

AMENDMENTS 001-141

by the Committee on Internal Market and Consumer Protection

Report**Christel Schaldemose****A8-0444/2018**

Promoting fairness and transparency for business users of online intermediation services

Proposal for a regulation (COM(2018)0238 – C8-0165/2018 – 2018/0112(COD))

Amendment 1**Proposal for a regulation****Recital 1***Text proposed by the Commission*

(1) Online intermediation services are key enablers of entrepreneurship, trade and innovation, which can also improve consumer welfare and which are increasingly used by both the private and public sectors. They offer access to new markets and commercial opportunities allowing undertakings to exploit the benefits of the internal market. They also allow consumers in the Union to exploit those benefits, in particular by increasing their choice of goods and services *offered* online.

Amendment

(1) Online intermediation services are key enablers of entrepreneurship **and new business models**, trade and innovation, which can also improve consumer welfare and which are increasingly used by both the private and public sectors. They offer access to new markets and commercial opportunities allowing undertakings to exploit the benefits of the internal market. They also allow consumers in the Union to exploit those benefits, in particular by increasing their choice of goods and services **as well as by offering competitive pricing** online. **However, the potential legal uncertainty that may arise from the emergence of new technologies should be addressed.**

Amendment 2

Proposal for a regulation
Recital 2

Text proposed by the Commission

(2) Online intermediation services can be crucial for the commercial success of undertakings who use such services to reach consumers. The growing intermediation of transactions through online intermediation services, fuelled by strong data-driven indirect network effects, lead to an increased dependence of such business users, including micro, small and medium-sized enterprises, on those services in order for them to reach consumers. Given that increasing dependence, the providers of those services often have superior bargaining power, **which enables** them to effectively behave unilaterally in a way that can be unfair and that can be harmful to the legitimate interests of their businesses users and, indirectly, **also** of consumers in the Union.

Amendment

(2) Online intermediation services can be crucial for the commercial success of undertakings who use such services to reach consumers. The growing intermediation of transactions through online intermediation services, fuelled by strong data-driven indirect network effects, lead to an increased dependence of such business users, including **the self-employed and** micro, small and medium-sized enterprises, on those services in order for them to reach consumers. Given that increasing dependence, **which could also affect large businesses in addition to microenterprises and small and medium-sized enterprises**, the providers of those services often have superior bargaining power. **If this superior bargaining power is misused, it can enable** them to effectively behave unilaterally in a way that can be unfair and that can be harmful to the legitimate interests of their businesses users and, indirectly **but significantly, also to those** of consumers in the Union. **Consumers have embraced the online platform economy and a competitive, fair, and transparent online ecosystem where companies behave responsibly is also essential for consumer welfare. Where dominant online intermediation services become gatekeepers of information, choice and prices, the consumers also suffer. Moreover, lack of transparency and legal uncertainty in the online platform economy, including in business to business relations, could diminish consumer trust in the online economy. This Regulation should improve the fairness and transparency for business users of online intermediation services, which is ultimately to the benefit of consumers. However, the direct consequences to consumers of new business models and technological**

developments are addressed in Commission Proposal for a Directive of the European Parliament and of the Council amending Council Directive 93/13/EEC of 5 April 1993, Directive 98/6/EC of the European Parliament and of the Council, Directive 2005/29/EC of the European Parliament and of the Council and Directive 2011/83/EU of the European Parliament and of the Council as regards better enforcement and modernisation of EU consumer protection rules^{1a}.

^{1a} COD(2018)0090

Amendment 3

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) Similarly, online search engines can be important sources of Internet traffic for undertakings which offer goods or services to consumers through websites and can therefore significantly affect the commercial success of such corporate website users offering their goods or services online in the internal market. In this regard, the ranking of websites by providers of online search engines, including of those websites through which corporate website users offer their goods and services to consumers, has an important impact on consumer choice and the commercial success of those corporate website users. Even in the absence of a contractual relationship with corporate website users, providers of online search engines can therefore effectively behave unilaterally in a way that can be unfair and that can be harmful to the legitimate interests of corporate website users and, indirectly, *also* of consumers in the Union.

Amendment

(3) Similarly, online search engines can be important sources of Internet traffic for undertakings which offer goods or services to consumers through websites and can therefore significantly affect the commercial success of such corporate website users offering their goods or services online in the internal market. In this regard, the ranking of websites by providers of online search engines, including of those websites through which corporate website users offer their goods and services to consumers, has an important impact on consumer choice and the commercial success of those corporate website users. Even in the absence of a contractual relationship with corporate website users, providers of online search engines can therefore effectively behave unilaterally in a way that can be unfair and ***disrupt normal competition on the market*** and that can be harmful to the legitimate interests of corporate website users and,

indirectly **but significantly, also to those** of consumers in the Union.

Amendment 4

Proposal for a regulation Recital 3 a (new)

Text proposed by the Commission

Amendment

(3 a) In some cases, operating systems may hold a role as intermediaries between business users and consumers. Since the definition of online intermediation services in this Regulation should be understood to be technologically neutral and to capture services regardless of their degree of integration with the software and any hardware used to provide them, where operating systems act as online intermediation services within the meaning of this Regulation, the providers of those operating systems should also be covered by the obligations laid down on providers of online intermediation services in this Regulation.

Amendment 5

Proposal for a regulation Recital 4

Text proposed by the Commission

Amendment

(4) The ***dependence of*** business users on online intermediation services also leads to a ***situation*** in which business users often have limited possibilities to seek redress where unilateral actions of the providers of those services lead to a dispute. In many cases, those providers do not offer accessible and effective internal complaint-handling systems. Existing alternative out-of-court dispute settlement mechanisms can also be ineffective for a variety of reasons, including a lack of specialised mediators and business users' fear of

(4) The ***nature of the relationship between*** business users on ***and*** online intermediation services ***may*** also leads to ***situations*** in which business users often have limited possibilities to seek redress where unilateral actions of the providers of those services lead to a dispute. In many cases, those providers do not offer accessible and effective internal complaint-handling systems. Existing alternative out-of-court dispute settlement mechanisms can also be ineffective for a variety of reasons, including a lack of specialised

retaliation.

mediators and business users' fear of retaliation.

Amendment 6

Proposal for a regulation

Recital 5

Text proposed by the Commission

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

Amendment

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

Amendment 7

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) A uniform and targeted set of mandatory rules should therefore be established at Union level to ensure a fair, predictable, sustainable and trusted online business environment within the internal

Amendment

(6) A uniform and targeted set of mandatory rules should therefore be established at Union level to ensure a fair, predictable, sustainable and trusted online business environment within the internal

market by ensuring, in particular, that the business users of online intermediation services are afforded appropriate transparency as well as effective redress possibilities throughout the Union. Those rules should also provide for appropriate transparency as regards the ranking of corporate website users in the search results generated by online search engines. At the same, those rules should be such as to safeguard the important innovation potential of the wider online platform economy.

market by ensuring, in particular, that the business users of online intermediation services are afforded appropriate transparency as well as effective redress possibilities throughout the Union. Those rules should also provide for appropriate ***incentives to promote fair and proportionate business behaviour and transparency, especially*** as regards the ranking of corporate website users in the search results generated by online search engines, ***including voice assistance services***. At the same ***time***, those rules should be such as to ***recognize and*** safeguard the important innovation potential of the wider online platform economy ***and allow for healthy competition leading to increased consumer choice***.

Amendment 8

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) Since online intermediation services and online search engines typically have a global dimension, this Regulation should apply to providers of those services regardless of whether they are established in a Member State or outside the Union, provided that two cumulative conditions are met. Firstly, the business users or corporate website users should be established in the Union. Secondly, the business users or corporate website users should, through the provision of those services, offer their goods or services to consumers located in the Union at least for part of the transaction. Such consumers should be located in the Union, but do not need to have their place of residence in the Union nor have the nationality of any Member State. Accordingly, this Regulation should not apply where the business users or corporate websites users

Amendment

(7) Since online intermediation services and online search engines typically have a global dimension, this Regulation should apply to providers of those services regardless of whether they are established in a Member State or outside the Union, provided that two cumulative conditions are met. Firstly, the business users or corporate website users should be established in the Union. Secondly, the business users or corporate website users should, through the provision of those services, offer their goods or services to consumers located in the Union at least for part of the transaction. ***In accordance with Regulation (EC) No 1215/2012 of the European Parliament and of the Council and Regulation (EC) No 593/2008 of the European Parliament and of the Council, this would mean that the online intermediation services and online search***

are not established in the Union or where they are established in the Union but where they use online intermediation services or online search engines to offer goods or services exclusively to consumers located outside the Union or to persons who are not consumers.

engines have directed activities to consumers located in one or more Member States, irrespective of their location within the Union. Such consumers should be located in the Union, but do not need to have their place of residence in the Union nor have the nationality of any Member State. Accordingly, this Regulation should not apply where the business users or corporate websites users are not established in the Union or where they are established in the Union but where they use online intermediation services or online search engines to offer goods or services exclusively to consumers located outside the Union or to persons who are not consumers. *The rules relating to choice of law and choice of court in contractual matters in international and Union law have been conceived in relation to the typical commercial contracts negotiated to the letter between the parties and their legal representatives. It can be questioned to what extent these rules are appropriate in relation to the specific situation of agreements for platforms and in general to agreements in the digital era. This question ought to be given further consideration.*

Amendment 9

Proposal for a regulation Recital 8

Text proposed by the Commission

(8) A wide variety of business-to-consumer **commercial** relations are intermediated online by providers operating multi-sided services that are essentially based on the same ecosystem-building business model. In order to capture the relevant services, online intermediation services should be defined in a precise and technologically-neutral manner. In particular, the services should

Amendment

(8) A wide variety of business-to-consumer relations are intermediated online by providers operating multi-sided services that are essentially based on the same ecosystem-building business model. In order to capture the relevant services, online intermediation services should be defined in a precise and technologically-neutral manner. In particular, the services should consist of information society

consist of information society services, which are characterised by the fact that they aim to facilitate the initiating of direct transactions between business users and consumers, irrespective of whether the transactions are ultimately concluded either online, on the online portal of the provider of the online intermediation services in question or that of the business user, or offline. In addition, the services should be provided on the basis of contractual relationships both between the providers and business users and between the providers and the consumers. Such a contractual relationship should be deemed to exist where both parties concerned express their intention to be bound in an unequivocal and verifiable manner, without an express written agreement necessarily being required.

services, which are characterised by the fact that they aim to facilitate the initiating of direct transactions between business users and consumers, irrespective of whether the transactions are ultimately concluded either online, on the online portal of the provider of the online intermediation services in question or that of the business user, or offline, **meaning that there is no requirement for any contractual relationship between the business users and consumers as a precondition for an online intermediation service falling within the scope of this Regulation. Services where the facilitating of the initiating of direct transactions between those business users and consumers is of marginal character only, meaning that even if it might in a limited number of cases be possible to interpret the service as having facilitated the initiation, a direct transaction between certain business users and consumers, should not be included, as this would not be the aim of the service. Where services habitually facilitate such transactions, the facilitating of initiating of direct transactions might not be understood to be of marginal character only.** In addition, the services should be provided on the basis of contractual relationships both between the providers and business users and between the providers and the consumers. Such a contractual relationship should be deemed to exist where both parties concerned express their intention to be bound in an unequivocal and verifiable manner, without an express written agreement necessarily being required. **Such a contractual relationship between the providers of online intermediation services and consumers should also be deemed to exist in cases where the services are supplied to the consumer against the provision of personal data or other data by the consumer.**

Amendment 10

Proposal for a regulation Recital 9

Text proposed by the Commission

(9) Examples of online intermediation services covered by this Regulation should consequently include online e-commerce market places, including collaborative ones on which business users are active, online software applications services and online social media services. However, this Regulation should not apply to online advertising serving tools or online advertising exchanges which are not provided with the aim of facilitating the initiation of direct transactions and which do not involve a contractual relationship with consumers. This Regulation should also not apply to online payment services, since they do not themselves meet the applicable requirements but are rather inherently auxiliary to the transaction for the supply of goods and services to the consumers concerned.

Amendment

(9) Examples of online intermediation services covered by this Regulation should consequently include online e-commerce market places, including collaborative ones on which business users are active, online software applications services ***such as application stores, voice assistance services***, and online social media services. ***It should apply to such services regardless of emerging or future developments altering their technological or commercial design, including for example their interaction with software operating systems***. However, this Regulation should not apply to online advertising serving tools or online advertising exchanges which are not provided with the aim of facilitating the initiation of direct transactions and which do not involve a contractual relationship with consumers. This Regulation should also not apply to online payment services, since they do not themselves meet the applicable requirements but are rather inherently auxiliary to the transaction for the supply of goods and services to the consumers concerned

Amendment 11

Proposal for a regulation Recital 9 a (new)

Text proposed by the Commission

Amendment

(9 a) In certain cases, distinguishing between business users and non-business users of online intermediation services may be complicated. Such a distinction is important, since business users who offer

goods or services to consumers should also be under stricter obligations towards consumers. In line with the Commission Proposal for a Directive of the European Parliament and of the Council amending Council Directive 93/13/EEC of 5 April 1993, Directive 98/6/EC of the European Parliament and of the Council, Directive 2005/29/EC of the European Parliament and of the Council and Directive 2011/83/EU of the European Parliament and of the Council as regards better enforcement and modernisation of EU consumer protection rules^{1a}, it should not be in the discretion of the provider of an online intermediation service to distinguish whether a user is a business user or a non-business user. Rather, the users of online intermediation services should have the possibility to express whether they are business users or not, and in the case of business users, fulfil their stricter obligations towards consumers.

^{1a} COM(2018)0185 final.

Amendment 12

Proposal for a regulation Recital 9 b (new)

Text proposed by the Commission

Amendment

(9 b) The definition of ancillary operating systems should capture operating systems which are essential for controlling a mobile device, which are closely linked to an online intermediation service and that online intermediation service controls the main channel through which application may be installed, and where the development and updating of that operating system is indirectly or directly provided or controlled by the provider of the linked online intermediation service. This definition of ancillary operating

systems should apply to services regardless of emerging or future developments altering their technological or commercial design, including for example the use of voice control.

Amendment 13

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) In line with the relevant case-law of the Court of Justice of the European Union and in light of the fact that the dependent position of business users has been observed principally in respect of online intermediation services that serve as a gateway to consumers in the form of natural persons, the notion of consumer used to delineate the scope of this Regulation is to be understood as referring solely to natural persons, where they are acting for purposes which are outside their trade, business, craft or profession.

Amendment

(10) In line with the relevant case-law of the Court of Justice of the European Union and in light of the fact that the dependent position of business users has been observed principally in respect of online intermediation services that serve as a gateway to consumers in the form of natural persons, the notion of consumer used to delineate the scope of this Regulation is to be understood as referring solely to natural persons, where they are acting for purposes which are outside their trade, business, craft or profession. ***For the purposes of this Regulation, therefore, online intermediation services solely directing or targeting offers of goods and services from businesses to other businesses are not included in the scope, because there is no direct consequence on consumers.***

Amendment 14

Proposal for a regulation

Recital 11

Text proposed by the Commission

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

Amendment

(11) The definition of online search engine used in this Regulation should be ***broader than*** the definition used in Directive (EU) 2016/1148 of the European Parliament and of the Council²¹.

of the Council²¹ .

Considering the quick pace of innovation, the definition should be technology-neutral. In particular, the definition should be understood to also encompass vocal requests.

²¹ Directive (EU) 2016/1148 of the European Parliament and of the Council concerning measures for a high common level of security of network and information systems across the Union (OJ L 194, 19.7.2016, p. 1).

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Amendment 15

Proposal for a regulation Recital 12

Text proposed by the Commission

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

Amendment

(12) In order to effectively protect business users , this Regulation should apply ***to*** the terms and conditions of a contractual relationship ***between providers of online intermediation services and business users***, regardless of their name or form.

Amendment 16

Proposal for a regulation Recital 12 a (new)

Text proposed by the Commission

Amendment

(12 a) Providers of online intermediation services may provide or control other services or software, which could in some cases create a possibility for

those software or services to be used to circumvent obligations laid down on providers of online intermediation services in this Regulation. While not extending the scope of this Regulation and the requirements laid down herein to those software or services, the providers of online intermediation services should not use those software or services to circumvent any obligations laid down on online intermediation services. Control within this Regulation should be understood as being within the meaning of Article 3(2) of Council Regulation (EC) No. 139/2004, that is, that control should be constituted by rights, contracts or any other means which, either separately or in combination and having regard to the considerations of fact or law involved, confer the possibility of exercising decisive influence on an undertaking. This decisive influence could be exercised in particular by ownership, the right to use all or part of the assets on an undertaking, or the rights or contract which confer decisive influence on the composition, voting or decisions of the organs of an undertaking.

Amendment 17

Proposal for a regulation Recital 13

Text proposed by the Commission

(13) To ensure that the general terms and conditions of a contractual relationship enable business users to determine the commercial conditions for the use, termination and suspension of online intermediation services, and to achieve predictability regarding their business relationship, those terms and conditions should be drafted in clear and **unambiguous** language which is easily understood by an average business user. Terms and conditions should not be

Amendment

(13) To ensure that the general terms and conditions of a contractual relationship enable business users to determine the commercial conditions for the use, termination and suspension of online intermediation services, and to achieve predictability regarding their business relationship, those terms and conditions should be drafted in clear and **intelligible** language which is easily understood by an average business user. Terms and conditions should not be considered to

considered to have been drafted in clear and **unambiguous** language where they are vague, unspecific or lack detail on important commercial issues and thus fail to give business users a reasonable degree of predictability on the most important aspects of the contractual relationship.

have been drafted in clear and **intelligible** language where they are vague, unspecific or lack detail on important commercial issues and thus fail to give business users a reasonable degree of predictability on the most important aspects of the contractual relationship. **Moreover, language that is misleading in the choice of phrasing should not be considered clear and intelligible.**

Amendment 18

Proposal for a regulation Recital 13 a (new)

Text proposed by the Commission

Amendment

(13 a) To ensure not only transparency but also fairness in the relationships between providers of online intermediation services and their business users, the general terms and conditions should also be fair and proportionate taking into consideration the nature of the activities of the provider of the online intermediation service and the business user. Terms and conditions would not be considered to be fair and proportionate where, for example, those terms and conditions grossly deviate from good commercial conduct in the particular economic activity in which the online intermediation service operates, or go against the principles of good faith and fair dealing. In assessing these general requirements, the nature and purpose of the contract, the circumstances of the case and the usages and practices of the commercial activity should also be taken into account by the relevant enforcement authorities.

Amendment 19

Proposal for a regulation Recital 13 b (new)

Text proposed by the Commission

Amendment

(13 b) *In order to ensure that business users have sufficient clarity regarding where, and to whom, their goods or services are being marketed, providers of online intermediation services should ensure transparency towards their business users regarding any additional channels and potential affiliate programmes that the online intermediation service may use to markets aid goods or services.*

Amendment 20

Proposal for a regulation Recital 14

Text proposed by the Commission

Amendment

(14) Ensuring transparency in the general terms and conditions can be essential to promoting sustainable business relationships and to preventing unfair behaviour to the detriment of business users. Providers of online intermediation services should therefore also ensure that the terms and conditions are easily available at all stages of the contractual relationship, including to prospective business users at the pre-contractual phase, and that any modifications to those terms are notified to business users within a set notice period which is reasonable and proportionate in light of the specific circumstances and which is at least 15 days. That notice period should not apply where, and to the extent that, it is waived in an unambiguous manner by the business user concerned or where, **and** to the extent that, the need to implement the

(14) Ensuring transparency in the general terms and conditions can be essential to promoting sustainable business relationships and to preventing unfair behaviour to the detriment of business users. Providers of online intermediation services should therefore also ensure that the terms and conditions are easily available at all stages of the contractual relationship, including to prospective business users at the pre-contractual phase, and that any modifications to those terms **and conditions** are notified to business users within a set notice period which is reasonable and proportionate in light of the specific circumstances and which is at least 15 days **and at least 30 days in cases where the modification requires the business user to make significant technical adjustments to its goods or services to comply with the modification.**

modification without respecting the notice period stems from a legal obligation incumbent on the service provider under Union or national law.

The concept of a modification should not be understood to encompass those changes to terms and conditions which are of a purely administrative nature, such as a change to a phone number or an address of the provider. By way of exception, the notice periods should not apply where, and to the extent that, they are waived in an unambiguous manner by the business user concerned or where, to the extent that, the need to implement the modification without respecting the notice period stems from a legal obligation incumbent on the service provider under Union or national law, and in cases where the provider acts to address dangers which could harm or pose security problems for the service, to their consumers or to other users, since given the diversity of content that business users distribute through online intermediation services, unforeseen dangers and practices could arise in ways that require immediate action. Business users should be entitled to terminate their agreement within 15 days from the receipt of the notice of any modification which they consider being detrimental to them.

Amendment 21

Proposal for a regulation Recital 14 a (new)

Text proposed by the Commission

Amendment

(14 a) In general, submitting new or updating goods or services to the online intermediation services should be considered clear affirmative action by the business user. However, since modifications of terms and conditions could in some cases require significant changes from the business user to comply with the new terms and conditions, the business users should not be obliged to leave their goods and services without updates, for example on content of

services, while the business user prepares for complying with the new terms and conditions. As such, in cases where the notice period is 30 days because the modifications to the terms and conditions require the business user to make significant technical adjustments to their goods or services, the notice period should not be considered automatically waived where the business user submits new or updates goods and services. The provider of online intermediation services should expect the modifications to terms and conditions to require the business user to make significant technical adjustments where, for example, entire features of the online intermediation service that business users had access to are removed or added, or where business users may need to re-program their goods and services to be able to continue operating on the platform. In cases where multiple changes to terms and conditions are notified to the business users at once, only the change reasonably expected to require significant technical adjustments from the business user should be subject to the 30 days' notice period and to the exception to the automatic waiving of the notice period.

Amendment 22

Proposal for a regulation Recital 15

Text proposed by the Commission

(15) In order to protect business users it should be possible for a competent court to establish that non-compliant terms and conditions are **not binding on the business user concerned**, with effects ex nunc. Any such finding by a court should however only concern the specific provisions of the terms and conditions which are not compliant. The remaining provisions should remain valid and enforceable, in as

Amendment

(15) In order to protect business users **and to provide legal certainty for both sides**, it should be possible for a competent court to establish that non-compliant terms and conditions are **null and void**, with effects ex nunc. Any such finding by a court should however only concern the specific provisions of the terms and conditions which are not compliant. The remaining provisions should remain valid and

far as they can be severed from the non-compliant provisions. Sudden modifications to existing terms and conditions may significantly disrupt business users' operations. In order to limit such negative effects on business users, and to discourage such behaviour, modifications made in contravention of the obligation to provide a set notice period, should therefore be null and void, that is, deemed to have never existed with effects erga omnes and ex tunc.

Amendment 23

Proposal for a regulation Recital 16

Text proposed by the Commission

(16) A provider of online intermediation services can have legitimate reasons to decide to suspend or terminate the provision of its services, in whole or in part, to a given business user, including by delisting individual goods or services of a given business user or effectively removing search results. However, given that such decisions can significantly affect the interests of the business user concerned, they should be properly informed of the reasons **thereof**. The statement of reasons should allow business users to ascertain whether there is scope to challenge the decision, thereby improving the possibilities for business users to seek effective redress where necessary. In addition, requiring a statement of reasons should help to prevent or remedy any unintended removal of online content provided by business users which the provider incorrectly considers to be illegal content, in line with Commission Recommendation (EU) **No 2018/334**²². The statement of reasons should identify the objective ground or grounds for the decision, based on the grounds that the provider had set out in advance in its terms

enforceable, in as far as they can be severed from the non-compliant provisions. Sudden modifications to existing terms and conditions may significantly disrupt business users' operations. In order to limit such negative effects on business users, and to discourage such behaviour, modifications made in contravention of the obligation to provide a set notice period, should therefore be null and void, that is, deemed to have never existed with effects erga omnes and ex tunc.

Amendment

(16) A provider of online intermediation services can have legitimate reasons to decide to suspend, **restrict** or terminate the provision of its services, in whole or in part, to a given business user, including by delisting individual goods or services of a given business user or effectively removing search results. ***It can also be under a legal obligation to remove certain content, or to suspend, restrict or terminate the provision of its services in whole or in part.*** However, given that such decisions can significantly affect the interests of the business user concerned, they should be properly informed ***in advance*** of the ***suspension, restriction or termination, except for in cases where a provider of online intermediation services is under a legal obligation to suspend, restrict or terminate its services immediately. There could also be cases in which the provider of online intermediation services is not under a legal obligation, such as a product recall initiated by market surveillance authorities, to terminate its services, but where the provider nevertheless has reasonable doubts regarding the safety of a product or***

and conditions, and refer in a proportionate manner to the relevant specific circumstances that led to that decision.

service, counterfeiting, fraud, or suitability of the product or service to minors. In such cases, it should be possible for the provider of the online intermediation service to act immediately to protect consumers. However, in these exceptional cases where services could be suspended, restricted or terminated immediately, the business user should in any case be provided with a statement of reasons for the suspension, restriction or termination. The statement of reasons should allow business users to ascertain whether there is scope to challenge the decision, thereby improving the possibilities for business users to seek effective redress where necessary. In addition, requiring a statement of reasons should help to prevent or remedy any unintended removal of online content provided by business users which the provider incorrectly considers to be illegal content, in line with Commission Recommendation (EU) No 2018/334. *In some cases, the decision of the provider of an online intermediation service is based on notifications by third parties. These notifications can be abused by competitors. Commission Recommendation (EU) 2018/334²² requires such notifications to be sufficiently precise and adequately substantiated to enable the hosting provider to take an informed and diligent decision in respect of the content to which the notice relates. Providers of online intermediation services should therefore be required to pass on information regarding the content of the notification to the business user in cases where a decision to suspend, restrict or terminate the provision of its services follows from a notification from a third party, in order to allow the business user to easily refute manifestly wrongful notices.* The statement of reasons should identify the objective ground or grounds for the decision, based on the grounds that the provider had set out in advance in its terms

and conditions, and refer in a proportionate manner to the relevant specific circumstances that led to that decision, ***except in cases where a provider of online intermediation services is under a legal obligation not to disclose them or where a provider of online intermediation services can demonstrate that the business user concerned has repeatedly infringed the applicable terms and conditions, resulting in their suspension, restriction or termination***

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

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

Amendment 24

Proposal for a regulation Recital 17

Text proposed by the Commission

(17) The ranking of goods and services by the providers of online intermediation services has an important impact on consumer choice and, consequently, on the commercial success of the business users offering those goods and services to consumers. Providers of online intermediation services should therefore outline the ***main*** parameters determining ranking beforehand, in order to improve predictability for business users, to allow them to better understand the functioning of the ranking mechanism and to enable them to compare the ranking practices of various providers. The notion of main parameter should be understood to refer to any general criteria, processes, specific signals incorporated into algorithms or other adjustment or demotion mechanisms used in connection with the ranking. The description of the main parameters

Amendment

(17) The ranking of goods and services by the providers of online intermediation services has an important impact on consumer choice and, consequently, on the commercial success of the business users offering those goods and services to consumers. Providers of online intermediation services should therefore outline the parameters determining ranking beforehand, in order to improve predictability for business users, to allow them to better understand the functioning of the ranking mechanism and to enable them to compare the ranking practices of various providers. ***In cases where disclosure of all parameters in the terms and conditions is not technologically possible or would have the effect of disclosing weighting of all individual parameters, only the main parameters and the reasons for their relative importance***

determining ranking should also include an explanation of any possibility for business users to actively influence ranking against remuneration, as well as of the relative effects thereof. This description should provide business users with an adequate understanding of how the ranking mechanism takes account of the characteristics of the actual goods or services offered by the business user, and their relevance to the consumers of the specific online intermediation services.

should be presented. The notion of main parameter should be understood to refer to any general criteria, processes, specific signals incorporated into algorithms or other adjustment or demotion mechanisms used in connection with the ranking. The description of the main parameters determining ranking should also include an explanation of any possibility for business users to actively influence ranking against remuneration, as well as of the relative effects thereof. ***When displaying the results, the online intermediation service should also disclose close to each ranking whether it has been influenced by differentiated treatment or by any direct or indirect remuneration, contractual or direct ownership relation.*** This description should provide business users with an adequate understanding of how the ranking mechanism takes account of the characteristics of the actual goods or services offered by the business user, and their relevance to the consumers of the specific online intermediation services. ***According to the Commission Proposal for a Directive of the European Parliament and of the Council as regards better enforcement and modernisation of EU consumer protection rules, providers of online intermediation services should be required to provide consumers with information about the parameters affecting the ranking. While the information offered to the consumer should be presented in a clear and comprehensible manner that is suitable to the needs of the consumer, the information offered to the business user and the consumer should, in any event, be similar enough to ensure that both parties who offer and those who search for a good or service are able to take informed decisions based on transparent searches.***

Amendment 25

Proposal for a regulation Recital 18

Text proposed by the Commission

(18) Similarly, the ranking of websites by the providers of online search engines, notably of those websites through which undertakings offer goods and services to consumers, has an important impact on consumer choice and the commercial success of corporate website users. Providers of online search engines should therefore provide a description of the **main** parameters determining the ranking of all indexed websites, including those of corporate website users as well as other websites. In addition to the characteristics of the goods and services and their relevance for consumers, this description should in the case of online search engines also allow corporate website users to obtain an adequate understanding of whether, and if so how and to what extent, certain design characteristics of the website used, such as their optimisation for display on mobile telecommunications devices, is taken into account. In the absence of a contractual relationship between providers of online search engines and corporate website users, that description should be available to the public in an obvious and easily accessible location on the relevant online search engine. To ensure predictability for corporate website users, the description should also be kept up to date, including the possibility that any changes to the **main** parameters should be made easily identifiable. Whilst the **providers are under no circumstances required to disclose any trade secrets as defined in** Directive (EU) 2016/943 of the European Parliament and of the Council²³ when complying with this requirement to disclose the main ranking parameters, the description given should at least be based on actual data on the relevance of the

Amendment

(18) Similarly, the ranking of websites by the providers of online search engines, notably of those websites through which undertakings offer goods and services to consumers, has an important impact on consumer choice and the commercial success of corporate website users. Providers of online search engines should therefore provide a description of the parameters determining the ranking of all indexed websites, including those of corporate website users as well as other websites. ***In cases where disclosure of all parameters in the terms and conditions is not technologically possible or would have the effect of disclosing weighting of all individual parameters, only the main parameters and the reasons for their relative importance should be presented.*** In addition to the characteristics of the goods and services and their relevance for consumers, this description should in the case of online search engines also allow corporate website users to obtain an adequate understanding of whether, and if so how and to what extent, certain design characteristics of the website used, such as their optimisation for display on mobile telecommunications devices, is taken into account. In the absence of a contractual relationship between providers of online search engines and corporate website users, that description should be available to the public in an obvious and easily accessible location on the relevant online search engine. To ensure predictability for corporate website users, the description should also be kept up to date, including the possibility that any changes to the parameters should be made easily identifiable. Whilst the **requirement to disclose ranking parameters should be without prejudice to** Directive (EU)

ranking parameters used.

2016/943 of the European Parliament and of the Council²³, when complying with this requirement to disclose the main ranking parameters, the description given should at least be based on actual data on the relevance of the ranking parameters used.

The existence of an up-to-date description of the main parameters would also benefit users other than corporate website users of the online search engine. In some cases, providers of online search engines may decide to influence the ranking in a specific case or delist a website from a ranking based on notifications by third parties. Unlike providers of online intermediation services, providers of online search engines cannot due to the lack of any contractual relationship between the parties be expected to notify a corporate website user directly of a delisting or change in ranking due to a notification. Nevertheless, a corporate business user should be able to inspect the notification that has led to the change in ranking or to delisting in the specific case, by investigating the contents of the notice in a publicly accessible online database. This would help to mitigate potential abuses of delisting notifications by competitors.

²³ Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ L 157, 15.6.2016, p. 1).

²³ Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ L 157, 15.6.2016, p. 1).

Amendment 26

Proposal for a regulation Recital 18 a (new)

Text proposed by the Commission

Amendment

(18 a) *In order for the business users to benefit from the information regarding ranking parameters, the results of ranking should reflect the genuine and non-arbitrary application of those parameters and the relative importance of the parameters that the providers of online intermediation services and online search engines disclose. For example, if several business users were in a comparable situation as regards the parameters which the provider has disclosed as those determining ranking, they should be able to anticipate the ranking to reflect their similar situation vis-à-vis these parameters.*

Amendment 27

Proposal for a regulation Recital 18 b (new)

Text proposed by the Commission

Amendment

(18 b) *Providers of online search engines often allow the ranking of search results to be influenced against forms of remuneration paid by corporate website users. Clear details regarding such practice should be made publicly available for corporate website users and consumers to understand the effects of remuneration on ranking. Nevertheless, search results whose placement in the ranking has been influenced by forms of payment should be clearly flagged, making them easily distinguishable from other search results where remuneration was not paid.*

Amendment 28

Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) Where a provider of online intermediation services itself offers certain goods or services to consumers through its own online intermediation services, or does so through a business user which it controls, that provider may compete directly with other business users of its online intermediation services which are not controlled by the provider. In such situations, in particular, it is important that the provider of online intermediation services acts in a transparent manner and provides a description of any differentiated treatment, whether through legal, commercial or technical means, that it might give in respect of goods or services it offers itself compared to those offered by business users. ***To ensure proportionality, this obligation should apply at the level of the overall online intermediation services, rather than at the level of individual goods or services offered through those services.***

Amendment 29

Proposal for a regulation
Recital 19 a (new)

Amendment

(19) Where a provider of online intermediation services ***or a provider of online search engines*** itself offers certain goods or services to consumers through its own online intermediation services, or does so through a business user which it controls, that provider may compete directly with other business users of its online intermediation services which are not controlled by the provider, ***which may give the provider an economic incentive and the ability to use its control over the online intermediation service or online search engine to provide technical or economic advantages to its own offering, or those offered through a business user which it controls, which it could deny to competing business users. Such behaviour could undermine fair competition and restrict consumer choice.*** In such situations, in particular, it is important that the provider of online intermediation services ***or online search engine*** acts in a transparent manner and provides a description of any differentiated treatment, whether through legal, commercial or technical means, ***such as default settings, in relation to*** goods or services it offers itself compared to those offered by business users. ***An online intermediation service or online search engine provider's goods or services should be considered to compete with those of its business users where the good or service can be considered as interchangeable or substitutable by consumers using the online intermediation service.***

Text proposed by the Commission

Amendment

(19 a) *Nevertheless, any such differentiated treatment on online intermediation services should only be allowed if the provider of online intermediation services is able to objectively justify it in accordance with general principles of Union law such as proportionality, legal certainty and general principles that are inferred from the Charter of Fundamental Rights. Moreover, the differentiated treatment needs to be non-discriminatory towards all other business users that offer goods or services through the online intermediation services, and the differentiated treatment does not prevent consumers from still choosing and using the goods and services of their preference, among those competing goods and services that are offered through the online intermediation service.*

Amendment 30

Proposal for a regulation
Recital 19 b (new)

Text proposed by the Commission

Amendment

(19 b) *Certain practices can be conclusively treated as unfair in all circumstances. These practices are listed in Annex I to this proposal. The EU Platform Observatory should continuously monitor the application and effects on the market of this list of practices and recommend updates to the Commission.*

Amendment 31

Proposal for a regulation
Recital 20

Text proposed by the Commission

(20) The ability to access and use data, including personal data, can enable important value creation in the online platform economy. Accordingly, it is important that providers of online intermediation services provide business users with a clear description of the scope, nature and conditions of their access to and use of certain categories of data. The description should be proportionate and might refer to general access conditions, rather than an exhaustive identification of actual data, or categories of data, in order to enable business users to understand whether they can use the data to enhance value creation, including by possibly retaining third-party data services. Processing of personal data should comply with Regulation (EU) 2016/679 of the European Parliament and of the Council.²⁴

²⁴ 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

Amendment

(20) The ability to access and use data, including personal data, can enable important value creation in the online platform economy. Accordingly, it is important that providers of online intermediation services provide business users with a clear description of the scope, nature and conditions of their access to and use of certain categories of data. The description should be proportionate and might refer to general access conditions, rather than an exhaustive identification of actual data, or categories of data, in order to enable business users to understand whether they can use the data to enhance value creation, including by possibly retaining third-party data services. ***This Regulation requires the online intermediation service providers to be transparent about what data they provide to their business users but does not establish any requirement to disseminate personal or non-personal data to the business users, with the exception of certain data related to business users' ratings and reviews, which the business users should be allowed to receive in an aggregate and anonymised form. In all cases, processing of personal data should comply with the Union legal framework on the protection of natural persons with regard to the processing of personal data, and on respect for private life and the protection of personal data in electronic communications, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council²⁴, Directive (EU) 2016/680 of the European Parliament and of the Council and Directive 2002/58/EC of the European Parliament and of the Council.***

²⁴ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of

personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevant) (OJ L 119, 4.5.2016, p. 1).

personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevant) (OJ L 119, 4.5.2016, p. 1).

Amendment 32

Proposal for a regulation Recital 20 a (new)

Text proposed by the Commission

Amendment

(20 a) *In accordance with Regulation 2016/679, a consumer has the right to receive the personal data concerning him or her, which he or she has provided to a controller such as a provider of online intermediation services, in a structured, commonly used and machine-readable format and have the right to transmit those data to another controller, such as a business user of a provider of online intermediation services.*

Amendment 33

Proposal for a regulation Recital 20 b (new)

Text proposed by the Commission

Amendment

(20 b) *Business users should be able to receive anonymised information regarding their online reputation, meaning ratings and reviews accumulated with one provider of online intermediation services, with the view to enabling business users to get a clearer understanding of their brand value and to enable them to improve their performance on the online platform. Tools should be provided for developing business users' understanding of their reputation and would be the first step to enable greater competition between business users,*

giving access to a wider and more informed choice to consumers.

Amendment 34

Proposal for a regulation Recital 20 c (new)

Text proposed by the Commission

Amendment

(20 c) Several competition authorities both within and outside the Union have opened up investigations or declared their intention to do so concerning cases where providers of online intermediation services have used their dual position as both a marketplace and a business offering goods or services on the same marketplace to obtain or misuse a dominant position. The online intermediation service provider's access to data generated by the transactions of a business user may allow the online intermediation service provider to compete with the business user on the basis of the data. To ensure fairness, the provider of the online intermediation service should not be allowed to disclose the data generated by the transactions of a business user to third parties for commercial purposes, including within their own corporate structure, without the consent of the business user, except in cases where a provider of online intermediation services would be subject to a legal obligation to disclose data generated by the transactions of a business user.

Amendment 35

Proposal for a regulation Recital 21

Text proposed by the Commission

Amendment

(21) Providers of online intermediation

(21) **Providers of online intermediation**

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

services should not restrict the ability of business users to offer the same goods and services to consumers under different or the same conditions through other intermediation services. In certain cases, providers of online intermediation services might restrict the ability of business users to offer goods or services to consumers under different conditions through other means than through those services. In those cases, the providers concerned should set out the grounds for doing so, in particular with reference to the main economic, commercial or legal considerations for the restrictions and ensure that the restriction is proportionate. Nevertheless, the restriction of the ability of business users to offer goods or services to consumers under different conditions through other means than through online intermediation services, might be prohibited or limited by the Member States in their national rules adopted in accordance with the Union law.

Amendment 36

Proposal for a regulation Recital 22

Text proposed by the Commission

(22) In order to enable business users, including those whose use of the relevant online intermediation services might have been suspended or terminated, to have access to immediate, suitable and effective redress possibilities, providers of online intermediation services should provide for an internal complaint-handling system. That internal complaint-handling system should be aimed at ensuring that a significant proportion of complaints can be solved bilaterally by the provider of the online intermediation services and the relevant business user. ***In addition, ensuring that*** providers of online intermediation services publish information

Amendment

(22) In order to enable business users, including those whose use of the relevant online intermediation services might have been suspended or terminated, to have access to immediate, suitable and effective redress possibilities, providers of online intermediation services should provide for an internal complaint-handling system. That internal complaint-handling system should be ***transparent, based on principles of equal treatment, non-discriminatory and*** aimed at ensuring that a significant proportion of complaints can be solved bilaterally by the provider of the online intermediation services and the relevant business user ***in a reasonable period of***

on the functioning and effectiveness of their internal complaint-handling system **should** help business users to understand the types of issues that can arise in the context of the provision of different online intermediation services and the possibility of reaching a quick and effective bilateral resolution.

time. The online intermediation service providers may maintain the decision they have taken in force during the duration of the complaint. Any attempt to reach an agreement through the internal complaint handling-mechanism does not affect the rights of providers of online intermediation services or business users to initiate judicial proceedings at any time during or after the complaint handling process. In addition, providers of online intermediation services should regularly publish information on the functioning and effectiveness of their internal complaint-handling system to help business users to understand the main types of issues that can arise in the context of the provision of different online intermediation services and the possibility of reaching a quick and effective bilateral resolution.

Amendment 37

Proposal for a regulation Recital 23

Text proposed by the Commission

(23) The requirements of this Regulation regarding the internal complaint-handling systems aim at allowing providers of online intermediation services a reasonable degree of flexibility when operating those systems and addressing individual complaints, so as to minimise any administrative burden. In addition, the internal complaint-handling systems should allow providers of online intermediation services to address, where necessary, in a proportionate manner any use in bad faith which certain business users might seek to make of those systems. In cases other than any alleged non-compliance with the legal obligations of this Regulation, the internal complaint-handling systems should moreover not be open to complaints involving only negligible **negative** effects on the business user concerned. In light of

Amendment

(23) The requirements of this Regulation regarding the internal complaint-handling systems aim at allowing providers of online intermediation services a reasonable degree of flexibility when operating those systems and addressing individual complaints, so as to minimise any administrative burden. In addition, the internal complaint-handling systems should allow providers of online intermediation services to address, where necessary, in a proportionate manner any use in bad faith which certain business users might seek to make of those systems. In cases other than any alleged non-compliance with the legal obligations of this Regulation, the internal complaint-handling systems should moreover not be open to complaints involving only negligible effects on the business user concerned. In light of the

the costs of setting up and operating such systems, it is appropriate to exempt from those obligations any providers of online intermediation services which constitute small enterprises, in line with the relevant provisions of Commission Recommendation 2003/361/EC²⁵.

costs of setting up and operating such systems, it is appropriate to exempt from those obligations any providers of online intermediation services which constitute small enterprises, in line with the relevant provisions of Commission Recommendation 2003/361/EC²⁵.

²⁵ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p36).

²⁵ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p36).

Amendment 38

Proposal for a regulation Recital 23 a (new)

Text proposed by the Commission

Amendment

(23 a) The use of the word ‘internal’ should not be understood as preventing the delegation of an internal complaint-handling system to an external service provider or other corporate structure, as long as the operator has full authority and the ability to ensure compliance of the internal complaint-handling system with the requirements in this Regulation.

Amendment 39

Proposal for a regulation Recital 24

Text proposed by the Commission

Amendment

(24) Mediation can offer providers of online intermediation services and their business users a means to resolve disputes in a satisfactory manner, without having to use judicial proceedings which can be lengthy and costly. Therefore, providers of online intermediation services should facilitate mediation by, in particular,

(24) Mediation can offer providers of online intermediation services and their business users a means to resolve disputes in a satisfactory manner, without having to use judicial proceedings which can be lengthy and costly. Therefore, providers of online intermediation services should facilitate mediation by, in particular,

identifying mediators with which they are willing to engage. Mediators which provide their services from a location outside the Union should only be identified where it is guaranteed that the use of those services does not in any way deprive the business users concerned of any legal protection offered to them under Union law or the law of the Member States, including the requirements of this Regulation and the applicable law regarding protection of personal data and trade secrets. In order to be accessible, fair, and as swift, efficient and effective as possible, *those* mediators should meet certain set criteria.

identifying mediators with which they are willing to engage. Mediators which provide their services from a location outside the Union should only be identified where it is guaranteed that the use of those services does not in any way deprive the business users concerned of any legal protection offered to them under Union law or the law of the Member States, including the requirements of this Regulation and the applicable law regarding protection of personal data and trade secrets. In order to be accessible, fair, and as swift, efficient and effective as possible, *all identified* mediators should meet certain set criteria. *Mediators should be encouraged to resolve disputes as soon as reasonably practicable.*

Amendment 40

Proposal for a regulation Recital 25

Text proposed by the Commission

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

Amendment

(25) Providers of online intermediation services should bear a reasonable proportion of the total costs of the mediation, taking into account all relevant elements of the case at hand. To that aim, the mediator should suggest which proportion is reasonable in the individual case. However, *for the provider of online intermediation services*, that proportion should never be less than half of those costs, *except for where the mediator determines that the business user who has brought the case has not acted in good faith.*

Amendment 41

Proposal for a regulation
Recital 25 a (new)

Text proposed by the Commission

Amendment

(25 a) Since the providers of online intermediation services should always be required to identify mediators with which they are willing to engage, and should be obliged to engage in mediation in good faith, the obligation of mediation should be established in a way that prevents abuse of the mediation system by business users. As such, business users should also be obliged to engage in mediation in good faith. Furthermore, where a business user has brought forward several repeated cases not leading to a resolution of the dispute, or where a business user brings forward a case on a subject on which they have previously acted in bad faith in the mediation process, the provider of the online intermediation service should not, in these exceptional cases, be obliged to engage in mediation with said business user. This exceptional situation should not limit the business user's possibility to bring forward a case for mediation where, as determined by the mediator, the subject matter of the mediation is not related to the previous cases.

Amendment 42

Proposal for a regulation
Recital 26

Text proposed by the Commission

Amendment

(26) In order to facilitate the settlement of disputes relating to the provision of online intermediation services using mediation in the Union, the Commission should encourage the setting up of specialised mediation organisations, which are currently lacking. The involvement of mediators having specialist knowledge of online intermediation services and online

(26) In order to facilitate the settlement of disputes relating to the provision of online intermediation services using mediation in the Union, the Commission should, **together with the Member States**, encourage the setting up of specialised mediation organisations, which are currently lacking. The involvement of mediators having specialist knowledge of

search engines as well as of the specific industry sectors within which those services are provided should add to the confidence both parties have in the mediation process and should increase the likelihood of that process leading to a swift, just and satisfactory outcome.

online intermediation services and online search engines as well as of the specific industry sectors within which those services are provided should add to the confidence both parties have in the mediation process and should increase the likelihood of that process leading to a swift, just and satisfactory outcome.

Amendment 43

Proposal for a regulation

Recital 27

Text proposed by the Commission

(27) Various factors, such as limited financial means, a fear of retaliation and exclusive choice of law and forum provisions in terms and conditions, can limit the effectiveness of existing judicial redress possibilities, particularly those which require business users or corporate website users to act individually and identifiably. To ensure the effective application of this Regulation, organisations, associations representing business users or corporate website users, as well as certain public bodies set-up in Member States, should be granted the possibility to take action before national courts. Such action before national courts should aim to stop or prohibit infringements of the rules set out in this Regulation and to prevent future damage that could undermine sustainable business **relationships** in the online platform economy. In order to ensure that such organisations or associations exercise that right effectively and in an appropriate manner, they should meet certain criteria. **Considering the particular status of the relevant public bodies in Member States where such bodies have been set up**, it should only be required that those have been specifically charged, in accordance

Amendment

(27) Various factors, such as limited financial means, a fear of retaliation and exclusive choice of law and forum provisions in terms and conditions, can limit the effectiveness of existing judicial redress possibilities, particularly those which require business users or corporate website users to act individually and identifiably. To ensure the effective application of this Regulation, organisations, associations representing business users or corporate website users, as well as certain public bodies set-up in Member States, should be granted the possibility to take action before national courts. Such action before national courts should aim to stop or prohibit infringements of the rules set out in this Regulation and to prevent future damage that could undermine sustainable business **relationship** in the online platform economy, **including those pertaining to SMEs and microenterprises**. In order to ensure that such organisations or associations exercise that right effectively and in an appropriate manner, they should meet certain criteria, **in particular relating to transparency of funding. Member States should be required to set up or nominate such public bodies. For the**

with the relevant rules of national law, with bringing such actions either in the collective interest of the parties concerned or in the general interest, without there being a need to apply those criteria to such public bodies. Any such actions should in no way affect the rights of the business users and corporate website users to take judicial action on an individual basis.

relevant public bodies it should only be required that those have been specifically charged, in accordance with the relevant rules of national law, with bringing such actions either in the collective interest of the parties concerned or in the general interest, without there being a need to apply those criteria to such public bodies. Any such actions should in no way affect the rights of the business users and corporate website users to take judicial action on an individual basis.

Amendment 44

Proposal for a regulation Recital 27 a (new)

Text proposed by the Commission

Amendment

(27 a) Breaches of the provisions of this Regulation will in certain instances require a rapid and flexible enforcement. Enforcement bodies set up or nominated by Member States should be responsible for the enforcement of this Regulation in an adequate and effective manner. The enforcement bodies should be established in addition to the procedure for judicial proceedings by representative organisations, associations or public bodies set out in this Regulation. The decisions made by enforcement bodies could be challenged in judicial proceedings according to relevant national legislation.

Amendment 45

Proposal for a regulation Recital 27 b (new)

Text proposed by the Commission

Amendment

(27 b) A close monitoring of the application of this regulation is necessary. Member States should designate national

authorities to require the relevant information, which is necessary for the monitoring and enforcement of this Regulation, from providers of online intermediation services and online search engines. The information gathered by those authorities should be provided to the Commission and to the EU Platform Observatory upon request.

Amendment 46

Proposal for a regulation Recital 28 a (new)

Text proposed by the Commission

Amendment

(28 a) *For reasons of transparency and accountability, and due to the role and tasks foreseen, the EU Platform Observatory should be granted a role within this Regulation in addition to its establishment as an expert group established by a Commission Decision (2018)2393. The Observatory should fulfil the tasks granted to it within this Regulation independently and in the public interest and its members should consist of a wide range of independent experts that have proven competence and experience of the online platform economy to ensure this.*

Amendment 47

Proposal for a regulation Recital 29

Text proposed by the Commission

Amendment

(29) The Commission should periodically evaluate this Regulation, in particular with a view to determining the need for amendments in light of relevant

(29) The Commission should periodically evaluate this Regulation **and closely monitor its effects on the online platform economy**, in particular with a view to

technological or commercial developments.

determining the need for amendments in light of relevant technological or commercial developments, **and following the evaluation, take appropriate measures. As the sector will be developing rapidly over the coming years, it might be appropriate for this Regulation to be followed up by further and more prescriptive legislation where and if the transparency and fairness provisions established in this Regulation would prove to be insufficient to handle future imbalances and unfair trading practices.**

Amendment 48

Proposal for a regulation Recital 31

Text proposed by the Commission

(31) As the objective of this Regulation, namely to ensure a fair, predictable, sustainable and trusted online business environment within the internal market, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary **in order** to achieve that objective.

Amendment

(31) As the objective of this Regulation, namely to ensure a **clear**, fair, predictable, sustainable and trusted online business environment within the internal market, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective.

Amendment 49

Proposal for a regulation Recital 32

Text proposed by the Commission

(32) It is appropriate to clarify that this

Amendment

(32) It is appropriate to clarify that this

Regulation should not affect the application of the relevant rules of Union law applicable in *the* areas *of* judicial cooperation in civil matters, competition, consumer protection, electronic commerce and financial services.

Regulation should not affect the application of the relevant rules of Union law applicable in areas *such as* judicial cooperation in civil matters, competition, consumer protection, electronic commerce and financial services *and is without prejudice to national rules which, in conformity with Union law, regulate unfair commercial practices.*

Amendment 50

Proposal for a regulation Article 1 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 51

Proposal for a regulation Article 1 – paragraph 2

Text proposed by the Commission

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

Amendment

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

otherwise applicable.

Amendment 52

Proposal for a regulation

Article 1 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. The obligations set out on the providers of online intermediation services in this Regulation shall apply to providers of ancillary operating systems when an operating system in itself acts as an online intermediation service within the meaning of Article 2(2).

Amendment 53

Proposal for a regulation

Article 1 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2 b. This Regulation shall not apply to online payment services or to online advertising serving tools or online advertising exchanges which are not provided with the aim of the facilitating the initiation of direct transactions and which do not involve a contractual relationship with consumers.

Amendment 54

Proposal for a regulation

Article 1 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2 c. This Regulation shall be without prejudice to Union law, and national rules which, in conformity with Union law, regulate unfair commercial practices.

Amendment 55

Proposal for a regulation

Article 2 – paragraph 1 – point 1

Text proposed by the Commission

(1) 'business user' means any natural or legal person which through online intermediation services offers goods or services to consumers for purposes relating to its trade, business, craft or profession;

Amendment

(1) 'business user' means any natural or legal person which through online intermediation services offers goods or services to consumers for purposes relating to its trade, business, craft or profession, ***including private individuals personally acting as traders via online intermediation services***;

Amendment 56

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point b

Text proposed by the Commission

(b) they allow business users to offer goods or services to consumers, with a view to facilitating the initiating of direct transactions between those business users and consumers, irrespective of where those transactions are ultimately concluded;

Amendment

(b) they allow business users to offer goods or services to consumers, with a view to facilitating the initiating of direct transactions between those business users and consumers, irrespective of where those transactions are ultimately concluded, ***unless the service of facilitating the initiating of direct transactions between those business users and consumers is of marginal character only***;

Amendment 57

Proposal for a regulation

Article 2 – paragraph 1 – point 3 a (new)

Text proposed by the Commission

Amendment

(3 a) 'ancillary operating systems' means software, which meets all of the following requirements:

a) the ancillary operating system ensures the essential basic operating of a

mobile device or a connected speaker;

b) it is closely linked to an online intermediation service which controls the main channel through which applications can be installed on the operating system;

c) the development and updating of the operating system is provided or controlled by the provider of the linked online intermediation service, either directly or indirectly;

Amendment 58

Proposal for a regulation

Article 2 – paragraph 1 – point 3 b (new)

Text proposed by the Commission

Amendment

(3 b) ‘provider of ancillary operating systems’ means any natural or legal person which provides, or which offers to provide, ancillary operating systems;

Amendment 59

Proposal for a regulation

Article 2 – paragraph 1 – point 5

Text proposed by the Commission

Amendment

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

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

Amendment 60

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Text proposed by the Commission

(7) 'corporate website user' means any natural or legal person which uses websites to offer goods or services to consumers for purposes relating to its trade, business, craft or profession;

Amendment

(7) 'corporate website user' means any natural or legal person which uses ***an online interface, meaning any software and including websites and mobile applications***, to offer goods or services to consumers for purposes relating to its trade, business, craft or profession;

Amendment 61

**Proposal for a regulation
Article 2 – paragraph 1 – point 8**

Text proposed by the Commission

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

Amendment

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

Amendment 62

**Proposal for a regulation
Article 2 – paragraph 1 – point 10**

Text proposed by the Commission

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

Amendment

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

the provider of online intermediation services.

Amendment 63

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(10 a) ‘ancillary goods and services’ means goods and services offered to the consumer prior to the completion of a transaction initiated on the online intermediation service in addition to and as complementary to the primary good or service offered by the business user through the online intermediation service.

Amendment 64

Proposal for a regulation

Article 2 – paragraph 1 – point 10 b (new)

Text proposed by the Commission

Amendment

(10 b) ‘mediation’ means any structured process as defined in Article 3(a) of Directive (EU) 2008/52 of the European Parliament and the Council;

Amendment 65

Proposal for a regulation

Article 2 – paragraph 1 – point 10 c (new)

Text proposed by the Commission

Amendment

(10 c) "EU Platform Observatory" means the EU Observatory on the Online Platform Economy established in accordance with Commission Decision C(2018)2393.

Amendment 66

Proposal for a regulation Article 2 a (new)

Text proposed by the Commission

Amendment

Article 2 a

Anti-circumvention obligations

Providers of online intermediation services shall not use any software or services, including ancillary operating systems, which they provide themselves or they control, to circumvent the obligations laid down on the providers of online intermediation services within this Regulation.

Amendment 67

Proposal for a regulation Article 3 – paragraph 1 – point -a (new)

Text proposed by the Commission

Amendment

(-a) include only fair and proportionate clauses;

Amendment 68

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

Text proposed by the Commission

Amendment

(a) are drafted in clear and *unambiguous* language

(a) are drafted in clear and *intelligible* language;

Amendment 69

Proposal for a regulation Article 3 – paragraph 1 – point c

Text proposed by the Commission

(c) set out the **objective** grounds for decisions to suspend or terminate, in whole or in part, the provision of their online intermediation services to business users.

Amendment

(c) set out the **non-discriminatory** grounds for decisions to suspend or terminate **or impose any other kind of restriction upon**, in whole or in part, the provision of their online intermediation services to business users;

Amendment 70

Proposal for a regulation

Article 3 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(c a) include information on any additional distribution channels and potential affiliate programmes through which the provider of online intermediation services might distribute goods and services offered by the business user;

Amendment 71

Proposal for a regulation

Article 3 – paragraph 1 – point c b (new)

Text proposed by the Commission

Amendment

(c b) include general information regarding the effects of the terms and conditions on the ownership and control of intellectual property rights.

Amendment 72

Proposal for a regulation

Article 3 – paragraph 2

Text proposed by the Commission

Amendment

2. Terms and conditions, or specific

2. Terms and conditions, or specific

provisions thereof, which do not comply with the requirements of paragraph 1 shall ***not be binding on the business user concerned*** where such non-compliance is established by a competent court.

provisions thereof, which do not comply with the requirements of paragraph 1 shall ***be null and void*** where such non-compliance is established by a competent court.

Amendment 73

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

Text proposed by the Commission

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

Amendment

Providers of online intermediation services shall notify ***on a durable medium*** to the business users concerned any modification of their terms and conditions.

Amendment 74

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

Text proposed by the Commission

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

Amendment

The modifications shall not be implemented before the expiry of a notice period which is reasonable and proportionate to the nature and extent of the modifications and to their consequences for the business user concerned. That notice period shall be at least 15 days from the date on which the provider of online intermediation services notifies the business users concerned about the modifications. ***Where the modifications require the business user to make significant technical adjustments to its goods or services, this period shall be at least 30 days. The business user shall be allowed to terminate their agreement within 15 days from the receipt of the notice, where such modifications are detrimental to the business user.***

Amendment 75
Proposal for a regulation
Article 3 – paragraph 3 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

During the 15 days’ notice period, submitting new or updating goods or services on the online intermediation service shall be considered clear affirmative action to waive the notice period.

In cases where the notice period is 30 days because the modifications to the terms and conditions require the business user to make significant technical adjustments to its goods or services, the notice period shall not be considered automatically waived where the business user submits new or updates goods and services.

Amendment 76

Proposal for a regulation
Article 3 – paragraph 5

Text proposed by the Commission

Amendment

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

5. ***The notice periods set out in*** paragraph 3 shall not apply where a provider of online intermediation services is

(a) subject to a legal obligation which requires it to modify its terms and conditions in a manner which does not allow it to respect the notice ***periods*** referred to in the second subparagraph of paragraph 3;

(b) ***addressing unforeseen and imminent danger which could harm or pose security problems for online intermediation services, their consumers***

or other users, including in connection with fraud, malware, spam, data breaches or other cybersecurity risks.

Amendment 77

Proposal for a regulation Article 3 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. The providers of online intermediation services shall ensure that the brand attributed to business users and their goods and services is recognizable throughout the entire intermediation process.

Amendment 78

Proposal for a regulation Article 4 – title

Text proposed by the Commission

Amendment

Suspension and termination

Suspension, **restrictions** and termination

Amendment 79

Proposal for a regulation Article 4 – paragraph 1

Text proposed by the Commission

Amendment

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

1. Where a provider of online intermediation services decides to suspend, **restrict** or terminate, in whole or in part, the provision of its online intermediation services to a given business user, it shall **inform** the business user concerned **at least 15 days before implementing that decision, and provide the business user** with a statement of reasons for that

decision.

Amendment 80

Proposal for a regulation Article 4 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Paragraph 1 shall not apply where:

(a) a provider of online intermediation services is subject to a legal obligation to suspend, restrict or terminate, in whole or in part, the provision of its online intermediation services to a given business user;

(b) a provider of online intermediation services acts to protect consumers on the basis of a reasonable doubt regarding illicit content, the safety of a product or service, counterfeiting, fraud, or suitability of the product or service to minors;

(c) a provider of online intermediation services can demonstrate that the business user concerned has repeatedly infringed the applicable terms and conditions, resulting in their suspension, restriction or termination.

In such cases, the business user shall immediately be provided with a statement of reasons.

Amendment 81

Proposal for a regulation Article 4 – paragraph 2

Text proposed by the Commission

Amendment

2. The statement of reasons referred to in paragraph 1 ***shall*** contain a reference to the specific facts or circumstances that led to the decision of the provider of online

2. The statement of reasons referred to in paragraph 1 ***or l*** shall contain a reference to the specific facts or circumstances that led to the decision of

intermediation services, as well as a reference to the applicable **objective** ground or grounds for that decision referred to in Article 3(1)(c).

the provider of online intermediation services, as well as a reference to the applicable **non-discriminatory** ground or grounds for that decision referred to in Article 3(1)(c). ***Where the suspension, restriction or termination results from a third party notification, the contents of said notification shall be included in the statement of reasons.***

Amendment 82

Proposal for a regulation Article 4 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Paragraph 2 shall not apply where a provider of online intermediation services is subject to a legal obligation not to provide the specific facts or circumstances or the reference to the applicable ground or grounds, or where a provider of online intermediation services can demonstrate that the business user concerned has repeatedly infringed the applicable terms and conditions, resulting in their suspension, restriction or termination.

Amendment 83

Proposal for a regulation Article 4 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2 b. Termination, restriction and suspension shall be, where possible and proportionate, preceded by a notification and opportunity to clarify or re-establish compliance. Where a suspension, restriction or termination are based on a correctable infringement of terms and conditions and not committed in bad faith, provider of online intermediation services shall seek to reinstate the business user as

soon as the non-compliance is corrected. Where a suspension or termination is found to be in error, the business user shall be reinstalled without delay and under the same conditions as before the suspension, restriction or termination.

Amendment 84

Proposal for a regulation

Article 5 – paragraph 1 – subparagraph 1

Text proposed by the Commission

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

Amendment

Without prejudice to paragraph 4, providers of online intermediation services shall set out in their terms and conditions the parameters determining ranking and the reasons for the relative importance of those parameters. Where disclosure of all parameters in the terms and conditions is not technologically possible or would have the effect of disclosing weighting of all individual parameters, only the main parameters and the reasons for their relative importance shall be presented.

Amendment 85

Proposal for a regulation

Article 5 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Providers of online intermediation services shall ensure that ranking reflects the non-arbitrary application of the disclosed ranking parameters and their relative importance.

Amendment 86

Proposal for a regulation
Article 5 – paragraph 1 – subparagraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 87

Proposal for a regulation
Article 5 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

When displaying the results, the provider of online intermediation service shall disclose close to each ranking whether and to what extent it has been influenced by differentiated treatment, or by any direct or indirect remuneration, contractual or direct ownership relations.

Amendment 88

Proposal for a regulation
Article 5 – paragraph 2

Text proposed by the Commission

Amendment

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

2. ***Without prejudice to paragraph 4,*** providers of online search engines shall set out ***the*** parameters determining ranking ***and the reasons for the relative importance of those parameters,*** by providing an easily and publicly available description, drafted in clear and ***intelligible*** language on the online search engines of those providers. They shall keep that

description up to date. *Where disclosure of all parameters in the terms and conditions is not technologically possible or would have the effect of disclosing weighting of all individual parameters, only the main parameters and the reasons for their relative importance shall be presented.*

Providers of online search engines shall ensure that ranking reflects the non-arbitrary application of the disclosed ranking parameters and their relative importance.

Where the main parameters include the possibility to influence ranking against any direct or indirect remuneration paid by business users or corporate website users to the respective provider, that provider shall also set out a description of those possibilities and of the effects of such remuneration on ranking.

When displaying the results, the provider of online search engine shall disclose close to each ranking whether and to what extent it has been influenced by differentiated treatment, including differentiated positioning and display, or against direct or indirect remuneration, contractual or direct ownership relations.

Amendment 89

Proposal for a regulation Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Where a provider of an online search engine has altered the ranking order in a specific case or delisted a particular website following a third party notification, the provider shall offer the possibility for the corporate website user to inspect the contents of the notice in a publicly accessible online database.

Amendment 90

Proposal for a regulation Article 5 – paragraph 4

Text proposed by the Commission

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

Amendment

4. Providers of online intermediation services and providers of online search engines shall, when complying with the requirements of this Article, not be required to disclose ***information that with reasonable certainty would result in the enabling of deception of consumers through the manipulation of search results. This Article shall be without prejudice to Directive (EU) 2016/943.***

Amendment 91

Proposal for a regulation Article 5 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. To facilitate the compliance of providers of online intermediation services and providers of online search engines with and the enforcement of the requirements of this Article, the Commission shall accompany the transparency requirements set out in this Article by guidelines.

Amendment 92

Proposal for a regulation Article 5 a (new)

Text proposed by the Commission

Amendment

Article 5 a

Ancillary goods and services

1. Where ancillary goods and services,

including financial products, are offered to consumers through the online intermediation service, either by the provider of the online intermediation service or by third parties, the providers of the online intermediation service shall set out in their terms and conditions a description of the type of ancillary goods and services offered and a description of whether and under which conditions the business user is also allowed to offer their own ancillary goods and services through the online intermediation service.

2. The provider of the online intermediation service shall at the request of a business user provide a list of ancillary goods or services offered as complementary and in addition to the goods or services being offered by the business user. At the time of offering the ancillary goods and services, the providers of online intermediation services shall disclose clearly and visibly who provides the ancillary goods and services.

Amendment 93

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

Text proposed by the Commission

Amendment

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

Amendment 94

Proposal for a regulation

Article 6 – paragraph 2 – introductory part

Text proposed by the Commission

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

Amendment

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

Amendment 95

Proposal for a regulation

Article 6 – paragraph 2 – point a

Text proposed by the Commission

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

Amendment

(a) access that the provider, or that the business users which that provider controls, may have to any personal data or other data, or both, which business users, **corporate website users** or consumers provide for the use of the online intermediation services **or the online search engines** concerned or which are generated through the provision of those services

Amendment 96

Proposal for a regulation

Article 6 – paragraph 2 – point b

Text proposed by the Commission

(b) ranking;

Amendment

(b) ranking **and pre-configured settings related to goods or services offered to consumers through those online intermediation services by either that provider itself or by any business users which that provider controls, on the one hand, and, other business users, on the other hand;**

Amendment 97

Proposal for a regulation

Article 6 – paragraph 2 – point c

Text proposed by the Commission

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

Amendment

(c) any direct or indirect remuneration charged for the use of the online intermediation services ***or online search engines*** concerned ***or any ancillary services, and any technical or economic benefit that it does not extend to all business users or corporate website users;***

Amendment 98

Proposal for a regulation

Article 6 – paragraph 2 – point d

Text proposed by the Commission

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

Amendment

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

Amendment 99

Proposal for a regulation

Article 6 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Providers of online intermediation services shall treat goods or services offered to consumers through those online intermediation services by that provider itself or any business users which that provider controls, on the one

hand, and, competing goods or services offered through the online intermediation service by other business users on the other hand, equally, without discrimination, unless such differentiated treatment is applied in a non-discriminatory manner between all other business users and can be objectively justified in accordance with the general principles of Union law. Any differentiated treatment shall not prevent consumers' possibility to access and use goods and services of their preference among those that are offered through the online intermediation service

Amendment 100

Proposal for a regulation Article 6 a (new)

Text proposed by the Commission

Amendment

Article 6 a

Unfair trading practices

Providers of online intermediation services shall not engage in unfair commercial practices as listed in Annex I. This list is without prejudice to other Union law or national law that Member States apply in conformity with Union law and to obligations of providers of online intermediation services stemming from such law.

Amendment 101

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

Text proposed by the Commission

Amendment

1 a. Providers of online search engines shall set out a description, available on the online search engines of those providers, of the technical access, or

absence thereof, of business users to any personal data or other data, or both, which corporate website users or consumers provide for the use of the online search engines concerned or which are generated through the provision of those services

Amendment 102

Proposal for a regulation

Article 7 – paragraph 2 – introductory part

Text proposed by the Commission

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

Amendment

2. The description referred to in paragraph 1 **or 1a set out by** providers of online intermediation services **or providers of online search engines** shall **be adequate enough to** inform business **users or corporate website** users at least of the following:

Amendment 103

Proposal for a regulation

Article 7 – paragraph 2 – point a

Text proposed by the Commission

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

Amendment

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

Amendment 104

Proposal for a regulation

Article 7 – paragraph 2 – point b

Text proposed by the Commission

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

Amendment

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

Amendment 105

Proposal for a regulation

Article 7 – paragraph 2 – point c

Text proposed by the Commission

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

Amendment

(c) whether, in addition to point (b), a business **user or corporate website** user has access to personal data or other data, or both, including in aggregated form, provided by or generated through the provision of the online intermediation services **or online search engines** to all of the business **users, corporate website** users and consumers thereof, and if so, to which categories of such data and under what conditions.

Amendment 106

Proposal for a regulation

Article 7 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Business users shall have the right to receive anonymised ratings and reviews or any other anonymised and aggregated

data related to their ratings and reviews on the online intermediation service, regardless of whether they have provided such data to the provider of online intermediation services themselves, in a structured, commonly used and machine-readable format.

Amendment 107

Proposal for a regulation Article 7 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2 b. The provider of the online intermediation service shall not for commercial purposes disclose to third parties, including within their corporate structure, data generated by the transactions of a business user without the explicit consent of the business user. This paragraph shall not apply where a provider of online intermediation services is subject to a legal obligation to disclose data generated by the transactions of a business user.

Amendment 108

Proposal for a regulation Article 7 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2 c. This Regulation shall be without prejudice to the application of Regulation (EU) 2016/679.

Amendment 109

Proposal for a regulation Article 8 – paragraph 1

Text proposed by the Commission

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

Amendment 110

**Proposal for a regulation
Article 8 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

1. Providers of online intermediation services ***shall not*** restrict the ability of business users to offer the same goods and services to consumers under different ***or the same*** conditions through other ***online intermediation*** services.

Amendment

1 a. For any other restrictions to offer different conditions through other means than those prohibited in paragraph 1, providers of online intermediation services which restrict the ability of business users to offer the same goods and services to consumers under different conditions through other means than through those services shall include grounds for that restriction in their terms and conditions and make those grounds easily available to the public. Those grounds shall include the main economic, commercial or legal considerations for those restrictions. These restrictions shall be proportionate and shall be justified by a legitimate interest of the provider.

Amendment 111

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

Text proposed by the Commission

Amendment

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

2. The **Member States may prohibit or limit the restrictions referred to in paragraph 1a or other restrictions except for those referred to** in paragraph 1 **in their national rules adopted** in accordance with **the** Union law.

Amendment 112

Proposal for a regulation

Article 9 – paragraph 1 – subparagraph 2 – introductory part

Text proposed by the Commission

Amendment

That internal complaint-handling system shall be easily accessible for business users. It shall allow them to lodge complaints directly with the provider concerned regarding any of the following issues:

That internal complaint-handling system shall be **easily accessible and free of charge** for business users **and ensure handling within a reasonable time frame. It shall be based on the principles of transparency and equal treatment.** It shall allow them to lodge complaints directly with the provider concerned regarding any of the following issues:

Amendment 113

Proposal for a regulation

Article 9 – paragraph 1 – subparagraph 2 – point a

Text proposed by the Commission

Amendment

(a) alleged non-compliance by that provider with any legal obligations laid down in this Regulation which **negatively** affects the complainant;

(a) alleged non-compliance by that provider with any legal obligations laid down in this Regulation which affects the complainant;

Amendment 114

Proposal for a regulation

Article 9 – paragraph 1 – subparagraph 2 – point b

Text proposed by the Commission

(b) technological issues which relate directly to the provision of online intermediation services, and which **negatively** affect the complainant in a non-negligible manner;

Amendment

(b) technological issues which relate directly to the provision of online intermediation services, and which affect the complainant in a non-negligible manner;

Amendment 115

Proposal for a regulation

Article 9 – paragraph 1 – subparagraph 2 – point c

Text proposed by the Commission

(c) measures taken by, or behaviour of, that provider which relate directly to the provision of the online intermediation services, and which **negatively** affect the complainant in a non-negligible manner.

Amendment

(c) measures taken by, or behaviour of, that provider which relate directly to the provision of the online intermediation services, and which affect the complainant in a non-negligible manner.

Amendment 116

Proposal for a regulation

Article 9 – paragraph 2 – point b

Text proposed by the Commission

(b) process complaints swiftly and effectively, taking into account the importance and complexity of the issue raised;

Amendment

(b) process complaints swiftly and effectively, taking into account the importance and complexity of the issue raised, **providing in any case a first response within 15 days**;

Amendment 117

Proposal for a regulation

Article 9 – paragraph 2 – point c

Text proposed by the Commission

(c) communicate to the complainant the outcome of the internal complaint-handling process, in an individualised manner and drafted in clear and **unambiguous**

Amendment

(c) communicate to the complainant the outcome of the internal complaint-handling process, in an individualised manner and drafted in clear and **intelligible** language .

language.

Amendment 118

Proposal for a regulation

Article 9 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Providers of online intermediation services shall **annually** establish and make easily available to the public information on the functioning and effectiveness of their internal complaint-handling system.

Amendment

Providers of online intermediation services shall establish and make easily available to the public information on the functioning and effectiveness of their internal complaint-handling system. **They shall keep that information up to date.**

Amendment 119

Proposal for a regulation

Article 9 – paragraph 4 – subparagraph 2

Text proposed by the Commission

That information shall include the total number of complaints lodged, the **subject-matter of the** complaints, the time period needed to process the complaints and **the decision taken on the** complaints.

Amendment

That information shall include the total number of complaints lodged, the **main types of** complaints, the **average** time period needed to process the complaints and **aggregated information regarding the outcome of** complaints.

Amendment 120

Proposal for a regulation

Article 10 – paragraph 3

Text proposed by the Commission

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

Amendment

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

of the dispute.

Amendment 121

Proposal for a regulation Article 10 – paragraph 4

Text proposed by the Commission

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

Amendment

4. Providers of online intermediation services shall bear a reasonable proportion of the total costs of mediation in each individual case. A reasonable proportion of those total costs shall be determined, on the basis of a suggestion by the mediator, by taking into account all relevant elements of the case at hand, in particular the relative merits of the claims of the parties to the dispute, the conduct of the parties, as well as the size and financial strength of the parties relative to one another. However, providers of online intermediation services shall in any case bear at least half of the total cost, ***except in cases where the mediator determines that the business user has not acted in good faith or is seeking to abuse the mediation process.***

Amendment 122

Proposal for a regulation Article 10 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. Providers of online intermediation services shall not be obliged to engage in mediation where a business user brings proceedings on a subject in relation to which that business user has previously brought proceedings seeking mediation and it has been determined by the mediator in that case that the business user has not acted in good faith. Providers of online intermediation services shall

also not be obliged to engage in mediation with business users who have brought forward to the mediator repeated unsuccessful mediation attempts.

Amendment 123

Proposal for a regulation Article 10 – paragraph 5

Text proposed by the Commission

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

Amendment

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

Amendment 124

Proposal for a regulation Article 10 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. Providers of online intermediation services shall establish and make easily available to the public information on the functioning and effectiveness of mediation related to their activities. They shall keep that information up to date.

That information shall include the total number of mediation cases, the main types of the mediation cases, the average time period needed to process the mediation cases and aggregated information regarding the outcome of mediation cases

Amendment 125

Proposal for a regulation
Article 11 – paragraph 1

Text proposed by the Commission

The Commission shall encourage providers of online intermediation services as well as organisations and associations representing them to individually or jointly set up one or more organisations providing mediation services which meet the requirements specified in Article 10(2), for the specific purpose of facilitating the out-of-court settlement of disputes with business users arising in relation to the provision of those services, taking particular account of the cross-border nature of online intermediation services.

Amendment

The Commission **and the Member States** shall encourage providers of online intermediation services as well as organisations and associations representing them to individually or jointly set up one or more organisations providing mediation services which meet the requirements specified in Article 10(2), for the specific purpose of facilitating the out-of-court settlement of disputes with business users arising in relation to the provision of those services, taking particular account of the cross-border nature of online intermediation services.

Amendment 126

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

Text proposed by the Commission

Amendment

1 a. Member States shall ensure that their relevant public bodies set up a registry of unlawful acts which have been subject to injunction orders before national courts in order to provide a basis for best practice and information to other Member State public bodies or authorities.

Amendment 127

Proposal for a regulation
Article 12 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

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

Organisations or associations shall have the right referred to in paragraph 1 only where, at the time of bringing the action **and for the duration of the action, they continue**

to meet all of the following requirements:

Amendment 128

Proposal for a regulation

Article 12 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

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

Amendment

(b) they pursue objectives, **publicly stated in their statute or other relevant governance document**, that are in the collective interest of the group of business users or corporate website users that they represent;

Amendment 129

Proposal for a regulation

Article 12 – paragraph 2 – subparagraph 1 – point c

Text proposed by the Commission

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

Amendment

(c) they are of a non-profit making character **and are transparent about their source of funding**.

Amendment 130

Proposal for a regulation

Article 12 – paragraph 2 – subparagraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 131

Proposal for a regulation Article 12 – paragraph 3

Text proposed by the Commission

3. The right referred to in paragraph 1 shall be without prejudice to the rights of business users and corporate website users to individually take action before competent national courts, in accordance with the rules of the law of the Member State where the action is brought, to address any non-compliance by providers of online intermediation services with the relevant requirements laid down in this Regulation.

Amendment

3. The right referred to in paragraph 1 shall be without prejudice to the rights of business users and corporate website users to individually take action before competent national courts, in accordance with the rules of the law of the Member State where the action is brought, to address any non-compliance by providers of online intermediation services ***or by providers of online search engines*** with the relevant requirements laid down in this Regulation.

Amendment 132

Proposal for a regulation Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12 a

Enforcement authorities

1. Each Member State shall designate a body or bodies responsible for adequate and effective enforcement of this Regulation. The body responsible for the effective enforcement of this Regulation may be the same body as referred to in Article 12.

2. Member States shall lay down the rules setting out the measures applicable to infringements of the provisions of this Regulation and shall ensure that they are implemented. The measures provided for shall be effective, proportionate and dissuasive.

3. The measures referred to in paragraph 2 shall be communicated to the

Amendment 133

Proposal for a regulation Article 12 b (new)

Text proposed by the Commission

Amendment

Article 12 b

Monitoring

Member States shall closely monitor the application of this Regulation and shall designate national authorities to require providers of online intermediation services and online search engines to submit relevant information necessary for the monitoring and enforcement of this Regulation by the body or bodies referred to in Article 12a. The information gathered by those authorities shall be provided to the Commission and to the EU Platform Observatory upon request.

Amendment 134

Proposal for a regulation Article 13 – paragraph 1

Text proposed by the Commission

Amendment

1. The Commission shall encourage the drawing up of codes of conduct by providers of online intermediation services and by organisations and associations representing them, intended to contribute to the proper application of this Regulation, taking account of the specific features of the various sectors in which online intermediation services are provided, as well as of the specific characteristics of micro, small and medium-sized enterprises.

1. The Commission shall encourage the drawing up of codes of conduct by providers of online intermediation services and by organisations and associations representing them, **together with business users including SMEs and microenterprises and their representative organisations**, intended to contribute to the proper application of this Regulation, taking account of the specific features of the various sectors in which online intermediation services are provided, as well as of the specific characteristics of micro, small and medium-sized enterprises.

Amendment 135

Proposal for a regulation Article 13 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Where an online intermediation service is primarily involved in one single sector where a sector specific code of conduct exists and is widely used, the Commission shall encourage the provider of the online intermediation service to adopt and implement the sector specific code of conduct.

Amendment 136

Proposal for a regulation Article 13 a (new)

Text proposed by the Commission

Amendment

Article 13 a

EU Platform Observatory

In addition to those set out in Article 2 of Commission Decision C(2018) 2393, the EU Platform Observatory shall have the following tasks:

(a) monitoring and evaluating the implementation of this Regulation and in particular analysing the effects of Annex I on the market, taking into account the jurisprudence of Union and national courts ; and

(b) making recommendations in accordance with Article 14 to the European Commission for the review of this Regulation.

Amendment 137

Proposal for a regulation Article 14 – paragraph 1

Text proposed by the Commission

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

Amendment

1. By [date: **18 months** after the date of **application**], and subsequently every three years, the Commission shall evaluate this Regulation and report to the European Parliament, the Council and the European Economic and Social Committee.

Amendment 138

Proposal for a regulation Article 14 – paragraph 2

Text proposed by the Commission

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

Amendment

2. The first evaluation of this Regulation shall be carried out, in particular, with a view to the following:

(a) assessing the compliance with, and impact on the online platform economy of, the obligations laid down in Articles **3 to 8**;

(b) *assessing the impact and effectiveness of any established codes of conduct to improve fairness and transparency*;

(c) *investigating further the problems caused by the dependence of business users on online intermediation services, and problems caused by unfair trading practices by providers of online intermediation services, and to determine further to which extent those practices*

continue to be widespread;

(d) investigating whether the competition between goods or services offered by a business user and goods or services offered or controlled by a provider of online intermediation services constitutes fair competition and whether providers of online intermediation services misuse privileged data in this regard;

(e) assessing the effect of this Regulation on any possible imbalances in the relationships between providers of operating systems and their business users;

(f) assessing whether the scope of the Regulation, especially as regards the definition of 'business user', is suitable in that it does not encourage bogus self-employment;

(g) reviewing, following recommendations from the Platform Observatory in accordance with Article 13a, the list of unfair commercial practices in Annex I;

*The evaluation shall establish whether additional rules, including regarding enforcement, may be required to ensure a fair, predictable, sustainable and trusted online business environment within the internal market. **Following the evaluation, the Commission shall take appropriate measures, which may include legislative proposals.***

Amendment 139

Proposal for a regulation Article 14 – paragraph 4

Text proposed by the Commission

4. In carrying out the evaluation of this Regulation, the Commission shall take into account the opinions and reports presented

Amendment

4. In carrying out the evaluation of this Regulation, the Commission shall take into account the opinions and reports presented

to it by the group of experts for the Observatory on the Online Platform Economy established in accordance with the Commission Decision C(2018)2393. ***It shall also take into account the content and functioning of any codes of conduct referred to in Article 13, where appropriate.***

to it by the group of experts for the EU Platform Observatory established in accordance with the Commission Decision C(2018)2393 ***and having regard to the additional tasks of the EU Platform Observatory as established in Article 13a.***

Amendment 140

Proposal for a regulation Article 15 – paragraph 2

Text proposed by the Commission

2. It shall apply from [date: **six** months following the day of its publication].

Amendment

2. It shall apply from [date: **nine** months following the day of its publication].

Amendment 141

Proposal for a regulation Annex I (new)

Text proposed by the Commission

Amendment

Annex I

Commercial practices to be regarded as unfair in all circumstances

(a) Imposing clauses unilaterally on the business users with the purpose of transferring liability to them in a way that contradicts the obligations on online intermediation services established in Articles 12 to 15 of Directive 2000/31/EC of the European Parliament and of the Council;

(b) Proposing retroactive contract clauses which are to the detriment of the business;

(c) Maintaining the legal right to use the business user's information beyond what was specified in the contract after the contract between the online

intermediary service provider and the business user has expired;

(d) Maintaining any clauses or pursuing any practices which make it unduly difficult for a business user to exercise its contractual right to terminate its relationship with an online intermediation service provider or which unfairly discourages a business user from terminating an agreement;

(e) Interfering in the commercial relationship between competing business users and consumers outside of those activities that are initiated on the online intermediation service.