerned. In ***those*** preliminary findings, the Commission shall explain the measures it ***is considering taking or that*** it considers that the gatekeeper should take in order to effectively address the preliminary findings.

*Amendment*

4. The gatekeeper shall provide the Commission with the description of the measures ***that it has taken*** to ensure compliance with the decision adopted pursuant to paragraph 1.

*Amendment*

1. In the decision pursuant to Article 25, the Commission may impose on a gatekeeper fines not ***less than 4% and not exceeding 20%*** of its total ***worldwide*** turnover in the preceding financial year where it finds that the gatekeeper, intentionally or negligently, fails to comply with:

**Proposal for a regulation**  
**Article 26 – paragraph 1 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

***(aa) the obligation to notify information that is required pursuant to Article 12;***

**Amendment 195**

**Proposal for a regulation**  
**Article 26 – paragraph 1 – point a b (new)**

*Text proposed by the Commission*

*Amendment*

***(ab) the obligation to notify information that is required pursuant to Article 13 or supply incorrect, incomplete or misleading information;***

**Amendment 196**

**Proposal for a regulation**  
**Article 26 – paragraph 1 – point e**

*Text proposed by the Commission*

*Amendment*

***(e) a commitment made binding by a decision pursuant to Article 23.***

***deleted***

**Amendment 197**

**Proposal for a regulation**  
**Article 26 – paragraph 2 – point b**

*Text proposed by the Commission*

*Amendment*

***(b) fail to notify information that is required pursuant to Article 12 or supply incorrect, incomplete or misleading information;***

***deleted***

**Amendment 198**

**Proposal for a regulation**  
**Article 26 – paragraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

**(c) fail to submit the description that is required pursuant to Article 13;**

**deleted**

## **Amendment 199**

### **Proposal for a regulation Article 27 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. Where the undertakings have satisfied the obligation which the periodic penalty payment was intended to enforce, the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) set the definitive amount of the periodic penalty payment ***at a figure lower than that which would arise under the original decision.***

2. Where the undertakings have satisfied the obligation which the periodic penalty payment was intended to enforce, the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) set the definitive amount of the periodic penalty payment.

## **Amendment 200**

### **Proposal for a regulation Article 28 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. The powers conferred on the Commission by Articles 26 and 27 shall be subject to a ***three*** year limitation period.

1. The powers conferred on the Commission by Articles 26 and 27 shall be subject to a ***five*** year limitation period.

## **Amendment 201**

### **Proposal for a regulation Article 30 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

1. Before adopting a decision pursuant to Article 7, Article 8(1), Article 9(1), Articles 15, 16, 22, 23, 25 and 26 and Article 27(2), the Commission shall give the gatekeeper or undertaking or association of undertakings concerned the

1. Before adopting a decision pursuant to Article 7, Article 8(1), Article 9(1), Articles 15, 16, 22, 23, 25 and 26 and Article 27(2), the Commission shall give the gatekeeper or undertaking or association of undertakings concerned

opportunity of being heard on:

*including third parties with a legitimate interest*, the opportunity of being heard on:

## **Amendment 202**

### **Proposal for a regulation Article 30 – paragraph 2**

*Text proposed by the Commission*

2. Gatekeepers, undertakings and associations of undertakings concerned may submit their observations to the Commission’s preliminary findings within a time limit which shall be fixed by the Commission in its preliminary findings and which may not be less than 14 days.

*Amendment*

2. Gatekeepers, undertakings and associations of undertakings concerned *including third parties with a legitimate interest* may submit their observations to the Commission’s preliminary findings within a time limit which shall be fixed by the Commission in its preliminary findings and which may not be less than 14 days.

## **Amendment 203**

### **Proposal for a regulation Article 30 – paragraph 3**

*Text proposed by the Commission*

3. The Commission shall base its decisions only on objections on which gatekeepers, undertakings *and* associations of undertakings concerned have been able to comment.

*Amendment*

3. The Commission shall base its decisions only on objections on which gatekeepers, undertakings, associations of undertakings concerned *and third parties with a legitimate interest* have been able to comment.

## **Amendment 233**

### **Proposal for a regulation Article 30 a (new)**

*Text proposed by the Commission*

*Amendment*

*Article 30a*

*Accountability*

**1. The Commission shall adopt an annual report on the state of the digital economy. This report shall provide an analysis of the market position, influence**

*and business models of the gatekeepers in the common market. The report shall include a summary of its activities, in particular supervisory measures adopted under Chapter II and IV of this Regulation as well as an assessment on whether competition rules, the provisions of this Regulation (and Regulation XX/2021 DSA) and current enforcement levels are adequate to address anticompetitive conduct and ensure the contestability and fairness of digital markets. This annual report shall also include an assessment of the audit reports foreseen in Article 13 and a social impact assessment, which assesses new digital products and services and their potential impact on mental health, user behaviour, disinformation, polarisation and democracy. In the fulfilment of this mandate, the Commission shall coordinate its supervisory and monitoring efforts with those foreseen under the Digital Services Act, so as to achieve the best possible synergies.*

*2. The European Parliament through its competent committees may provide an opinion on an annual basis on the report by the Commission including proposals for market investigations into new services and new practices under Article 17.*

*3. The Commission shall reply in writing to the opinion adopted by the European Parliament as well as respond to any call for action concerning Article 17 therein, including providing justifications for foreseen inaction, and to any question addressed to it by the European Parliament or by the Council within five weeks of its receipt.*

*4. At the request of the European Parliament, the Commission shall participate in a hearing before the European Parliament. A hearing shall take place at least bi-annually. The respective Commissioner shall make a statement before the European Parliament and answer any questions*

*from its members, whenever so requested.  
In addition, a continuous, high-level  
dialogue between the European  
Parliament and the Commission shall be  
ensured through exchanges, which take  
place no less than four times a year.*

#### **Amendment 204**

##### **Proposal for a regulation Article 31 – paragraph 1**

*Text proposed by the Commission*

1. The information collected pursuant to Articles 3, **12, 13**, 19, 20 **and 21** shall be used only for the purposes of this Regulation.

*Amendment*

1. The information collected pursuant to Articles 3, 19, 20, **21 and 31d** shall be used only for the purposes of this Regulation.

#### **Amendment 205**

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

*Text proposed by the Commission*

*Amendment*

***1a. The information collected pursuant to Article 12 shall be used only for the purposes of this Regulation and Regulation (EC) No 139/2004.***

#### **Amendment 206**

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

*Text proposed by the Commission*

*Amendment*

***1b. The information collected pursuant to Article 13 shall be used only for the purposes of this Regulation and Regulation (EU) 2016/679.***

#### **Amendment 207**

**Proposal for a regulation**  
**Article 31 – paragraph 2**

*Text proposed by the Commission*

2. Without prejudice to the exchange and to the use of information provided for the purpose of use pursuant to Articles 32 and 33, the Commission, the authorities of the Member States, their officials, servants and other persons working under the supervision of these authorities and any natural or legal person, including auditors and experts appointed pursuant to Article 24(2), shall not disclose information acquired or exchanged by them pursuant to this Regulation and of the kind covered by the obligation of professional secrecy. This obligation shall also apply to all representatives and experts of Member States participating in any of the activities of the Digital Markets Advisory Committee pursuant to Article 32.

**Amendment 208**

**Proposal for a regulation**  
**Article 31 a (new)**

*Text proposed by the Commission*

*Amendment*

2. Without prejudice to the exchange and to the use of information provided for the purpose of use pursuant to Articles **12, 13, 31d**, 32 and 33, the Commission, the authorities of the Member States, their officials, servants and other persons working under the supervision of these authorities and any natural or legal person, including auditors and experts appointed pursuant to Article 24(2), shall not disclose information acquired or exchanged by them pursuant to this Regulation and of the kind covered by the obligation of professional secrecy. This obligation shall also apply to all representatives and experts of Member States participating in any of the activities of the Digital Markets Advisory Committee pursuant to Article 32.

*Amendment*

**Article 31a**

***European High-Level Group of Digital Regulators***

***1. The Commission shall establish a European High-Level Group of Digital Regulators (the “Group”) in the form of an expert group, consisting of a representative of the Commission, a representative of relevant Union bodies, representatives of national competition authorities and representatives of other national competent authorities in specific sectors including data protection, electronic communications and consumer protection authorities.***



**2. For the purposes of paragraph 1, the relevant national competent authorities shall be represented in the group by their respective heads. In order to facilitate the work of the Group, the Commission shall provide it with a secretariat.**

**3. The work of the Group may be organised into expert working groups building cross-regulator specialist teams that provide the Commission with high level of expertise.**

## **Amendment 209**

### **Proposal for a regulation Article 31 b (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 31b**

#### **Tasks of the European High-Level Group of Digital Regulators**

**1. The Group shall assist the Commission in ensuring the consistent application of this Regulation and monitoring its compliance by means of advice, expertise and recommendations. To that end, the Group shall have the following tasks:**

**(a) to consider matters related to cooperation and coordination between the Commission and Member States in their enforcement actions by promoting the exchange of information and best practices about their work and decision-making principles and practices with the aim of developing a consistent regulatory approach;**

**(b) to make recommendations to the Commission on the need to conduct market investigations under Articles 14, 15, 16 and 17;**

**(c) to make recommendations to the Commission on the need to update the obligations of the Regulation under**

*Articles 5 and 6;*

*(d) to provide advice and expertise to the Commission in the preparation of legislative proposals and policy initiatives including under Article 38;*

*(e) to provide advice and expertise to the Commission in the preparation of delegated acts;*

*(f) where necessary, to provide advice and expertise in the early preparation of implementing acts, before submission to the committee in accordance with Regulation (EU) No 182/2011; and*

*(g) at the request of the Commission, to provide technical advice and expertise before the adoption of a specification decision under Article 7.*

*2. The Group shall report every year on its activities to the European Parliament and offer recommendations and policy suggestions related to the enforcement of this Regulation and other matters contributing to the development of a consistent regulatory approach to the digital single market.*

*3. The Group shall establish its rules of procedure in line with Commission expert groups rules established by Commission decision C(2016)3301.*

*4. The Group meetings with stakeholders and gatekeepers shall be registered and published on a monthly basis in line with the EU transparency register.*

## **Amendment 210**

### **Proposal for a regulation Article 31 c (new)**

*Text proposed by the Commission*

*Amendment*

*Article 31c*

*Role of national competition authorities  
and other competent authorities*

- 1. National competition authorities as well as other competent authorities designated by the Member State shall support the Commission in monitoring compliance with and enforcement of the obligations laid down in this Regulation and report regularly to the Commission on compliance with this Regulation.*
- 2. National competition authorities as well as other competent authorities may, under the coordination of the Commission, provide support to a market investigation or proceedings pursuant to Article 7(2), 15, 16, 17, 19, 20, 21 by collecting information and providing expertise.*
- 3. National competition authorities as well as other competent authorities may collect complaints in accordance with the procedure laid down in Article 24a.*

## **Amendment 211**

### **Proposal for a regulation Article 31 d (new)**

*Text proposed by the Commission*

*Amendment*

#### *Article 31d*

#### *Cooperation and coordination with Member States*

- 1. The Commission and Member States shall work in close cooperation and coordinate their enforcement actions to ensure coherent, effective and complementary enforcement of this Regulation.*
- 2. Where a national authority intends to launch an investigation on gatekeepers based on national laws referred to in Article 1(6), it shall inform the Commission in writing of the first formal investigative measure, before or immediately after the start of such measure. This information may also be made available to the national competition authorities as well as other*

*competent authorities of the other Member States.*

*3. Where a national authority intends to impose obligations on gatekeepers based on national laws referred to in Article 1(6), it shall, no later than 60 days before its adoption, communicate the draft measure to the Commission stating the reasons for the measure. This information may also be made available to the national competition authorities as well as other competent authorities of the other Member States. Where the Commission within those 60 days indicates to the national authority concerned that the draft measure runs counter to this Regulation or to a decision adopted by the Commission under this Regulation or contemplated in proceedings initiated by the Commission, that national authority shall not adopt the measure.*

*4. The Commission and the national competition authorities as well as other competent authorities of the Member States enforcing the rules referred to in Article 1(6) shall have the power to provide one another with any matter of fact or of law, including confidential information.*

*5. The national competition authorities as well as other competent authorities of the Member States enforcing the rules referred to in Article 1(6) may consult the Commission on any matter relating to the application of this Regulation.*

## **Amendment 212**

### **Proposal for a regulation Article 32 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*1a. For meetings in which specific issues are to be discussed, Member States shall be entitled to appoint an additional representative from an authority with the*

*relevant expertise for those issues. This is without prejudice to the right of members of the Committee to be assisted by other experts from the Member States.*

#### **Amendment 213**

##### **Proposal for a regulation Article 32 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**4a. Meetings of the Digital Markets Advisory Committee and the Commission with representatives of gatekeepers and other stakeholders shall be registered and published on a monthly basis in line with the EU transparency register.**

#### **Amendment 214**

##### **Proposal for a regulation Article 33 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. ***When three or more Member States request the Commission to open an investigation pursuant to Article 15 because they consider that there are reasonable grounds to suspect that a provider of core platform services should be designated as a gatekeeper, the Commission shall within four months examine whether there are reasonable grounds to open such an investigation.***

1. ***Two or more national competition authorities or other competent national authorities may request the Commission to open an investigation pursuant to Articles 15, 16, 17 or 25. Competent authority (ies) shall submit evidence in support of their request. The Commission shall within four months examine whether there are reasonable grounds to open such an investigation. Where the Commission considers that there are insufficient grounds for initiating proceedings, it may reject such request and inform the respective competent authority (ies) of its reasons. The Commission shall publish the results of its assessment.***

#### **Amendment 215**

##### **Proposal for a regulation Article 33 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

**2. Member States shall submit evidence in support of their request.**

**deleted**

#### **Amendment 216**

**Proposal for a regulation  
Article 36 – title**

*Text proposed by the Commission*

*Amendment*

**Implementing provisions**

**Detailed arrangements**

#### **Amendment 217**

**Proposal for a regulation  
Article 36 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

1. The Commission may adopt implementing acts **concerning: 3, 6, 12, 13, 15, 16, 17, 20, 22, 23, 25 and 30**

1. The Commission may adopt implementing acts **laying down detailed arrangements for the application of the following:**

#### **Amendment 218**

**Proposal for a regulation  
Article 36 – paragraph 1 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

**(aa) the form, content and other details on how choice is to be provided and consent is to be given, pursuant to Article 5 point (a);**

#### **Amendment 219**

**Proposal for a regulation  
Article 36 – paragraph 1 – point a b (new)**

*Text proposed by the Commission*

*Amendment*

***(ab) the form, content and other details on how information on price and remuneration are to be given, pursuant to Article 5 point (g);***

## **Amendment 220**

### **Proposal for a regulation**

#### **Article 36 – paragraph 1 – point g a (new)**

*Text proposed by the Commission*

*Amendment*

***(ga) the practical arrangements for the cooperation and coordination between the Commission and Member States provided for in Article 31d.***

## **Amendment 221**

### **Proposal for a regulation**

#### **Article 36 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. ***the practical arrangements for the cooperation and coordination between the Commission and Member States provided for in Article 1(7).*** Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 32(4). Before the adoption of any measures pursuant to paragraph 1, the Commission shall publish a draft thereof and invite all interested parties to submit their comments within the time limit it lays down, which may not be less than one month.

2. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 32(4). Before the adoption of any measures pursuant to paragraph 1, the Commission shall publish a draft thereof and invite all interested parties to submit their comments within the time limit it lays down, which may not be less than one month.

## **Amendment 222**

### **Proposal for a regulation**

#### **Article 36 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 36a**

**Guidelines**

***To facilitate the compliance of gatekeepers with and the enforcement of the obligations in Articles 5, 6, 12 and 13, the Commission may accompany the obligations set out in those Articles with guidelines, where the Commission deems that this is appropriate. Where appropriate and necessary, the Commission may mandate the standardisation bodies to facilitate the implementation of the obligations by developing appropriate standards.***

#### **Amendment 223**

##### **Proposal for a regulation Article 37 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. The power to adopt delegated acts referred to in Articles 3(6) and **9(1)** shall be conferred on the Commission for a period of five years from DD/MM/YYYY. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

2. The power to adopt delegated acts referred to in Articles 3(6) and **10** shall be conferred on the Commission for a period of five years from DD/MM/YYYY. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

#### **Amendment 224**

##### **Proposal for a regulation Article 37 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. The delegation of power referred to

3. The delegation of power referred to



in Articles 3(6) and **9(1)** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

in Articles 3(6) and **10** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

## **Amendment 225**

### **Proposal for a regulation Article 37 a (new)**

*Text proposed by the Commission*

*Amendment*

#### *Article 37a*

*Amendment to Directive (EU) 2019/1937  
In Part XX of the Annex to Directive (EU) 2019/1937, the following point is added:  
"Regulation (EU) .../... of the European Parliament and of the Council of ... on XX (EU) 2021/XXX, and amending Directive (EU) 2019/1937 (OJ L ...).*

## **Amendment 226**

### **Proposal for a regulation Article 37 b (new)**

*Text proposed by the Commission*

*Amendment*

#### *Article 37b*

*Amendments to Directive (EU) 2020/1828  
on Representative Actions for the  
Protection of the Collective Interests of  
Consumers*

*The following is added to Annex I:*

*“(X) Regulation of the European Parliament and of the Council on contestable and fair markets in the digital sector (Digital Markets Act)”*

## Amendment 227

### Proposal for a regulation Article 39 – paragraph 2 – subparagraph 1

*Text proposed by the Commission*

This Regulation shall apply from **six** months after its entry into force.

*Amendment*

This Regulation shall apply from **two** months after its entry into force.

## Amendment 228

### Proposal for a regulation Annex 1 (new)

*Text proposed by the Commission*

*Amendment*

#### **a. ‘General’**

***1. The present annex aims at specifying the methodology for identifying and calculating the ‘end users’ and the ‘business users’ for each core platform service defined in Article 2(2) for the purpose of point (b) of Article 3(2). It provides a reference to enable an undertaking to assess whether its core platforms services meet the quantitative thresholds set out in Article 3(2)(b) and would therefore be presumed to meet the requirement in Article 3(1)(b). It will therefore equally be of relevance to any broader assessment under Article 3(6). It is the responsibility of the undertaking to come to the best approximation possible in line with the common principles and specific methodology set out in this annex. Nothing in this annex precludes the Commission from requiring the undertaking providing core platform services to provide any information necessary to identify and calculate the ‘end users’ and the ‘business users’. In doing so, the Commission is bound by the timelines laid down in the relevant provisions of this Regulation. Nothing in the present annex should constitute a legal basis for tracking users. The methodology contained in this annex is also without prejudice to any of the***

*obligations in the Regulation, notably including those laid down in Article 3(3), Article 3(6) and Article 11(1). In particular, the required compliance with Article 11(1) also means identifying and calculating end users and business users based either on a precise measurement or on the best approximation available – in line with the actual identification and calculation capacities that the undertaking providing core platform services possesses at the relevant point in time. These measurements or the best approximation available shall be consistent with, and include, those reported under Article 13.*

2. Article 2(16) and (17) set out the definitions of ‘end user’ and ‘business user’, which are common to all core platform services.

*3. In order to identify and calculate the number of ‘end users’ and ‘business users’, the present annex refers to the concept of ‘unique users’. The concept of ‘unique users’ encompasses ‘end users’ and ‘business users’ counted only once, for the relevant core platform service, over the course of a specified time period (i.e. month in case of ‘end users’ and year in case of ‘business users’), no matter how many times they engaged with the relevant core platform service over that period. This is without prejudice to the fact that the same natural or legal person can simultaneously constitute an end user or business user for different core platform services.*

*b. ‘end users’*

*4. Number of ‘unique users’ as regards ‘end users’: unique users shall be identified according to the most accurate metric reported by the undertaking providing any of the core platform services, specifically:*

*a. It is considered that collecting data about the use of core platform services from signed-in or logged-in environments would prima facie*

*present the lowest risk of duplication, for example in relation to user behaviour across devices or platforms. Hence, the undertaking shall submit aggregate anonymized data on the number of unique users per respective core platform service based on signed-in or logged-in environments if such data exists.*

*b. In the case of core platform services which are (also) accessed by end users outside signed-in or logged-in environments, the undertaking shall additionally submit aggregate anonymized data on the number of unique end users of the respective core platform service based on an alternate metric capturing also end users outside signed-in or logged-in environments such as internet protocol addresses, cookie identifiers or other identifiers such as radio frequency identification tags provided that those addresses or identifiers are (objectively) necessary for the provision of the core platform services.*

*5. Article 3(2) also requires that the number of ‘monthly end users’ is based on the average number of monthly end users during a period of at least six months within the last financial year. An undertaking providing core platform service(s) can discount outlier figures in a given year. Outlier figures inherently mean figures that fall outside the normal values such as a sales peak that occurred during a single month in a given year but do not include the annual regular and predictable sales.*

*c. ‘business users’*

*6. Number of ‘unique users’ as regards ‘business users’, ‘unique users’ are to be determined, where applicable, at the account level with each distinct business account associated with the use of a core platform service provided by the*

*undertaking constituting one unique business user of that respective core platform service. If the notion of 'business account' does not apply to a given core platform service, the relevant undertaking providing core platform services shall determine the number of unique business users by referring to the relevant undertaking.*

*d. 'Submission of information'*

*7. The undertaking submitting information concerning the number of end users and business users per core platform service shall be responsible for ensuring the completeness and accuracy of that information. In that regard:*

*a. The undertaking shall be responsible for submitting data for a respective core platform service that avoids under-counting and over-counting the number of end users and business users (for example where users access the core platform services across different platforms or devices) in the information provided to the Commission.*

*b. The undertaking shall be responsible for providing precise and succinct explanations about the methodology used to arrive at the information provided to the Commission and of any risk of under-counting or over-counting of the number of end users and business users for a respective core platform service and of the solutions adopted to address that risk.*

*c. The undertaking shall provide the Commission data that is based on an alternative metric when the Commission has concerns about the accuracy of data provided by the undertaking providing core platform service(s).*

*8. For the purpose of calculating the number of 'end users' and 'business*

*users’:*

*a. The undertaking providing core platform service(s) shall not identify core platform services that belong to the same category of core platform services pursuant to Article 2(2) as distinct mainly on the basis that they are provided using different domain names – whether country code top-level domains (ccTLDs) or generic top-level domains (gTLDs) - or any geographic attributes.*

*b. The undertaking providing core platform service(s) shall consider as distinct core platform services those core platform services, which despite belonging to the same category of core platform services pursuant to Article 2(2) are used for different purposes by either their end users or their business users, or both, even if their end users and business users may be the same.*

*c. The undertaking providing core platform service(s) shall consider as distinct core platform services those services which the relevant undertaking offers in an integrated way but which (i) do not belong to the same category of core platform services pursuant to Article 2(2) or (ii) despite belonging to the same category of core platform services pursuant to Article 2(2), are used for different purposes by either their end users or their business users, or both, even if their end users and business users may be the same.*

*e. ‘Specific definitions’*

*9. Specific definitions per core platform service: The below list sets out specific definitions of ‘end users’ and ‘business users’ for each core platform service.*

**Amendment 229****Proposal for a regulation  
Annex 1 - table (new)***Text proposed by the Commission**Amendment*

<i>Core platform service</i>	<i>end users</i>	<i>business users</i>
<i>Online intermediation services</i>	<i>Number of unique end users who engaged with the online intermediation service at least once in the month for example through actively logging-in, , making a query, clicking or scrolling or concluded a transaction through the online intermediation service at least once in the month.</i>	<i>Number of unique business users who had at least one item listed in the online intermediation service during the whole year or concluded a transaction enabled by the online intermediation service during the year.</i>
<i>Online search engines</i>	<i>Number of unique end users who engaged with the online search engine at least once in the month, for example through making a query.</i>	<i>Number of unique business users with business websites (i.e. website used in commercial or professional capacity) indexed by or part of the index of the online search engine during the year.</i>
<i>Online social networking services</i>	<i>Number of unique end users who engaged with the online social networking service at least once in the month, for example through actively logging-in, opening a page, scrolling, clicking, liking, making a query, posting or commenting.</i>	<i>Number of unique business users who have a business listing or business account in the online social networking service and have engaged in any way with the service at least once during the year, for example through actively logging-in, opening a page, scrolling, clicking, liking, making a query, posting, commenting or using its tools for businesses.</i>
<i>Video-sharing platform services</i>	<i>Number of unique end users who engaged with the video-sharing platform</i>	<i>Number of unique business users who provided at least one piece of audiovisual</i>

	<i>service at least once in the month, for example through playing a segment of audiovisual content, making a query or uploading a piece of audiovisual content, notably including user-generated videos.</i>	<i>content uploaded or played on the video-sharing platform service during the year.</i>
<i>Number-independent interpersonal communication services</i>	<i>Number of unique end users who initiated or participated in any way in a communication through the number-independent interpersonal communication service at least once in the month.</i>	<i>Number of unique business users who used a business account or otherwise initiated or participated in any way in a communication through the number-independent interpersonal communication service to communicate directly with an end user at least once during the year.</i>
<i>Operating systems</i>	<i>Number of unique end users who utilised a device with the operating system, which has been activated, updated or used at least once in the month.</i>	<i>Number of unique developers who published, updated or offered at least one software application or software program using the programming language or any software development tools of, or running in any way on, the operating system during the year.</i>
<i>Cloud computing services</i>	<i>Number of unique end users who engaged with any cloud computing services from the relevant provider of cloud computing services at least once in the month, in return for any type of remuneration, regardless of whether this remuneration occurs in the same month.</i>	<i>Number of unique business users who provided any cloud computing services hosted in the cloud infrastructure of the relevant provider of cloud computing services during the year.</i>
<i>Advertising services</i>	<i>Proprietary sales of advertising space</i>  <i>Number of unique end users who were exposed to an advertisement impression at least once in</i>	<i>Proprietary sales of advertising space</i>  <i>Number of unique advertisers who had at least one advertisement impression displayed during</i>



	<p><i>the month.</i></p> <p><i>Advertising intermediation (including advertising networks, advertising exchanges and any other advertising intermediation services)</i></p> <p><i>Number of unique end users who were exposed to an advertisement impression which triggered the advertising intermediation service at least once in the month.</i></p>	<p><i>the year.</i></p> <p><i>Advertising intermediation (including advertising networks, advertising exchanges and any other advertising intermediation services)</i></p> <p><i>Number of unique business users (including advertisers, publishers or other intermediators) who interacted via or were served by the advertising intermediation service during the year.</i></p>
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