**REPORT**


Committee on the Internal Market and Consumer Protection

Rapporteur: Andreas Schwab

Rapporteurs for the opinion (*):
Stéphanie Yon-Courtin, Committee on Economic and Monetary Affairs
Carlos Zorrinho, Committee on Industry, Research and Energy

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

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

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

**Amendments to a draft act**

**Amendments by Parliament set out in two columns**

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

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

**Amendments by Parliament in the form of a consolidated text**

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

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


(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2020)0842),

– having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0419/2020),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to the opinion of the European Economic and Social Committee of 27 April 2021¹,

– having regard to the opinion of the Committee of the Regions of 30 June 2021²,

– having regard to Rule 59 of its Rules of Procedure,

– having regard to the opinions of the Committee on Economic and Monetary Affairs, the Committee on Industry, Research and Energy, the Committee on Transport and Tourism, the Committee on Culture and Education, the Committee on Legal Affairs and the Committee on Civil Liberties, Justice and Home Affairs,

– having regard to the report of the Committee on the Internal Market and Consumer Protection (A9-0332/2021),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

¹ Not yet published in the Official Journal.
² Not yet published in the Official Journal.
Proposal for a regulation
Recital 1

Text proposed by the Commission

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

Amendment

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

Amendment 2

Proposal for a regulation
Recital 2

Text proposed by the Commission

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

Amendment

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

Amendment 3
Proposal for a regulation
Recital 4

**Text proposed by the Commission**

(4) The combination of those features of gatekeepers is likely to lead in many cases to serious imbalances in bargaining power and, consequently, to unfair practices and conditions for business users as well as end users of core platform services provided by gatekeepers, to the detriment of prices, quality, choice and innovation therein.

**Amendment**

(4) The combination of those features of gatekeepers is likely to lead in many cases to serious imbalances in bargaining power and, consequently, to unfair practices and conditions for business users as well as end users of core platform services provided by gatekeepers, to the detriment of prices, quality, privacy and security standards, fair competition, choice and innovation therein.

Amendment 4
Proposal for a regulation
Recital 6

**Text proposed by the Commission**

(6) Gatekeepers have a significant impact on the internal market, providing gateways for a large number of business users, to reach end users, everywhere in the Union and on different markets. The adverse impact of unfair practices on the internal market and particularly weak contestability of core platform services,

**Amendment**

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

Amendment 5
Proposal for a regulation
Recital 8

Text proposed by the Commission

(8) By approximating diverging national laws, obstacles to the freedom to provide and receive services, including retail services, within the internal market should be eliminated. A targeted set of harmonised mandatory rules should therefore be established at Union level to ensure contestable and fair digital markets featuring the presence of gatekeepers within the internal market.

Amendment

(8) By approximating diverging national laws, obstacles to the freedom to provide and receive services, including retail services, within the internal market should be eliminated. A targeted set of harmonised legal obligations should therefore be established at Union level to ensure contestable and fair digital markets featuring the presence of gatekeepers within the internal market to the benefit of Union’s economy as whole and Union’s consumers in particular.

Amendment 6
Proposal for a regulation
Recital 9

Text proposed by the Commission

(9) A fragmentation of the internal market can only be effectively averted if Member States are prevented from applying national rules which are specific to the types of undertakings and services

Amendment

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

contestable and fair markets. This is without prejudice to the ability of Member States to impose the same, stricter or different obligations on gatekeepers in order to pursue other legitimate public interests, in compliance with Union law. Those legitimate public interests can be, among others, consumer protection, fight against acts of unfair competition and fostering media freedom and pluralism, freedom of expression, as well as diversity in culture or in languages. At the same time, since this Regulation aims at complementing the enforcement of competition law, it should be specified that this Regulation is without prejudice to Articles 101 and 102 TFEU, to the corresponding national competition rules and to other national competition rules regarding unilateral behaviour that are based on an individualised assessment of market positions and behaviour, including its likely effects and the precise scope of the prohibited behaviour, and which provide for the possibility of undertakings to make efficiency and objective justification arguments for the behaviour in question. However, the application of the latter rules should not affect the obligations and prohibitions imposed on gatekeepers under this Regulation and their uniform and effective application in the internal market.

Amendment 7

Proposal for a regulation
Recital 10

Text proposed by the Commission

(10) Articles 101 and 102 TFEU and the corresponding national competition rules concerning anticompetitive multilateral and unilateral conduct as well as merger control have as their objective the protection of undistorted competition on the market. This Regulation pursues an

Amendment

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

Amendment 8

Proposal for a regulation
Recital 11

Text proposed by the Commission


Amendment

Concerning specifically rules on consent to the processing of personal data set out in Regulation (EU) 2016/679 and Directive 2002/58/EC, this Regulation applies these rules without affecting them.


31 Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media
Amendment 9

Proposal for a regulation
Recital 12

*Text proposed by the Commission*

(12) Weak contestability and unfair practices in the digital sector are more frequent and pronounced for certain digital services than for others. This is the case in particular for widespread and commonly used digital services that mostly directly intermediate between business users and end users and where features such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration are the most prevalent. Often, there is only one or very few large providers of those digital services. These providers of core platform services have emerged most frequently as gatekeepers for business users and end users with far-reaching impacts, gaining the ability to easily set commercial conditions and terms in a unilateral and detrimental manner for their business users and end users. Accordingly, it is necessary to focus only on those digital services that are most broadly used by business users and end users and where, *based on current market conditions*, concerns about weak contestability and unfair practices by gatekeepers are more apparent and pressing from an internal market perspective.

*Amendment*

(12) Weak contestability and unfair practices in the digital sector are more frequent and pronounced for certain digital services than for others. This is the case in particular for widespread and commonly used digital services that mostly directly intermediate between business users and end users and where features such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration are the most prevalent. Often, there is only one or very few large providers of those digital services. These providers of core platform services have emerged most frequently as gatekeepers for business users and end users with far-reaching impacts, gaining the ability to easily set commercial conditions and terms in a unilateral and detrimental manner for their business users and end users. Accordingly, it is necessary to focus only on those digital services that are most broadly used by business users and end users and where concerns about weak contestability and unfair practices by gatekeepers are more apparent and pressing from an internal market perspective.

Amendment 10

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


Amendment 11

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

Proposal for a regulation
Recital 14

Text proposed by the Commission

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

Amendment

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

Amendment 12

Proposal for a regulation
Recital 20

Text proposed by the Commission

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

Amendment

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

Amendment 13
Proposal for a regulation
Recital 21

Text proposed by the Commission

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

Amendment

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

Amendment 14
Proposal for a regulation
Recital 22

Text proposed by the Commission

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

Amendment

(22) Such thresholds can be impacted by market and technical developments. The Commission should therefore be empowered to adopt delegated acts to specify the methodology for determining whether the quantitative thresholds are met and update the list of indicators set out in the Annex to this Regulation, and to regularly adjust it to market and technological developments where necessary. This is particularly relevant in relation to the threshold referring to market capitalisation, which should be indexed in appropriate intervals.
Amendment 15

Proposal for a regulation
Recital 23

Text proposed by the Commission

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

Amendment

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

Amendment 16

Proposal for a regulation
Recital 29
(29) Designated gatekeepers should comply with the obligations laid down in this Regulation in respect of each of the core platform services listed in the relevant designation decision. The mandatory rules should apply taking into account the conglomerate position of gatekeepers, where applicable. Furthermore, implementing measures that the Commission may by decision impose on the gatekeeper following a regulatory dialogue should be designed in an effective manner, having regard to the features of core platform services as well as possible circumvention risks and in compliance with the principle of proportionality and the fundamental rights of the undertakings concerned as well as those of third parties.

Amendment 17
Proposal for a regulation
Recital 30

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

Amendment 18
Proposal for a regulation
Recital 31

Text proposed by the Commission

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

Amendment

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

Amendment 19

Proposal for a regulation
Recital 32

Text proposed by the Commission

(32) To safeguard the fairness and contestability of core platform services provided by gatekeepers, it is necessary to provide in a clear and unambiguous manner for a set of harmonised obligations with regard to those services. Such rules are needed to address the risk of harmful effects of unfair practices imposed by gatekeepers, to the benefit of the business environment in the services concerned, to the benefit of users and ultimately to the

Amendment

(32) To safeguard the fairness and contestability of core platform services provided by gatekeepers, it is necessary to provide in a clear and unambiguous manner for a set of harmonised obligations with regard to those services. Such rules are needed to address the risk of harmful effects of unfair practices imposed by gatekeepers, to the benefit of the business environment in the services concerned, to the benefit of users and ultimately to the
benefit of society as a whole. Given the fast-moving and dynamic nature of digital markets, and the substantial economic power of gatekeepers, it is important that these obligations are effectively applied without being circumvented. To that end, the obligations in question should apply to any practices by a gatekeeper, irrespective of its form and irrespective of whether it is of a contractual, commercial, technical or any other nature, insofar as it could, in practice, have an equivalent object or effect to the practices that are prohibited under this Regulation. Such behaviour includes the design used by the gatekeeper, the presentation of end-user choices in a non-neutral manner, or using the structure, function or manner of operation of a user interface or a part thereof to subvert or impair user autonomy, decision-making, or choice.

Amendment 20
Proposal for a regulation
Recital 33

*(33)* The obligations laid down in this Regulation are limited to what is necessary and justified to address the unfairness of the identified practices by gatekeepers and to ensure contestability in relation to core platform services provided by gatekeepers. Therefore, the obligations should correspond to those practices that are considered unfair by taking into account the features of the digital sector and where experience gained, for example in the enforcement of the EU competition rules, shows that they have a particularly negative direct impact on the business users and end users. In addition, it is necessary to provide for the possibility of a regulatory dialogue with gatekeepers to tailor those obligations that are likely to require specific implementing measures in

*Text proposed by the Commission*

Amendment

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

Amendment 21

Proposal for a regulation
Recital 36

Text proposed by the Commission

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

Amendment

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

Amendment 22
Proposition pour une réglementation
Recital 36 a (nouveau)

Texte proposé par la Commission

Amendement

(36a) Minors merit specific protection with regard to their personal data, in particular as regards the use for the purposes of marketing or creating personality or user profiles and the collection of personal data. Therefore, personal data of minors collected or otherwise generated by gatekeepers should not be processed for commercial purposes, such as direct marketing, profiling and behaviourally targeted advertising.

Amendement 23

Proposition pour une réglementation
Recital 36 b (nouveau)

Texte proposé par la Commission

Amendement

(36b) In order to safeguard a fair end user choice, refusing consent should not be more difficult than giving consent. In addition, to safeguard the end users' rights and freedoms, the processing of personal data for advertising purposes should be in line with the requirements of data minimisation under Article 5 (1)(c) of Regulation (EU) 2016/679. Furthermore, the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, as well as the data concerning health or a natural person's sex life or sexual orientation should be strictly limited and subject to the appropriate safeguards as outlined in Article 9 of the Regulation (EU) 2016/679.
Amendment 24

Proposal for a regulation
Recital 37

Text proposed by the Commission

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

Amendment

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

Amendment 25

Proposal for a regulation
Recital 38
(38) To prevent further reinforcing their dependence on the core platform services of gatekeepers, the business users of these gatekeepers should be free in promoting and choosing the distribution channel they consider most appropriate to interact with any end users that these business users have already acquired through core platform services provided by the gatekeeper. Conversely, end users should also be free to choose offers of such business users and to enter into contracts with them either through core platform services of the gatekeeper, if applicable, or from a direct distribution channel of the business user or another indirect distribution channel such business user may use. This should apply to the promotion of offers and conclusion of contracts between business users and end users. Moreover, the ability of end users to freely acquire content, subscriptions, features or other items outside the core platform services of the gatekeeper should not be undermined or restricted. In particular, it should be avoided that gatekeepers restrict end users from access to and use of such services via a software application running on their core platform service. For example, subscribers to online content purchased outside a software application download or purchased from a software application store should not be prevented from accessing such online content on a software application on the gatekeeper’s core platform service simply because it was purchased outside such software application or software application store.

(38) To prevent further reinforcing their dependence on the core platform services of gatekeepers, the business users of these gatekeepers should be free in promoting and choosing the distribution channel they consider most appropriate to interact with any end users that these business users have already acquired through core platform services provided by the gatekeeper or through other channels. An acquired end user is an end user who has already entered into a contractual relationship with the business user. Such contractual relationships may be on either a paid or a free basis (e.g., free trials, free service tiers) and may have been entered into either on the gatekeeper’s core platform service or through any other channel. Conversely, end users should also be free to choose offers of such business users and to enter into contracts with them either through core platform services of the gatekeeper, if applicable, or from a direct distribution channel of the business user or another indirect distribution channel such business user may use. This should apply to the promotion of offers, communication and conclusion of contracts between business users and end users. Moreover, the ability of end users to freely acquire content, subscriptions, features or other items outside the core platform services of the gatekeeper should not be undermined or restricted. In particular, it should be avoided that gatekeepers restrict end users from access to and use of such services via a software application running on their core platform service. For example, subscribers to online content purchased outside a software application download or purchased from a software application store should not be prevented from accessing such online content on a software application on the gatekeeper’s core platform service simply because it was purchased outside such software service.
application or software application store.

Amendment 26

Proposal for a regulation
Recital 39

Text proposed by the Commission

(39) To safeguard a fair commercial environment and protect the contestability of the digital sector it is important to safeguard the right of business users to raise concerns about unfair behaviour by gatekeepers with any relevant administrative or other public authorities. For example, business users may want to complain about different types of unfair practices, such as discriminatory access conditions, unjustified closing of business user accounts or unclear grounds for product de-listings. Any practice that would in any way inhibit such a possibility of raising concerns or seeking available redress, for instance by means of confidentiality clauses in agreements or other written terms, should therefore be prohibited. This should be without prejudice to the right of business users and gatekeepers to lay down in their agreements the terms of use including the use of lawful complaints-handling mechanisms, including any use of alternative dispute resolution mechanisms or of the jurisdiction of specific courts in compliance with respective Union and national law. This should therefore also be without prejudice to the role gatekeepers play in the fight against illegal content online.

Amendment

(39) To safeguard a fair commercial environment and protect the contestability of the digital sector it is important to safeguard the right of business users and end users, including whistleblowers to raise concerns about unfair behaviour by gatekeepers with any relevant administrative or other public authorities. For example, business users or end users may want to complain about different types of unfair practices, such as discriminatory access conditions, unjustified closing of business user accounts or unclear grounds for product de-listings. Any practice that would in any way inhibit or hinder such a possibility of raising concerns or seeking available redress, for instance by means of confidentiality clauses in agreements or other written terms, should therefore be prohibited. This should be without prejudice to the right of business users and gatekeepers to lay down in their agreements the terms of use including the use of lawful complaints-handling mechanisms, including any use of alternative dispute resolution mechanisms or of the jurisdiction of specific courts in compliance with respective Union and national law. This should therefore also be without prejudice to the role gatekeepers play in the fight against illegal content online.

Amendment 27

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

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

Proposal for a regulation
Recital 41

Text proposed by the Commission

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

Amendment

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

Amendment 29

Proposal for a regulation
Recital 42

Text proposed by the Commission

(42) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This opacity is partly linked to the practices of a few platforms, but is also due to the sheer complexity of modern day programmatic advertising. The sector is considered to have become more non-transparent after the introduction of new privacy legislation, and is expected to become even more opaque with the announced removal of third-party cookies. This often leads to a lack of information and knowledge for advertisers and publishers about the conditions of the advertising services they

Amendment

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

Transparency obligations should therefore require gatekeepers to provide advertisers and publishers to whom they supply online advertising services, with free of charge, effective, high-quality, continuous and real-time when requested and to the extent possible, with information that allows both sides to understand the price paid for each of the different advertising services provided as part of the relevant advertising value chain and the availability and visibility of advertisement.

Amendment 30
Proposal for a regulation
Recital 44

Text proposed by the Commission

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

Amendment

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

Moreover the gatekeeper should refrain from disclosing any commercially sensitive information obtained in connection with one of its advertising services to any third party belonging to the same undertaking and from using such commercially sensitive information for any purposes other than the provision of the specific advertising service unless this is necessary for carrying out a business transaction.

Amendment 31
Proposal for a regulation
Recital 46

Text proposed by the Commission

(46) A gatekeeper may use different means to favour its own services or products on its core platform service, to the detriment of the same or similar services that end users could obtain through third parties. This may for instance be the case where certain software applications or services are pre-installed by a gatekeeper. To enable end user choice, gatekeepers should not prevent end users from uninstalling any pre-installed software applications on its core platform service and thereby favour their own software applications.

Amendment

(46) A gatekeeper may use different means to favour its own services or products on its core platform service, to the detriment of the same or similar services that end users could obtain through third parties. This may for instance be the case where certain software applications or services are pre-installed by a gatekeeper. To enable end user choice, gatekeepers should not prevent end users from uninstalling any pre-installed software applications on its core platform service and thereby favour their own software applications. The gatekeeper may restrict such un-installation when such applications are essential to the functioning of the operating system or the device.

Amendment 32
Proposal for a regulation
Recital 47
(47) The rules that the gatekeepers set for the distribution of software applications may in certain circumstances restrict the ability of end users to install and effectively use third party software applications or software application stores on operating systems or hardware of the relevant gatekeeper and restrict the ability of end users to access these software applications or software application stores outside the core platform services of that gatekeeper. Such restrictions may limit the ability of developers of software applications to use alternative distribution channels and the ability of end users to choose between different software applications from different distribution channels and should be prohibited as unfair and liable to weaken the contestability of core platform services. In order to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper the gatekeeper concerned may implement proportionate technical or contractual measures to achieve that goal if the gatekeeper demonstrates that such measures are necessary and justified and that there are no less restrictive means to safeguard the integrity of the hardware or operating system.

Amendment 33
Proposal for a regulation
Recital 48
Gatekeepers are often vertically integrated and offer certain products or services to end users through their own core platform services, or through a business user over which they exercise control which frequently leads to conflicts of interest. This can include the situation whereby a gatekeeper offers its own online intermediation services through an online search engine. When offering those products or services on the core platform service, gatekeepers can reserve a better position to their own offering, in terms of ranking, as opposed to the products of third parties also operating on that core platform service. This can occur for instance with products or services, including other core platform services, which are ranked in the results communicated by online search engines, or which are partly or entirely embedded in online search engines results, groups of results specialised in a certain topic, displayed along with the results of an online search engine, which are considered or used by certain end users as a service distinct or additional to the online search engine. Other instances are those of software applications which are distributed through software application stores, or products or services that are given prominence and display in the newsfeed of a social network, or products or services ranked in search results or displayed on an online marketplace. In those circumstances, the gatekeeper is in a dual-role position as intermediary for third party providers and as direct provider of products or services of the gatekeeper. Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper. Such preferential or embedded display of a separate online intermediation service should constitute a favouring irrespective of whether the information or results within the favoured groups of specialised results may also be provided by competing services and are as such ranked in a non-discriminatory way. Other instances are those of software applications which are distributed through software application stores, or products or services that are given prominence and display in the newsfeed of a social network, or products or services ranked in search results or displayed on an online marketplace. In those circumstances, the gatekeeper is in a dual-role position as intermediary for third party providers and as direct provider of products or services of the gatekeeper leading to conflicts of interest.
interest. Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper.

Amendment 34
Proposal for a regulation
Recital 49

Text proposed by the Commission

(49) In such situations, the gatekeeper should not engage in any form of differentiated or preferential treatment in ranking on the core platform service, whether through legal, commercial or technical means, in favour of products or services it offers itself or through a business user which it controls. To ensure that this obligation is effective, it should also be ensured that the conditions that apply to such ranking are also generally fair. Ranking should in this context cover all forms of relative prominence, including display, rating, linking or voice results. To ensure that this obligation is effective and cannot be circumvented it should also apply to any measure that may have an equivalent effect to the differentiated or preferential treatment in ranking. The guidelines adopted pursuant to Article 5 of Regulation (EU) 2019/1150 should also facilitate the implementation and enforcement of this obligation.34

Amendment

(49) In such situations, the gatekeeper should not engage in any form of differentiated or preferential treatment in ranking on the core platform service, whether through legal, commercial or technical means, in favour of products or services it offers itself or through a business user which it controls. To ensure that this obligation is effective, it should also be ensured that the conditions that apply to such ranking are also generally fair. Ranking should in this context cover all forms of relative prominence, including display, rating, linking or voice results. To ensure that this obligation is effective and cannot be circumvented it should also apply to any measure that may have an equivalent effect to the differentiated or preferential treatment in ranking. In addition, to avoid any conflicts of interest, gatekeepers should be required to treat its own product or services, as a separate commercial entity that is commercially viable as a stand-alone service. The guidelines adopted pursuant to Article 5 of Regulation (EU) 2019/1150 should also facilitate the implementation and enforcement of this obligation.34

Amendment 35

Proposal for a regulation
Recital 52 a (new)

Text proposed by the Commission

(52a) The lack of interconnection features among the gatekeeper services may substantially affect users choice and ability to switch due to the incapacity for end user to reconstruct social connections and networks provided by the gatekeeper even if multi-homing is possible. Therefore, it should be allowed for any providers of equivalent core platform services to interconnect with the gatekeepers number independent interpersonal communication services or social network services upon their request and free of charge. Interconnection should be provided under the conditions and quality that are available or used by the gatekeeper, while ensuring a high level of security and personal data protection. In the particular case of number-dependant intercommunication services, interconnection requirements should mean giving the possibility for third-party providers to request access and interconnection for features such as text, video, voice and picture, while it should provide access and interconnection on basic features such as posts, likes and comments for social networking services. Interconnection measures of number-independent interpersonal communication services should be imposed in accordance with the provisions of the Electronic Communications Code and particularly the conditions and procedures laid down in Article 61 thereof. It should nevertheless presume that the providers of number-independent interpersonal communications services that has been designated as a gatekeeper,
reaches the conditions required to trigger the procedures, namely they reach a significant level of coverage and user uptake, and should therefore provide for minimum applicable interoperability requirements.

Amendment 36
Proposal for a regulation
Recital 53

Text proposed by the Commission

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

Amendment

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

Amendment 37
Proposal for a regulation
Recital 57

Text proposed by the Commission

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

- prices charged or conditions imposed for the same or similar services by other providers of software application stores;
- prices charged or conditions imposed by the provider of the software application store for different related or similar services or to different types of end users;
- prices charged or conditions imposed by the provider of the software application store for the same service in different geographic regions;
- prices charged or conditions imposed by the provider of the software application store for the same service the gatekeeper offers to itself.

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

Amendment

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

- prices charged or conditions imposed for the same or similar services by other providers of core platform services;
- prices charged or conditions imposed by the provider of the software application store for different related or similar services or to different types of end users;
- prices charged or conditions imposed by the provider of the software application store for the same service in different geographic regions;
- prices charged or conditions imposed by the provider of the software application store for the same service the gatekeeper offers to itself.

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

**Amendment 38**

Proposal for a regulation
Recital 57 a (new)

*Text proposed by the Commission*

**Amendment**

(57a) The implementation of gatekeepers’ obligations related to access, installation, portability or interoperability could be facilitated by the use of technical standards. In this respect the Commission should identify appropriate, widely-used ICT technical standards from standards organisations as provided for under Article 13 of Regulation 1025/12 or where appropriate ask/ request European standardisation bodies to develop them.

**Amendment 39**

Proposal for a regulation
Recital 58

*Text proposed by the Commission*

**Amendment**

(58) This aim of this Regulation is to ensure that the digital economy remains fair and contestable in order to promote innovation, high quality of digital products and services, fair and competitive prices and a high quality and choice for end users in the digital sector. To ensure the effectiveness of the obligations laid down by this Regulation, while also making certain that these obligations are limited to what is necessary to ensure contestability and tackling the harmful effects of the unfair behaviour by gatekeepers, it is important to clearly define and circumscribe them so as to allow the gatekeeper to immediately comply with them, in full respect of Regulation (EU) 2016/679 and Directive 2002/58/EC, consumer protection, cyber security and product safety. The gatekeepers should ensure the compliance with this Regulation by design. The necessary measures should therefore be as much as possible and where relevant integrated into the technological design.
used by the gatekeepers. However, it may in certain cases be appropriate for the Commission, following a dialogue with the gatekeeper concerned, to further specify some of the measures that the gatekeeper concerned should adopt in order to effectively comply with those obligations that are susceptible of being further specified. This possibility of a regulatory dialogue should facilitate compliance by gatekeepers and expedite the correct implementation of the Regulation.

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

Amendment 40

Proposal for a regulation
Recital 59

Text proposed by the Commission

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

Amendment

(59) As an additional element to ensure proportionality, gatekeepers should be given an opportunity to request the suspension, to the extent necessary, of a specific obligation in exceptional circumstances that lie beyond the control of the gatekeeper, such as for example an unforeseen external shock that has temporarily eliminated a significant part of end user demand for the relevant core platform service, where compliance with a specific obligation is shown by the gatekeeper to endanger the economic viability of the Union operations of the gatekeeper concerned. The Commission should state in its decision the reasons for
granting the suspension and review it on a regular basis to assess whether the conditions for granting it are still viable or not.

Amendment 41
Proposal for a regulation
Recital 60

Text proposed by the Commission

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

Amendment

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

Amendment 42
Proposal for a regulation
Recital 61

Text proposed by the Commission

(61) The data protection and privacy interests of end users are relevant to any assessment of potential negative effects of the observed practice of gatekeepers to collect and accumulate large amounts of data from end users. Ensuring an adequate

Amendment

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

Amendment 43

Proposal for a regulation
Recital 62

Text proposed by the Commission

(62) In order to ensure the full and lasting achievement of the objectives of this Regulation, the Commission should be able to assess whether a provider of core

Amendment

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

Amendment 44

Proposal for a regulation
Recital 64

Text proposed by the Commission

(64) The Commission should investigate and assess whether additional behavioural, or, where appropriate, structural remedies are justified, in order to ensure that the gatekeeper cannot frustrate the objectives of this Regulation by systematic non-compliance with one or several of the obligations laid down in this Regulation, which has further strengthened its gatekeeper position. This would be the case if the gatekeeper’s size in the internal market has further increased, economic dependency of business users and end users on the gatekeeper’s core platform services has further strengthened as their number has further increased and the gatekeeper benefits from increased entrenchment of its position. The Commission should therefore in such cases have the power to impose any remedy, whether behavioural or structural that is necessary to ensure effective compliance with this Regulation. The Commission might prohibit gatekeepers from engaging on acquisitions (including “killer-acquisitions”) in the areas relevant to this regulation such as digital or the use of data related sectors e.g. gaming, research institutes, consumer goods, fitness

Amendment

(64) The Commission should investigate and assess whether additional behavioural, or, where appropriate, structural remedies are justified, in order to ensure that the gatekeeper cannot frustrate the objectives of this Regulation by systematically failing to comply with one or several of the obligations laid down in this Regulation. The Commission should therefore in such cases of systematic non-compliance have the power to impose any remedy, whether behavioural or structural that is necessary to ensure effective compliance with this Regulation. The Commission might prohibit gatekeepers from engaging on acquisitions (including “killer-acquisitions”) in the areas relevant to this regulation such as digital or the use of data related sectors e.g. gaming, research institutes, consumer goods, fitness
whether behavioural or structural, having due regard to the principle of proportionality. Structural remedies, such as legal, functional or structural separation, including the divestiture of a business, or parts of it, should only be imposed either where there is no equally effective behavioural remedy or where any equally effective behavioural remedy would be more burdensome for the undertaking concerned than the structural remedy. Changes to the structure of an undertaking as it existed before the systematic non-compliance was established would only be proportionate where there is a substantial risk that this systematic non-compliance results from the very structure of the undertaking concerned.

Proposal for a regulation
Recital 65 a (new)

Text proposed by the Commission

(65a) Interim measures can be an important tool to ensure that, while an investigation is ongoing, the infringement being investigated does not lead to serious and immediate damage for business users or end users of gatekeepers. In case of urgency, where a risk of serious and immediate damage for business users or end-users of gatekeepers could result from new practices that may undermine contestability of core platform services, the Commission should be empowered to impose interim measures by temporarily imposing obligations to the gatekeeper concerned. These interim measures should be limited to what is necessary and justified. They should apply pending the conclusion of the market investigation and the corresponding final decision of the Commission pursuant to Article 17.
Amendment 46

Proposal for a regulation
Recital 67

Text proposed by the Commission

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

Amendment 47

Proposal for a regulation
Recital 70

Text proposed by the Commission

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

Amendment 48

Proposal for a regulation
Recital 75

Text proposed by the Commission

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

Amendment

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

Amendment 49

Proposal for a regulation
Recital 75 a (new)

Text proposed by the Commission

(75a) In order to facilitate cooperation and coordination between the Commission and Member States in their
enforcement actions, a high-level group of regulators with responsibilities in the digital sector should be established with the power to advise the Commission. Establishing that group of regulators should enable the exchange of information and best practices among the Member States, and enhance better monitoring and thus strengthen the implementation of this Regulation.

Amendment 50

Proposal for a regulation
Recital 75 b (new)

Text proposed by the Commission

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

Amendment 51

Proposal for a regulation
Recital 76

Text proposed by the Commission

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

35 Regulation (EU) No 182/2011 of the
European Parliament and of the Council of
16 February 2011 laying down the rules and general principles concerning
mechanisms for control by Member States of the Commission’s exercise of

Amendment 52

Proposal for a regulation
Recital 77

Text proposed by the Commission

(77) The advisory committee established in accordance with Regulation (EU) No 182/2011 should also deliver opinions on certain individual decisions of the Commission issued under this Regulation. In order to ensure contestable and fair markets in the digital sector across the Union where gatekeepers are present, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to supplement this Regulation. In particular, delegated acts should be adopted in respect of the methodology for determining the quantitative thresholds for designation of gatekeepers under this Regulation and in respect of the update of the obligations laid down in this Regulation where, based on a market investigation the Commission has identified the need for updating the obligations addressing practices that limit the contestability of core platform services or are unfair. It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.

Amendment

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


Amendment 53
Proposal for a regulation
Recital 77 a (new)

Text proposed by the Commission

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

Amendment 54
Proposal for a regulation
Recital 77 b (new)

Text proposed by the Commission

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

Amendment 55
Proposal for a regulation
Recital 77 c (new)

Text proposed by the Commission

(77c) End users should be entitled to enforce their rights in relation to the obligations imposed on gatekeepers under this Regulation through representative actions in accordance with Directive (EU) 2020/1818.

Amendment 56
Proposal for a regulation
Recital 78

Text proposed by the Commission

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

Amendment 57

Proposal for a regulation
Recital 79 a (new)

Text proposed by the Commission

(79a) Without prejudice to the budgetary procedure and through existing financial instruments, adequate human, financial and technical resources should be allocated to the Commission to ensure that it can effectively perform its duties and exercise its powers in respect of the enforcement of this Regulation.

Amendment 58

Proposal for a regulation
Recital 79 – point 1

Text proposed by the Commission

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

Amendment

(79b) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, in particular Articles 16, 47 and 50 thereof. Accordingly, this Regulation should be interpreted and applied with respect to those rights and principles.
Amendment 59

Proposal for a regulation
Article 1 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 60

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

Text proposed by the Commission

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

Amendment

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

Amendment 61

Proposal for a regulation
Article 1 – paragraph 5

Text proposed by the Commission

5. Member States shall not impose on gatekeepers further obligations by way of laws, regulations or administrative action for the purpose of ensuring contestable and fair markets. This is without prejudice to rules pursuing other legitimate public

Amendment

5. In order to avoid the fragmentation of the internal market, Member States shall not impose on gatekeepers within the meaning of this Regulation further obligations by way of laws, regulations or administrative action
interests, in compliance with Union law. In particular, nothing in this Regulation precludes Member States from imposing obligations, which are compatible with Union law, on undertakings, including providers of core platform services where these obligations are unrelated to the relevant undertakings having a status of gatekeeper within the meaning of this Regulation in order to protect consumers or to fight against acts of unfair competition.

Amendment 62

Proposal for a regulation
Article 1 – paragraph 6

Text proposed by the Commission

6. This Regulation is without prejudice to the application of Articles 101 and 102 TFEU. It is also without prejudice to the application of: national rules prohibiting anticompetitive agreements, decisions by associations of undertakings, concerted practices and abuses of dominant positions; national competition rules prohibiting other forms of unilateral conduct; Council Regulation (EC) No 139/2004 and national rules concerning merger control; Regulation (EU) 2019/1150 and Regulation (EU) …./. of the European Parliament and of the Council.

Amendment

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


Amendment 63

Proposal for a regulation
Article 1 – paragraph 7

Text proposed by the Commission

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

Amendment

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

Amendment 64

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

Text proposed by the Commission

(fa) web browsers;

Amendment

Amendment 65

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

Text proposed by the Commission

(fb) virtual assistants;

Amendment

Amendment 66
Proposal for a regulation
Article 2 – paragraph 1 – point 2 – point f c (new)

Text proposed by the Commission

Amendment

(fc) connected TV;

Amendment 67

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

Text proposed by the Commission

Amendment

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

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

Amendment 68

Proposal for a regulation
Article 2 – paragraph 1 – point 6

Text proposed by the Commission

Amendment

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

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

Amendment 69

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

Text proposed by the Commission

Amendment

(10a) Web browser’ means software application that enables users to access
and interact with web content hosted on servers that are connected to networks such as the Internet, including standalone web browsers as well as web browsers integrated or embedded in software or similar

Amendment 70

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

Text proposed by the Commission

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

Amendment 71

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

Text proposed by the Commission

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

Amendment 72

Proposal for a regulation
Article 2 – paragraph 1 – point 14
(14) ‘Ancillary service’ means services provided in the context of or together with core platform services, including payment services as defined in point 3 of Article 4 and technical services which support the provision of payment services as defined in Article 3(j) of Directive (EU) 2015/2366, fulfilment, identification or advertising services;

Amendment

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

Amendment 73

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

Text proposed by the Commission

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

Amendment

Amendment 74

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

Text proposed by the Commission

(18) ‘Ranking’ means the relative prominence given to goods or services offered through online intermediation services or online social networking services, or the relevance given to search results by online search engines, as presented, organised or communicated by the providers of online intermediation services or of online social networking services or by providers of online search engines, respectively, whatever the

Amendment

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

Amendment 75

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

Text proposed by the Commission

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

Amendment 76

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

Text proposed by the Commission

(23a) ‘Interoperability’ means the ability to exchange information and mutually use the information which has been exchanged so that all elements of hardware or software relevant for a given service and used by its provider effectively work with hardware or software relevant for a given services provided by third party providers different from the elements through which the information concerned is originally provided. This shall include the ability to access such information without having to use an application software or other technologies for conversion.
Amendment 77

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

Text proposed by the Commission

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

Amendment

1. An undertaking shall be designated as gatekeeper if:

Amendment 78

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

Text proposed by the Commission

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

Amendment

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

Amendment 79

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

Text proposed by the Commission

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

Amendment

2. An undertaking shall be presumed to satisfy:

Amendment 80

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

Text proposed by the Commission

(a) the requirement in paragraph 1 point (a) where the undertaking to which it belongs achieves an annual EEA turnover equal to or above EUR 6.5 billion in the last three financial years, or where

Amendment

(a) the requirement in paragraph 1 point (a) where it achieves an annual EEA turnover equal to or above EUR 8 billion in the last three financial years, or where the average market capitalisation or the
the average market capitalisation or the equivalent fair market value of the undertaking to which it belongs amounted to at least EUR 65 billion in the last financial year, and it provides a core platform service in at least three Member States;

equivalent fair market value of the undertaking amounted to at least EUR 80 billion in the last financial year, and it provides a core platform service in at least three Member States;

Amendment 81

Proposal for a regulation
Article 3 – paragraph 2 – point b – subparagraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 82

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

Text proposed by the Commission

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

Amendment

deleted

Amendment 83

Proposal for a regulation
Article 3 – paragraph 2 – point c

Text proposed by the Commission

(c) the requirement in paragraph 1

Amendment

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

Amendment 84

Proposal for a regulation
Article 3 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

For the purpose of point (b),
(i) monthly end users and yearly business users shall be measured taking into account the indicators set out in the Annex to this Regulation; and
(ii) monthly end users shall refer to the average number of monthly end users during a period of at least six months within the last financial year;

Amendment 85

Proposal for a regulation
Article 3 – paragraph 3

Text proposed by the Commission

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

A failure by a relevant provider of core

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

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

providing core platform service to notify the required information pursuant to this paragraph shall not prevent the Commission from designating these undertakings as gatekeepers pursuant to paragraph 4 at any time.

Amendment 86

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

**Text proposed by the Commission**

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

**Amendment**

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

Amendment 87

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

**Text proposed by the Commission**

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

**Amendment**

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

Text proposed by the Commission

4a. Where the undertaking providing the core platform service fails to notify the Commission, to provide the information required in paragraph 3 or to provide within the deadline set by the Commission all the relevant information that is required to assess its designation as gatekeeper pursuant to paragraphs (2) and (6), the Commission shall be entitled to designate that undertaking as a gatekeeper at any time based on information available to the Commission pursuant to paragraph 4.

Amendment 89

Proposal for a regulation
Article 3 – paragraph 5

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

Amendment 90

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

5. The Commission is empowered to adopt delegated acts in accordance with Article 37 to update the list of indicators set out in the Annex to this Regulation.
6. The Commission may identify as a gatekeeper, in accordance with the procedure laid down in Article 15, any provider of core platform services that meets each of the requirements of paragraph 1, but does not satisfy each of the thresholds of paragraph 2, or has presented sufficiently substantiated arguments in accordance with paragraph 4.

Amendment 91
Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 2 – point a

Text proposed by the Commission
(a) the size, including turnover and market capitalisation, operations and position of the provider of core platform services;

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

Amendment 92
Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 2 – point c

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

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

Amendment 93
Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 2 – point d
(d) scale and scope effects the provider benefits from, including with regard to data;

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

Amendment 94

Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 2 – point e a (new)

(Text proposed by the Commission) Amendment

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

Amendment 95

Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 2 – point e b (new)

(Text proposed by the Commission) Amendment

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

Amendment 96

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

(Text proposed by the Commission) Amendment

In conducting its assessment, the Commission shall take into account foreseeable developments of these elements including any planned concentrations involving another provider of core platform services or of any other services provided in the digital sector.
Amendment 97

Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 4

Text proposed by the Commission

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

Amendment 98

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

Text proposed by the Commission

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

Amendment 99

Proposal for a regulation
Article 3 – paragraph 7
7. For each gatekeeper identified pursuant to paragraph 4 or paragraph 6, the Commission shall identify the relevant undertaking to which it belongs and list the relevant core platform services that are provided within that same undertaking and which individually serve as an important gateway for business users to reach end users as referred to in paragraph 1(b).

Amendment 100

Proposal for a regulation
Article 3 – paragraph 8

Text proposed by the Commission

8. The gatekeeper shall comply with the obligations laid down in Articles 5 and 6 within six months after a core platform service has been included in the list pursuant to paragraph 7 of this Article.

Amendment

8. The gatekeeper shall comply with the obligations laid down in Articles 5 and 6 as soon as possible, and in any case no later than four months after a core platform service has been included in the list pursuant to paragraph 7 of this Article.

Amendment 101

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

Text proposed by the Commission

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

Amendment

2. The Commission shall regularly, and at least every three years, review whether the designated gatekeepers continue to satisfy the requirements laid down in Article 3(1), and at least every year whether new core platform services satisfy those requirements. The regular review shall also examine whether the list of affected core platform services of the gatekeeper needs to be adjusted. The review shall have no suspending effect on the gatekeeper’s obligations.
Amendment 102
Proposal for a regulation
Article 4 – paragraph 2 – subparagraph 2

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

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

Amendment 103
Proposal for a regulation
Article 4 – paragraph 3

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

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

Amendment 104
Proposal for a regulation
Article 5 – paragraph 1 – point a

Text proposed by the Commission
(a) refrain from combining personal data sourced from these core platform

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

Amendment 105

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

**Text proposed by the Commission**

(b) allow business users to offer the same products or services to end users through third party online intermediation services at prices or conditions that are different from those offered through the online intermediation services of the gatekeeper;

**Amendment**

(b) refrain from applying contractual obligations that prevent business users from offering the same products or services to end users through third party online intermediation services or through their own direct online sales channel at prices or conditions that are different from those offered through the online intermediation services of the gatekeeper;

Amendment 106

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

**Text proposed by the Commission**

(c) allow business users to promote offers to end users acquired via the core platform service, and to conclude contracts with these end users regardless of whether for that purpose they use the core platform services of the gatekeeper or not, and allow end users to access and use, through the core platform services of the gatekeeper, content, subscriptions, features or other items by using the

**Amendment**

(c) allow business users to communicate and promote offers including under different purchasing conditions to end users acquired via the core platform service or through other channels, and to conclude contracts with these end users or receive payments for services provided regardless of whether they use for that purpose the core platform services of the gatekeeper;
software application of a business user, where these items have been acquired by the end users from the relevant business user without using the core platform services of the gatekeeper;

Amendment 107
Proposal for a regulation
Article 5 – paragraph 1 – point c a (new)

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

Amendment 108
Proposal for a regulation
Article 5 – paragraph 1 – point d

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

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

Amendment 109
Proposal for a regulation
Article 5 – paragraph 1 – point e
Text proposed by the Commission

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

Amendment

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

Amendment 110

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

Text proposed by the Commission

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

Amendment

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

Amendment 111

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

Text proposed by the Commission

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

Amendment

(g) provide advertisers and publishers or third parties authorised by the advertisers or publishers, to which it supplies digital advertising services, with free of charge, high-quality, effective, continuous and real-time access to full information on the visibility and availability of advertisement portfolio, including:
Proposal for a regulation
Article 5 – paragraph 1 – point g – point i (new)

Text proposed by the Commission

Amendment

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

Amendment 113

Proposal for a regulation
Article 5 – paragraph 1 – point g – point ii (new)

Text proposed by the Commission

Amendment

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

Amendment 114

Proposal for a regulation
Article 5 – paragraph 1 – point g – point iii (new)

Text proposed by the Commission

Amendment

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

Amendment 115

Proposal for a regulation
Article 5 – paragraph 1 – point g – point iv (new)

Text proposed by the Commission

Amendment

iv) the amount and remuneration paid
to the publisher, for the publishing of a
given advertisement; and
Amendment 116

Proposal for a regulation
Article 5 – paragraph 1 – point g – point v (new)

Text proposed by the Commission

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

Amendment 117

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

Text proposed by the Commission

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

Amendment 118

Proposal for a regulation
Article 5 – paragraph 1 – point g b (new)

Text proposed by the Commission

(gb) allow and technically enable end users to un-install any pre-installed software applications on an operating system that the gatekeeper provides or effectively controls as easily as any software application installed by end users at any stage, and to change default
settings on an operating system that direct or steer end users to services or products offered by the gatekeeper, without prejudice to the possibility for a gatekeeper to restrict such un-installation in relation to software applications that are essential for the functioning of the operating system or of the device and which cannot technically be offered on a standalone basis by third-parties;

Amendment 119

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

Text proposed by the Commission

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

Amendment

deleted

Amendment 120

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

Text proposed by the Commission

(aa) for its own commercial purposes, and the placement of third-party advertising in its own services, refrain from combining personal data for the purpose of delivering targeted or micro-targeted advertising, except if a clear, explicit, renewed, informed consent has been given to the gatekeeper in line with the procedure laid down in the Regulation (EU) 2016/679 by an end-user that is not a minor.
Amendment 121

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

Text proposed by the Commission

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

Amendment 122

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

Text proposed by the Commission

(c) allow the installation and effective use of third party software applications or software application stores using, or interoperating with, operating systems of that gatekeeper and allow these software applications or software application stores to be accessed by means other than the core platform services of that gatekeeper. The gatekeeper shall not be prevented from taking proportionate measures to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper;

Amendment

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

Amendment 123

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

Text proposed by the Commission

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

Amendment

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

Amendment 124

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

Text proposed by the Commission

(e) refrain from technically restricting the ability of end users to switch between and subscribe to different software applications and services to be accessed using the operating system of the gatekeeper, including as regards the choice of Internet access provider for end users;

Amendment

(e) not restrict technically or otherwise the ability of end users to switch between and subscribe to different software applications and services, including as regards the choice of Internet access provider for end users;

Amendment 125

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

Text proposed by the Commission

(ea) refrain from practices that obstruct the possibility for the end-user to
Proposal for a regulation
Article 6 – paragraph 1 – point f

Text proposed by the Commission

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

Amendment

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

Amendment 127

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

Text proposed by the Commission

(fa) allow any providers of number independent interpersonal communication services upon their

Amendment

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

Amendment 128

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

Text proposed by the Commission

Amendment

(fb) allow any providers of social network services upon their request and free of charge to interconnect with the gatekeepers’ social network services identified pursuant to Article 3(7).
Interconnection shall be provided under objectively the same conditions and quality that are available or used by the gatekeeper, its subsidiaries or its partners, thus allowing for a functional interaction with these services, while guaranteeing a high level of security and personal data protection. The implementation of this obligation is subjected to the Commission’s specification under Article 10 (2) b;

Amendment 129

Proposal for a regulation
Article 6 – paragraph 1 – point g

Text proposed by the Commission

Amendment

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

Amendment 130

Proposal for a regulation
Article 6 – paragraph 1 – point h

Text proposed by the Commission

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

Amendment

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

Amendment 131

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

Text proposed by the Commission

(i) provide business users, or third parties authorised by a business user, free of charge, with effective, high-quality, continuous and real-time access and use of aggregated or non-aggregated data, that is

Amendment

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

Amendment 132

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

Text proposed by the Commission

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

Amendment

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

Amendment 133

Proposal for a regulation
Article 6 – paragraph 2

Text proposed by the Commission

Article 6 – paragraph 2
2. For the purposes of point (a) of paragraph 1 data that is not publicly available shall include any aggregated and

Amendment

Article 5 – paragraph 2
2. For the purposes of point (g a) of paragraph 1 data that is not publicly available shall include any aggregated and
non-aggregated data generated by business users that can be inferred from, or collected through, the commercial activities of business users or their customers on the core platform service of the gatekeeper.

Amendment 134
Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 135
Proposal for a regulation
Article 7 – paragraph 1 a (new)

Text proposed by the Commission

1a. Within six months after its designation and in application of paragraph 8 of Article 3, the gatekeeper shall provide the Commission with a report describing in a detailed and transparent manner the measures implemented to ensure compliance with the obligations laid down in Articles 5 and 6. This report shall be updated at least annually.

Amendment

1a. Within six months after its designation and in application of paragraph 8 of Article 3, the gatekeeper shall provide the Commission with a report describing in a detailed and transparent manner the measures implemented to ensure compliance with the obligations laid down in Articles 5 and 6. This report shall be updated at least annually.
Amendment 136
Proposal for a regulation
Article 7 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

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

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

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

Amendment 137

Proposal for a regulation
Article 7 – paragraph 2

**Text proposed by the Commission**

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

**Amendment**

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

Amendment 138

Proposal for a regulation
Article 7 – paragraph 4

**Text proposed by the Commission**

4. In view of adopting the decision under paragraph 2, the Commission shall communicate its preliminary findings within three months from the opening of the proceedings. In the preliminary findings, the Commission shall explain the measures it considers to take or it considers that the provider of core platform

**Amendment**

4. With a view to adopting the decision under paragraph 2, the Commission shall communicate its preliminary findings and publish a concise summary as soon as possible and, in any event no later than two months from the opening of the proceedings. In the preliminary findings, the Commission shall
services concerned should take in order to effectively address the preliminary findings.

The Commission may decide to invite interested third parties to submit their observations within a time limit, which is fixed by the Commission in its publication. When publishing, due regard shall be given by the Commission to the legitimate interest of undertakings in the protection of their business secrets.

Amendment 139

Proposal for a regulation
Article 7 – paragraph 7

Text proposed by the Commission

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

Amendment

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

Amendment 140

Proposal for a regulation
Article 8 – paragraph 1
1. The Commission may, on a reasoned request by the gatekeeper, exceptionally suspend, in whole or in part, a specific obligation laid down in Articles 5 and 6 for a core platform service by decision adopted in accordance with the advisory procedure referred to in Article 32(4), where the gatekeeper demonstrates that compliance with that specific obligation would endanger, due to exceptional circumstances beyond the control of the gatekeeper, the economic viability of the operation of the gatekeeper in the Union, and only to the extent necessary to address such threat to its viability. The Commission shall aim to adopt the suspension decision without delay and at the latest 3 months following receipt of a complete reasoned request.

Amendment 141

Proposal for a regulation
Article 8 – paragraph 2

Text proposed by the Commission

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

Amendment 142

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

2. Where suspension is granted pursuant to paragraph 1, the Commission shall review its suspension decision every year. Following such a review the Commission shall either wholly or partly lift the suspension or decide that the conditions of paragraph 1 continue to be met.
Proposal for a regulation
Article 8 – paragraph 3 – subparagraph 1

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

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

Amendment 143
Proposal for a regulation
Article 8 – paragraph 3 – subparagraph 2

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

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

Amendment 144
Proposal for a regulation
Article 9 – title

Text proposed by the Commission
Exemption for overriding reasons of public interest

Amendment
Exemption on grounds of public morality, public health or public security
Amendment 145

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

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

Amendment 146

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

Text proposed by the Commission

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

Amendment 147

Proposal for a regulation
Article 9 – paragraph 3 – subparagraph 1
3. The Commission may, acting on a reasoned request by a gatekeeper or on its own initiative, provisionally suspend the application of the relevant obligation to one or more individual core platform services already prior to the decision pursuant to paragraph 1.

Amendment 148

Proposal for a regulation
Article 10 – paragraph 1

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

Amendment 149

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

1a. The Commission is empowered to adopt delegated acts in accordance with Article 37 supplementing this Regulation in respect of the obligations laid down in Article 5 and 6. Those delegated acts shall provide for only the following:
(a) the extent to which an obligation applies to certain core platform services;

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

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

Amendment 150

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

Text proposed by the Commission

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

Amendment

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

Amendment 151

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

Text proposed by the Commission

2a. In relation to the obligation laid down in article 6(1) fb, the Commission shall adopt by ... [18 months after the entry into force of this Regulation] a delegated act in accordance with Article 37 supplementing this Regulation by defining the appropriate scope and features for the interconnection of the gatekeepers online social networking services as well as standards or technical specifications of such interconnection. Such standards or technical specifications shall ensure high level of security and protection of personal data. When developing standards or technical
specifications the Commission may consult standardisation bodies or other relevant stakeholders as foreseen in the in Regulation (EU) 1025/2012.

Amendment 152

Proposal for a regulation
Article 11

Text proposed by the Commission

Article 11
Anti-circumvention

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

Amendment

Article 6a
Anti-circumvention

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

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

1b. The gatekeeper shall not engage in any behaviour discouraging interoperability by using technical protection measures, discriminatory terms of service, subjecting application programming interfaces to copyright or
2. Where consent for collecting and processing of personal data is required to ensure compliance with this Regulation, a gatekeeper shall take the necessary steps to either enable business users to directly obtain the required consent to their processing, where required under Regulation (EU) 2016/679 and Directive 2002/58/EC, or to comply with Union data protection and privacy rules and principles in other ways including by providing business users with duly anonymised data where appropriate. **The gatekeeper shall not make the obtaining of this consent by the business user more burdensome than for its own services.**

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

**Amendment 153**

**Proposal for a regulation**

**Article 12 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

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

**Amendment**

1. A gatekeeper shall inform the Commission of any intended concentration within the meaning of Article 3 of Regulation (EC) No 139/2004 irrespective of whether it is notifiable to a Union competition authority under Regulation (EC) No 139/2004 or to a competent national competition authority under
Amendment 154

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

Text proposed by the Commission

The Commission shall inform competent national authorities of such notifications

Amendment 155

Proposal for a regulation
Article 12 – paragraph 3

Text proposed by the Commission

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

Amendment 156

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

Text proposed by the Commission

3a. The competent national authorities may use the information received under paragraph 1 to request the Commission to examine the concentration pursuant to Article 22 of Regulation (EC) No 139/2004.
Amendment 157
Proposal for a regulation
Article 12 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. The Commission shall publish annually the list of acquisitions of which it has been informed by gatekeepers.

Amendment 158
Proposal for a regulation
Article 13 – paragraph 1

Text proposed by the Commission

Amendment

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

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

Amendment 159
Proposal for a regulation
Article 13 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The gatekeeper shall make publicly available an overview of the audited description referred to in the first paragraph, taking into account the need to respect business secrecy.
Amendment 160

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

Text proposed by the Commission

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

Amendment

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

Amendment 161

Proposal for a regulation
Article 14 – paragraph 3 a (new)

Text proposed by the Commission

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

Amendment

Amendment 162

Proposal for a regulation
Article 15 – paragraph 1

Text proposed by the Commission

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

Amendment

1. The Commission may conduct a market investigation for the purpose of examining whether a provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6), or in order to identify core platform services for a gatekeeper pursuant to Article 3(7). The Commission shall conclude its investigation by adopting a decision within twelve months.
Amendment 163

Proposal for a regulation
Article 15 – paragraph 2

Text proposed by the Commission

2. In the course of a market investigation pursuant to paragraph 1, the Commission shall endeavour to communicate its preliminary findings to the provider of core platform services concerned within six months from the opening of the investigation. In the preliminary findings, the Commission shall explain whether it considers, on a provisional basis, that the provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6).

Amendment

2. In the course of a market investigation pursuant to paragraph 1, the Commission shall communicate its preliminary findings to the provider of core platform services concerned as soon as possible and in any case no later than six months from the opening of the investigation. In the preliminary findings, the Commission shall explain whether it considers, on a provisional basis, that the provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6).

Amendment 164

Proposal for a regulation
Article 15 – paragraph 3

Text proposed by the Commission

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

Amendment

deleted

Amendment 165
Proposal for a regulation
Article 15 – paragraph 4

Text proposed by the Commission

4. When the Commission pursuant to Article 3(6) designates as a gatekeeper a provider of core platform services that does not yet enjoy an entrenched and durable position in its operations, but it is foreseeable that it will enjoy such a position in the near future, it shall declare applicable to that gatekeeper only obligations laid down in Article 5(b) and Article 6(1) points (e), (f), (h) and (i) as specified in the designation decision. The Commission shall only declare applicable those obligations that are appropriate and necessary to prevent that the gatekeeper concerned achieves by unfair means an entrenched and durable position in its operations. The Commission shall review such a designation in accordance with the procedure laid down in Article 4.

Amendment

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

Proposal for a regulation
Article 16 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 167

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

Text proposed by the Commission Amendment

1a. Pursuant to paragraph 1, the Commission may for a limited period restrict gatekeepers from making acquisitions in areas relevant to this Regulation provided that such restrictions are proportionate, and necessary in order to remedy the damage caused by repeated infringements or to prevent further damage to the contestability and fairness of the internal market.

Amendment 168

Proposal for a regulation
Article 16 – paragraph 2

Text proposed by the Commission Amendment

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

deleted

Amendment 169

Proposal for a regulation
Article 16 – paragraph 3
3. A gatekeeper shall be deemed to have engaged in a systematic non-compliance with the obligations laid down in Articles 5 and 6, where the Commission has issued at least three non-compliance or fining decisions pursuant to Articles 25 and 26 respectively against a gatekeeper in relation to any of its core platform services within a period of five years prior to the adoption of the decision opening a market investigation in view of the possible adoption of a decision pursuant to this Article.

Amendment 170
Proposal for a regulation
Article 16 – paragraph 4

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

Amendment 171
Proposal for a regulation
Article 16 – paragraph 5

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

Amendment
Proposal for a regulation
Article 16 – paragraph 5

5. The Commission shall communicate its objections to the gatekeeper concerned as soon as possible and in any event no later than four
objections, the Commission shall explain whether it preliminarily considers that the conditions of paragraph 1 are met and which remedy or remedies it **preliminarily** considers **necessary and proportionate**.

months from the opening of the investigation. In its objections, the Commission shall explain whether it preliminarily considers that the conditions of paragraph 1 are met and which remedy or remedies it considers **on a preliminary basis, to be effective and necessary**.

**Amendment 172**

**Proposal for a regulation**

**Article 16 – paragraph 6**

*Text proposed by the Commission*

6. **The Commission may at any time during** the market investigation extend its duration where **the** extension is justified on objective grounds and proportionate. The extension may apply to the deadline by which the Commission has to issue its objections, or to the deadline for adoption of the final decision. The total duration of any extension or extensions pursuant to this paragraph shall not exceed six months. **The Commission may consider commitments pursuant to Article 23 and make them binding in its decision.**

**Amendment**

6. **In the course of** the market investigation, **the Commission may** extend its duration where **such** extension is justified on objective grounds and proportionate. The extension may apply to the deadline by which the Commission has to issue its objections, or to the deadline for adoption of the final decision. The total duration of any extension or extensions pursuant to this paragraph shall not exceed six months.

**Amendment 173**

**Proposal for a regulation**

**Article 16 – paragraph 6 a (new)**

*Text proposed by the Commission*

6a. **In order to ensure effective compliance by the gatekeeper with its obligations laid down in Articles 5 or 6, the Commission shall regularly review the remedies that it imposes in accordance with paragraph 1 of this Article. The Commission shall be entitled to modify those remedies if, following an investigation, it finds that they are not effective.**
Amendment 174
Proposal for a regulation
Article 17 – paragraph 1

*Text proposed by the Commission*

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

*Amendment*

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

Amendment 175
Proposal for a regulation
Article 17 – paragraph 2 – point b a (new)

*Text proposed by the Commission*

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

*Amendment*

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

Amendment 176
Proposal for a regulation
Article 19 – paragraph 1

*Text proposed by the Commission*

1. The Commission may by simple request or by decision require information from undertakings and associations of undertakings to provide all necessary information, including for the purpose of

*Amendment*

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

Amendment 177

Proposal for a regulation
Article 19 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 178

Proposal for a regulation
Article 19 – paragraph 4

Text proposed by the Commission

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

Amendment

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

Amendment 179

Proposal for a regulation
Article 20 – paragraph 1

_text proposed by the commission_

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

Amendment

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

Amendment 180

Proposal for a regulation
Article 21 – paragraph 2

_text proposed by the commission_

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

Amendment

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

Amendment 181

Proposal for a regulation
Article 22 – paragraph 1

_text proposed by the commission_

1. In _case_ of urgency due to the risk of serious and _irreparable_ damage for business users or end users of gatekeepers, the Commission may, by decision adopt in accordance with the advisory procedure

Amendment

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

referred to in Article 32(4), order interim measures on a gatekeeper on the basis of a prima facie finding of an infringement of Articles 5 or 6.

Amendment 182

Proposal for a regulation
Article 22 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 183

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

Text proposed by the Commission

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

Amendment

2a. In cases of urgency due to the risk of serious and immediate damage to business users or end users of gatekeepers, resulting from new practices implemented by one or more gatekeepers that could undermine contestability of core platform services or that could be unfair pursuant to Article 10(2), the Commission may impose interim measures on the gatekeepers concerned in order to prevent such a risk materialising.
2b. A decision referred to in paragraph 2a of this Article shall only be adopted in the context of a market investigation pursuant to Article 17 and within 6 months of the opening of such an investigation. The interim measures shall apply for a specified period of time and, in any case, shall be renewed or withdrawn in order to take account of the final decision resulting from the market investigation pursuant to Article 17.

Amendment 185

Proposal for a regulation
Article 23

Text proposed by the Commission

Amendment

Article 23  deleted

Commitments

1. If during proceedings under Articles 16 or 25 the gatekeeper concerned offers commitments for the relevant core platform services to ensure compliance with the obligations laid down in Articles 5 and 6, the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) make those commitments binding on that gatekeeper and declare that there are no further grounds for action.

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

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

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

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

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

Amendment 186

Proposal for a regulation
Article 24 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 187

Proposal for a regulation
Article 24 a (new)

Text proposed by the Commission

Article 24a

Complaint mechanism

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

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

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

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

Amendment 188

Proposal for a regulation

Article 24 b (new)

Text proposed by the Commission

Amendment

Article 24b

Compliance function

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

2. The gatekeeper shall ensure that compliance function pursuant to paragraph 1 has sufficient authority, stature and resources, as well as access to the management body of the gatekeeper to monitor the compliance of the gatekeeper with this Regulation.

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

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

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

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

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

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

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

(c) where applicable, monitoring compliance with commitments made binding pursuant to Article 23, without prejudice to the Commission being able to appoint independent external experts pursuant to Article 24(2).

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

6. Gatekeepers shall communicate the name and contact details of the head of the compliance function to the Commission.
7. The management body of the gatekeeper shall define, oversee and be accountable for the implementation of the governance arrangements of the gatekeeper that ensure independence of the compliance function, including the segregation of duties in the organisation of the gatekeeper and the prevention of conflicts of interest.

Amendment 189

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

Text proposed by the Commission

Amendment

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

Amendment 190

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

Text proposed by the Commission

Amendment

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

Amendment 191

Proposal for a regulation
Article 25 – paragraph 2

Text proposed by the Commission

Amendment

2. Before adopting the decision pursuant to paragraph 1, the Commission shall communicate its preliminary findings to the gatekeeper concerned. In the preliminary findings, the Commission shall explain the measures it considers to take or

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

taking or that it considers that the gatekeeper should take in order to effectively address the preliminary findings.

Amendment 192
Proposal for a regulation
Article 25 – paragraph 4

Text proposed by the Commission

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

Amendment

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

Amendment 193
Proposal for a regulation
Article 26 – paragraph 1 – introductory part

Text proposed by the Commission

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

Amendment

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

Amendment 194
Proposal for a regulation
Article 26 – paragraph 1 – point a a (new)

Text proposed by the Commission

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

Amendment
Amendment 195
Proposal for a regulation
Article 26 – paragraph 1 – point a b (new)

Text proposed by the Commission

Amendment

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

Amendment 196
Proposal for a regulation
Article 26 – paragraph 1 – point e

Text proposed by the Commission

Amendment

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

deleted

Amendment 197
Proposal for a regulation
Article 26 – paragraph 2 – point b

Text proposed by the Commission

Amendment

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

deleted

Amendment 198
Proposal for a regulation
Article 26 – paragraph 2 – point c

Text proposed by the Commission

Amendment

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

deleted
Amendment 199
Proposal for a regulation
Article 27 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 200
Proposal for a regulation
Article 28 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 201
Proposal for a regulation
Article 30 – paragraph 1 – introductory part

Text proposed by the Commission

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

Amendment

1. Before adopting a decision pursuant to Article 7, Article 8(1), Article 9(1), Articles 15, 16, 22, 23, 25 and 26 and Article 27(2), the Commission shall give the gatekeeper or undertaking or association of undertakings concerned including third parties with a legitimate interest, the opportunity of being heard on:
Proposal for a regulation
Article 30 – paragraph 2

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

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

Amendment 203

Proposal for a regulation
Article 30 – paragraph 3

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

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

Amendment 204

Proposal for a regulation
Article 31 – paragraph 1

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

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

Amendment 205
Text proposed by the Commission

Amendment

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

Amendment 206

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

Text proposed by the Commission

Amendment

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

Amendment 207

Proposal for a regulation
Article 31 – paragraph 2

Text proposed by the Commission

Amendment

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

2. Without prejudice to the exchange and to the use of information provided for the purpose of use pursuant to Articles 12, 13, 31d, 32 and 33, the Commission, the authorities of the Member States, their officials, servants and other persons working under the supervision of these authorities and any natural or legal person, including auditors and experts appointed pursuant to Article 24(2), shall not disclose information acquired or exchanged by them pursuant to this Regulation and of the kind covered by the obligation of professional secrecy. This obligation shall also apply to all representatives and experts of Member States participating in any of the activities of the Digital Markets Advisory Committee pursuant to Article 32.
Amendment 208

Proposal for a regulation
Article 31 a (new)

Text proposed by the Commission

Amendment

Article 31a

European High-Level Group of Digital Regulators

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

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

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

Amendment 209

Proposal for a regulation
Article 31 b (new)

Text proposed by the Commission

Amendment

Article 31b
Tasks of the European High-Level Group of Digital Regulators

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

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

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

(c) to make recommendations to the Commission on the need to update the obligations of the Regulation under Articles 5 and 6;

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

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

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

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

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


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

Amendment 210

Proposal for a regulation
Article 31 c (new)

Text proposed by the Commission

Amendment

Article 31c

Role of national competition authorities and other competent authorities

1. National competition authorities as well as other competent authorities designated by the Member State shall support the Commission in monitoring compliance with and enforcement of the obligations laid down in this Regulation and report regularly to the Commission on compliance with this Regulation.

2. National competition authorities as well as other competent authorities may, under the coordination of the Commission, provide support to a market investigation or proceedings pursuant to Article 7(2), 15, 16, 17, 19, 20, 21 by collecting information and providing expertise.

3. National competition authorities as well as other competent authorities may collect complaints in accordance with
Amendment 211
Proposal for a regulation
Article 31d (new)

Text proposed by the Commission

Amendment

Article 31d

Cooperation and coordination with Member States

1. The Commission and Member States shall work in close cooperation and coordinate their enforcement actions to ensure coherent, effective and complementary enforcement of this Regulation.

2. Where a national authority intends to launch an investigation on gatekeepers based on national laws referred to in Article 1(6), it shall inform the Commission in writing of the first formal investigative measure, before or immediately after the start of such measure. This information may also be made available to the national competition authorities as well as other competent authorities of the other Member States.

3. Where a national authority intends to impose obligations on gatekeepers based on national laws referred to in Article 1(6), it shall, no later than 60 days before its adoption, communicate the draft measure to the Commission stating the reasons for the measure. This information may also be made available to the national competition authorities as well as other competent authorities of the other Member States. Where the Commission within those 60 days indicates to the national authority concerned that the draft measure runs counter to this Regulation or to a decision adopted by the Commission under this procedure laid down in Article 24a.
Regulation or contemplated in proceedings initiated by the Commission, that national authority shall not adopt the measure.

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

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

Amendment 212
Proposal for a regulation
Article 32 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. For meetings in which specific issues are to be discussed, Member States shall be entitled to appoint an additional representative from an authority with the relevant expertise for those issues. This is without prejudice to the right of members of the Committee to be assisted by other experts from the Member States.

Amendment 213
Proposal for a regulation
Article 32 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

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

Amendment 214

Proposal for a regulation
Article 33 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 215

Proposal for a regulation
Article 33 – paragraph 2

Text proposed by the Commission

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

Amendment

deleted

Amendment 216

Proposal for a regulation
Article 36 – title
Amendment 217

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

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

Amendment 218

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

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

Amendment 219

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

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

Amendment 220
Proposal for a regulation
Article 36 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

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

Amendment 221

Proposal for a regulation
Article 36 – paragraph 2

Text proposed by the Commission

Amendment

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

Amendment 222

Proposal for a regulation
Article 36 a (new)

Text proposed by the Commission

Amendment

Article 36a
Guidelines

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

Amendment 223

Proposal for a regulation
Article 37 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 224

Proposal for a regulation
Article 37 – paragraph 3

Text proposed by the Commission

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

Amendment

3. The delegation of power referred to in Articles 3(6) and 10 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
Amendment 225

Proposal for a regulation
Article 37 a (new)

Text proposed by the Commission

Amendment

Article 37a

Amendment to Directive (EU) 2019/1937

In Part XX of the Annex to Directive (EU) 2019/1937, the following point is added:


Amendment 226

Proposal for a regulation
Article 37 b (new)

Text proposed by the Commission

Amendment

Article 37b

Amendments to Directive 2020/1828/EC on Representative Actions for the Protection of the Collective Interests of Consumers

The following is added to Annex I:

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

Amendment 227

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

Text proposed by the Commission

Amendment

This Regulation shall apply from six

This Regulation shall apply from two
Amendment 228

Proposal for a regulation
Annex 1

Text proposed by the Commission

a. ‘General’

1. The present annex aims at specifying the methodology for identifying and calculating the ‘end users’ and the ‘business users’ for each core platform service defined in Article 2(2) for the purpose of point (b) of Article 3(2). It provides a reference to enable an undertaking to assess whether its core platforms services meet the quantitative thresholds set out in Article 3(2)(b) and would therefore be presumed to meet the requirement in Article 3(1)(b). It will therefore equally be of relevance to any broader assessment under Article 3(6). It is the responsibility of the undertaking to come to the best approximation possible in line with the common principles and specific methodology set out in this annex. Nothing in this annex precludes the Commission from requiring the undertaking providing core platform services to provide any information necessary to identify and calculate the ‘end users’ and the ‘business users’. In doing so, the Commission is bound by the timelines laid down in the relevant provisions of this Regulation. Nothing in the present annex should constitute a legal basis for tracking users. The methodology contained in this annex is also without prejudice to any of the obligations in the Regulation, notably including those laid down in Article 3(3), Article 3(6) and Article 11(1). In particular, the required compliance with Article 11(1) also means identifying and calculating end users and business users.
based either on a precise measurement or on the best approximation available – in line with the actual identification and calculation capacities that the undertaking providing core platform services possesses at the relevant point in time. These measurements or the best approximation available shall be consistent with, and include, those reported under Article 13.

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

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

b. ‘end users’

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

   a. It is considered that collecting data about the use of core platform services from signed-in or logged-in environments would prima facie present the lowest risk of duplication, for example in relation to user behaviour across devices or platforms. Hence, the undertaking shall submit
aggregate anonymized data on the number of unique users per respective core platform service based on signed-in or logged-in environments if such data exists.

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

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

c. ‘business users’

6. Number of ‘unique users’ as regards ‘business users’, ‘unique users’ are to be determined, where applicable, at the account level with each distinct business account associated with the use of a core platform service provided by the undertaking constituting one unique business user of that respective core platform service. If the notion of ‘business
account’ does not apply to a given core platform service, the relevant undertaking providing core platform services shall determine the number of unique business users by referring to the relevant undertaking.

d. ‘Submission of information’

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

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

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

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

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

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

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

e. ‘Specific definitions’

9. Specific definitions per core platform service: The below list sets out specific definitions of ‘end users’ and ‘business users’ for each core platform service.
Amendment 229
Proposal for a regulation
Annex 1 - table

*Text proposed by the Commission*

<table>
<thead>
<tr>
<th>Core platform service</th>
<th>end users</th>
<th>business users</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Online intermediation services</strong></td>
<td>Number of unique end users who engaged with the online intermediation service at least once in the month, for example through actively logging-in, making a query, clicking or scrolling or concluded a transaction through the online intermediation service at least once in the month.</td>
<td>Number of unique business users who had at least one item listed in the online intermediation service during the whole year or concluded a transaction enabled by the online intermediation service during the year.</td>
</tr>
<tr>
<td><strong>Online search engines</strong></td>
<td>Number of unique end users who engaged with the online search engine at least once in the month, for example through making a query.</td>
<td>Number of unique business users with business websites (i.e. website used in commercial or professional capacity) indexed by or part of the index of the online search engine during the year.</td>
</tr>
<tr>
<td><strong>Online social networking services</strong></td>
<td>Number of unique end users who engaged with the online social networking service at least once in the month, for example through actively logging-in, opening a page, scrolling, clicking, liking, making a query, posting or commenting.</td>
<td>Number of unique business users who have a business listing or business account in the online social networking service and have engaged in any way with the service at least once during the year, for example through actively logging-in, opening a page, scrolling, clicking, liking, making a query, posting, commenting or using its tools for businesses.</td>
</tr>
<tr>
<td><strong>Video-sharing platform</strong></td>
<td>Number of unique end users</td>
<td>Number of unique business users</td>
</tr>
<tr>
<td>services</td>
<td>users who engaged with the video-sharing platform service at least once in the month, for example through playing a segment of audiovisual content, making a query or uploading a piece of audiovisual content, notably including user-generated videos.</td>
<td>users who provided at least one piece of audiovisual content uploaded or played on the video-sharing platform service during the year.</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Number-independent interpersonal communication services</td>
<td>Number of unique end users who initiated or participated in any way in a communication through the number-independent interpersonal communication service at least once in the month.</td>
<td>Number of unique business users who used a business account or otherwise initiated or participated in any way in a communication through the number-independent interpersonal communication service to communicate directly with an end user at least once during the year.</td>
</tr>
<tr>
<td>Operating systems</td>
<td>Number of unique end users who utilised a device with the operating system, which has been activated, updated or used at least once in the month.</td>
<td>Number of unique developers who published, updated or offered at least one software application or software program using the programming language or any software development tools of, or running in any way on, the operating system during the year.</td>
</tr>
<tr>
<td>Cloud computing services</td>
<td>Number of unique end users who engaged with any cloud computing services from the relevant provider of cloud computing services at least once in the month, in return for any type of remuneration, regardless of whether this remuneration occurs in the same month.</td>
<td>Number of unique business users who provided any cloud computing services hosted in the cloud infrastructure of the relevant provider of cloud computing services during the year.</td>
</tr>
<tr>
<td>Advertising services</td>
<td>Proprietary sales of advertising space Number of unique end</td>
<td>Proprietary sales of advertising space Number of unique</td>
</tr>
<tr>
<td>Advertising intermediation (including advertising networks, advertising exchanges and any other advertising intermediation services)</td>
<td>Number of unique end users who were exposed to an advertisement impression which triggered the advertising intermediation service at least once in the month.</td>
<td>advertisers who had at least one advertisement impression displayed during the year.</td>
</tr>
</tbody>
</table>
28.10.2021

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

for the Committee on the Internal Market and Consumer Protection


Rapporteur for opinion: Stéphanie Yon-Courtin

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

AMENDMENTS

The Committee on Economic and Monetary Affairs calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation
Recital 1

Text proposed by the Commission

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

Amendment

(1) Digital services in general and online platforms in particular play an increasingly important role in the economy, in particular in the internal market, by providing new business opportunities in the Union and facilitating cross-border trading as well as by benefiting consumers by leading to a greater choice in products and services provided. They serve as essential facilities for the digital economy by providing access to critical infrastructures. Furthermore, they could play an important role in safeguarding the freedom and pluralism of the media, including by disseminating news and by
facilitating public debate.

Amendment 2

Proposal for a regulation
Recital 4

Text proposed by the Commission

(4) The combination of those features of gatekeepers is likely to lead in many cases to serious imbalances in bargaining power and, consequently, to unfair practices and conditions for business users as well as end users of core platform services provided by gatekeepers, to the detriment of prices, quality, choice and innovation therein.

Amendment

(4) The combination of those features of gatekeepers is likely to lead in many cases to serious imbalances in bargaining power and, consequently, to unfair practices and conditions for business users as well as end users of core platform services provided by gatekeepers, to the detriment of prices, quality, privacy, security standards, funding of traditional publishers, choice and innovation therein.

Amendment 3

Proposal for a regulation
Recital 6

Text proposed by the Commission

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

Amendment

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

tional regulatory requirements.

Amendment 4

Proposal for a regulation
Recital 7

Text proposed by the Commission

(7) Therefore, business users and end-users of core platform services provided by gatekeepers should be afforded appropriate regulatory safeguards throughout the Union against the unfair behaviour of gatekeepers in order to facilitate cross-border business within the Union and thereby improve the proper functioning of the internal market and to address existing or likely emerging fragmentation in the specific areas covered by this Regulation. Moreover, while gatekeepers tend to adopt global or at least pan-European business models and algorithmic structures, they can adopt, and in some cases have adopted, different business conditions and practices in different Member States, which is liable to create disparities between the competitive conditions for the users of core platform services provided by gatekeepers, to the detriment of integration within the internal market.

Amendment

(7) Therefore, the objective of this Regulation is to contribute to the proper functioning of the internal market, by increasing the level of consumer protection, by establishing rules that ensure contestability and fairness for the digital section in general, as well as for business users and end-users of core platform services provided by gatekeepers in particular. Business users and end-users of core platform services provided by gatekeepers should be afforded appropriate regulatory safeguards throughout the Union against the unfair behaviour of gatekeepers in order to facilitate cross-border business within the Union and thereby improve the proper functioning of the internal market and to address existing or likely emerging fragmentation in the specific areas covered by this Regulation. Moreover, while gatekeepers tend to adopt global or at least pan-European business models and algorithmic structures, they can adopt, and in some cases have adopted, different business conditions and practices in different Member States, which is liable to create disparities between the competitive conditions for the users of core platform services provided by gatekeepers, to the detriment of integration within the internal market.

Amendment 5

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

Amendment 6

Proposal for a regulation
Recital 10

Text proposed by the Commission
(10) Articles 101 and 102 TFEU and the

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

Amendment 7
Proposal for a regulation
Recital 13

Text proposed by the Commission

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


Amendment 8

Proposal for a regulation
Recital 13 a (new)

\begin{quote}
\textit{Text proposed by the Commission}
\end{quote}

Amendment

\begin{quote}
(13a) Where the gatekeeper has a number of core platform services, separate authentication, for example separate user accounts set up for each core platform service, should be possible. It should not be mandatory to combine or link accounts belonging to business or end users.
\end{quote}

Amendment 9
Proposal for a regulation
Recital 14 a (new)

Text proposed by the Commission

(14a) Gatekeepers may also provide ancillary services aimed at end users, alongside their basic services, and do so in a manner that is indistinguishable for the average user. These ancillary services could compete with the professional users of the platform's basic service and be a significant factor in any market imbalance, leading, ultimately, to an unfair increase in the power of the gatekeeper, including with respect to its commercial partners, such as suppliers of goods and services, who depend on this ancillary service. To prevent gatekeepers from unfairly benefiting from the leverage provided by the ancillary services, these services should also be subject to the obligations applicable to core platform services.

Amendment 10
Proposal for a regulation
Recital 15

Text proposed by the Commission

(15) The fact that a digital service qualifies as a core platform service in light of its widespread and common use and its importance for connecting business users and end users does not as such give rise to sufficiently serious concerns of contestability and unfair practices. It is only when a core platform service constitutes an important gateway and is operated by a provider with a significant impact in the internal market and an entrenched and durable position, or by a provider that will foreseeably have such a position in the near future, that such concerns arise. Accordingly, the targeted set of harmonised rules laid down in this
Regulation should apply only to undertakings designated on the basis of these three objective criteria, and they should only apply to those of their core platform services that individually constitute an important gateway for business users to reach end users.

**Amendment 11**

Proposal for a regulation
Recital 16

*Text proposed by the Commission*

(16) In order to ensure the effective application of this Regulation to providers of core platform services which are most likely to satisfy these objective requirements, and where unfair conduct weakening contestability is most prevalent and impactful, the Commission should be able to directly designate as gatekeepers those providers of core platform services which meet certain quantitative thresholds. Such undertakings should in any event be subject to a fast designation process which should start upon the entry into force of this Regulation.

*Amendment*

(16) In order to ensure the effective application of this Regulation to providers of core platform services which are most likely to satisfy these objective requirements, and where unfair conduct weakening contestability is most prevalent and impactful, the Commission should be able to directly designate as gatekeepers those providers of core platform services which meet certain quantitative thresholds. Such providers of core platform services should in any event be subject to a fast designation process which should start upon the entry into force of this Regulation.

**Amendment 12**

Proposal for a regulation
Recital 17

*Text proposed by the Commission*

(17) A very significant turnover in the Union and the provision of a core platform service in at least three Member States constitute compelling indications that the provider of a core platform service has a significant impact on the internal market. This is equally true where a provider of a core platform service in at least three Member States has a very significant

*Amendment*

A very significant turnover in the Union and the provision of a core platform service in at least two Member States constitute compelling indications that the provider of a core platform service has a significant impact on the internal market. This is equally true where a provider of a core platform service in at least two Member States has a very significant market
market capitalisation or equivalent fair market value. Therefore, a provider of a core platform service should be presumed to have a significant impact on the internal market where it provides a core platform service in at least three Member States and where either its group turnover realised in the EEA is equal to or exceeds a specific, high threshold or the market capitalisation of the group is equal to or exceeds a certain high absolute value. For providers of core platform services that belong to undertakings that are not publicly listed, the equivalent fair market value above a certain high absolute value should be referred to. The Commission should use its power to adopt delegated acts to develop an objective methodology to calculate that value. A high EEA group turnover in conjunction with the threshold of users in the Union of core platform services reflects a relatively strong ability to monetise these users. A high market capitalisation relative to the same threshold number of users in the Union reflects a relatively significant potential to monetise these users in the near future. This monetisation potential in turn reflects in principle the gateway position of the undertakings concerned. Both indicators are in addition reflective of their financial capacity, including their ability to leverage their access to financial markets to reinforce their position. This may for example happen where this superior access is used to acquire other undertakings, which ability has in turn been shown to have potential negative effects on innovation. Market capitalisation can also be reflective of the expected future position and effect on the internal market of the providers concerned, notwithstanding a potentially relatively low current turnover. The market capitalisation value can be based on a level that reflects the average market capitalisation of the largest publicly listed undertakings in the Union over an appropriate period.

capitalisation or equivalent fair market value. Therefore, a provider of a core platform service should be presumed to have a significant impact on the internal market where it provides a core platform service in at least two Member States and where either its group turnover realised in the EEA is equal to or exceeds a specific, high threshold or the market capitalisation of the group is equal to or exceeds a certain high absolute value. For providers of core platform services that belong to undertakings that are not publicly listed, the equivalent fair market value above a certain high absolute value should be referred to. The Commission should use its power to adopt delegated acts to develop an objective methodology to calculate that value. A high EEA group turnover in conjunction with the threshold of users in the Union of core platform services reflects a relatively strong ability to monetise these users. A high market capitalisation relative to the same threshold number of users in the Union reflects a relatively significant potential to monetise these users in the near future. This monetisation potential in turn reflects in principle the gateway position of the undertakings concerned. Both indicators are in addition reflective of their financial capacity, including their ability to leverage their access to financial markets to reinforce their position. This may for example happen where this superior access is used to acquire other undertakings, which ability has in turn been shown to have potential negative effects on innovation. Market capitalisation can also be reflective of the expected future position and effect on the internal market of the providers concerned, notwithstanding a potentially relatively low current turnover. The market capitalisation value can be based on a level that reflects the average market capitalisation of the largest publicly listed undertakings in the Union over an appropriate period.
Amendment 13
Proposal for a regulation
Recital 20 a (new)

Text proposed by the Commission

Amendment
(20a) Active end users as well as business users should be defined in a way to adequately represent the role and reach of the specific core platform service in question. In order to provide legal certainty for gatekeepers, elements of such definitions per core platform service should be set out.

Amendment 14
Proposal for a regulation
Recital 21

Text proposed by the Commission

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

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

Amendment 15
Proposal for a regulation
Recital 23

Text proposed by the Commission

Amendment
(23) Providers of core platform services which meet the quantitative thresholds but are able to present sufficiently substantiated arguments to demonstrate that, in the circumstances in which the

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

**Amendment 16**

**Proposal for a regulation**

**Recital 24**

*Text proposed by the Commission*

(24) Provision should also be made for the assessment of the gatekeeper role of providers of core platform services which do not satisfy all of the quantitative thresholds, in light of the overall objective requirements that they have a significant impact on the internal market, act as an important gateway for business users to

(24) Provision should also be made for the assessment of the gatekeeper role of providers of core platform services which do not satisfy all of the quantitative thresholds, in light of the overall objective requirements that they have a significant impact on the internal market, act as an important gateway for business users to
reach end users and benefit from a durable and entrenched position in their operations or it is foreseeable that it will do so in the near future. 

Amendment 17
Proposal for a regulation
Recital 26

(26) A particular subset of rules should apply to those providers of core platform services that are foreseen to enjoy an entrenched and durable position in the near future. The same specific features of core platform services make them prone to tipping: once a service provider has obtained a certain advantage over rivals or potential challengers in terms of scale or intermediation power, its position may become unassailable and the situation may evolve to the point that it is likely to become durable and entrenched in the near future. Undertakings can try to induce this tipping and emerge as gatekeeper by using some of the unfair conditions and practices regulated in this Regulation. In such a situation, it appears appropriate to intervene before the market tips irreversibly.

Amendment 18
Proposal for a regulation
Recital 29

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

Amendment 19
Proposal for a regulation
Recital 30

_Text proposed by the Commission_

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

_Amendment_

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

Amendment 20
Proposal for a regulation
Recital 31
(31) To ensure the effectiveness of the review of gatekeeper status as well as the possibility to adjust the list of core platform services provided by a gatekeeper, the gatekeepers should inform the Commission of all of their intended and concluded acquisitions of other providers of core platform services or any other services provided within the digital sector. Such information should not only serve the review process mentioned above, regarding the status of individual gatekeepers, but will also provide information that is crucial to monitoring broader contestability trends in the digital sector and can therefore be a useful factor for consideration in the context of the market investigations foreseen by this Regulation.

Amendment 21
Proposal for a regulation
Recital 31 a (new)

Text proposed by the Commission

(31a) The Commission should analyse concentrations notified or referred to it under Council Regulation (EC) No 139/2004 from the perspective of discouraging so-called ‘killer acquisitions’ which prevent the emergence of potential challengers to gatekeepers, even if at the time of the...
acquisition the acquired company is not a significant player. The Commission should consider proposing a revision of that Regulation in order both to enlarge its scope in the digital sector and to adjust the criteria against which acquisitions by gatekeepers are appraised.

Amendment 22

Proposal for a regulation
Recital 32

**Text proposed by the Commission**

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

**Amendment**

(32) To safeguard the fairness and contestability of core platform services provided by gatekeepers, it is necessary to provide in a clear and unambiguous manner for a set of harmonised obligations with regard to those services. Such rules are needed to address the risk of harmful effects of unfair practices imposed by gatekeepers, to the benefit of the business environment in the services concerned, to the benefit of users and ultimately to the benefit of society as a whole. Given the fast-moving and dynamic nature of digital markets, and the substantial economic power of gatekeepers, it is important that these obligations are effectively applied without being circumvented. To that end, the obligations in question should apply to any practices by a gatekeeper, irrespective of its form and irrespective of whether it is of a contractual, commercial, technical or any other nature, including through the use of dark patterns, manipulative choice architectures product design, structure, function or manner of operation, capable of influencing users' choice or autonomy, or through agreements with third party business partners of the gatekeepers

In particular, gatekeepers' actions should adequately ensure transparency,
interoperability (including equitable use of and access to data) and equal treatment (for example, where anti-competitive self-preferencing, tying or bundling may arise).

Amendment 23

Proposal for a regulation
Recital 33

Text proposed by the Commission

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

Amendment

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

Amendment 24

Proposal for a regulation
Recital 36

Text proposed by the Commission

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

Amendment

(36) The conduct of combining end user data from different sources or signing in users to different services of gatekeepers gives them potential advantages in terms of accumulation of data, thereby raising barriers to entry. To ensure that gatekeepers do not unfairly undermine the contestability of core platform services, they should enable their end users to freely choose to opt-in to such business practices by offering a less personalised but equivalent alternative, and without making the core platform service or certain functionalities thereof conditional upon the end user’s consent as referred to in Article 6(1)(a) of Regulation (EU) 2016/679. The less personalised alternative should not be different or of inferior quality compared to the service offered to the end users who consent to the combining of their personal data. The possibility of data combination should cover all possible sources of personal data, including own core platform services and other services offered by the gatekeeper as well as third party services (where data is obtained, for example, via cookies or ‘like’ buttons included on third party websites). When the gatekeeper requests consent, it should proactively present a user-friendly solution to end users to provide, modify or revoke consent in an explicit, clear and straightforward manner. Consent should be given in a clear, informed and specific way by the end user
who should be informed that a refusal could lead to a less personalised offer but that the quality and functionalities of the core platform service will remain unchanged. This should be applied without prejudice to other provisions governing the storage, processing and use of data, such as those of Regulation (EU) 2016/679 or the proposed Data Governance Act. For the purposes of giving information and offering the opportunity to grant, modify or revoke consent, the gatekeeper should provide end-users with solutions that are as user-friendly as possible (of easy and prompt accessibility) in line with Regulation (EU) 2016/679, and, in particular, the requirement of data protection by design and data protection by default laid down in Article 25 of Regulation (EU) 2016/679.

Amendment 25
Proposal for a regulation
Recital 37

Text proposed by the Commission

(37) Because of their position, gatekeepers might in certain cases restrict the ability of business users of their online intermediation services to offer their goods or services to end users under more favourable conditions, including price, through other online intermediation services. Such restrictions have a significant deterrent effect on the business users of gatekeepers in terms of their use of alternative online intermediation services, limiting inter-platform contestability, which in turn limits choice of alternative online intermediation channels for end users. To ensure that business users of online intermediation services of gatekeepers can freely choose alternative online intermediation services and differentiate the conditions under which they offer their products or services

Amendment

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

Amendment 26
Proposal for a regulation
Recital 37 a (new)

**Text proposed by the Commission**

(37a) **Requiring business users or end users to subscribe or register with another of the gatekeeper’s core platform service as a condition to access, sign up to or register for a core platform service provides the gatekeeper with a means of capturing and locking in new business users and end users for their core platform services by ensuring that business users cannot access one core platform service without also at least registering or creating an account for the purposes of receiving a second core platform service. That conduct also gives gatekeepers a potential advantage in terms of accumulation of data and could raise barriers to entry.**

Amendment 27
Proposal for a regulation
Recital 39

**Text proposed by the Commission**

(39) **To safeguard a fair commercial environment and protect the contestability of the digital sector it is important to safeguard the right of business users to raise concerns about unfair behaviour by**
gatekeepers with any relevant administrative or other public authorities. For example, business users may want to complain about different types of unfair practices, such as discriminatory access conditions, unjustified closing of business user accounts or unclear grounds for product de-listings. Any practice that would in any way inhibit such a possibility of raising concerns or seeking available redress, for instance by means of confidentiality clauses in agreements or other written terms, should therefore be prohibited. This should be without prejudice to the right of business users and gatekeepers to lay down in their agreements the terms of use including the use of lawful complaints-handling mechanisms, including any use of alternative dispute resolution mechanisms or of the jurisdiction of specific courts in compliance with respective Union and national law. This should therefore also be without prejudice to the role gatekeepers play in the fight against illegal content online.

Amendment 28
Proposal for a regulation Recital 40

Text proposed by the Commission

(40) Identification services are crucial for business users to conduct their business, as these can allow them not only to optimise services, to the extent allowed under Regulation (EU) 2016/679 and Directive 2002/58/EC of the European Parliament and of the Council\(^\text{33}\), but also to inject trust in online transactions, in compliance with Union or national law. Gatekeepers should therefore not use their position as provider of core platform services to require their dependent business users to include any identification services

Amendment

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


Amendment 29
Proposal for a regulation
Recital 41

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

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

Amendment 30
Proposal for a regulation
Recital 42
The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This opacity is partly linked to the practices of a few platforms, but is also due to the sheer complexity of modern day programmatic advertising. The sector is considered to have become more non-transparent after the introduction of new privacy legislation, and is expected to become even more opaque with the announced removal of third-party cookies. This often leads to a lack of information and knowledge for advertisers and publishers about the conditions of the advertising services they purchased and undermines their ability to switch to alternative providers of online advertising services. Furthermore, the costs of online advertising are likely to be higher than they would be in a fairer, more transparent and contestable platform environment. These higher costs are likely to be reflected in the prices that end users pay for many daily products and services relying on the use of online advertising. Transparency obligations should therefore require gatekeepers to provide advertisers and publishers to whom they supply online advertising services, when requested and to the extent possible, with information that allows both sides to understand the price paid for each of the different advertising services provided as part of the relevant advertising value chain.

(42) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This opacity is partly linked to the practices of a few platforms, but is also due to the sheer complexity of modern day programmatic advertising. The sector is considered to have become more non-transparent after the introduction of new privacy legislation, and is expected to become even more opaque with the announced removal of third-party cookies and through unilateral decision-making by industry actors that are not representative of the entire advertising value chain. This often leads to a lack of information and knowledge for advertisers and publishers about the conditions of the advertising services they purchased and undermines their ability to switch to alternative providers of online advertising services. Furthermore, the costs of online advertising are likely to be higher than they would be in a fairer, more transparent and contestable platform environment. These higher costs are likely to be reflected in the prices that end users pay for many daily products and services relying on the use of online advertising. Transparency obligations should therefore require gatekeepers to provide advertisers and publishers to whom they supply online advertising services, when requested and to the extent possible, with free of charge, effective, high-quality, continuous and real-time information that allows both sides to understand the price paid for each of the different advertising services provided as part of the relevant advertising value chain, including any deductions and surcharges, as well as information on the availability and visibility of advertisements, on price-setting mechanisms and schemes for the calculation of those prices and
remuneration and on all non-price criteria in the auction process. That should include comprehensive information regarding the methodology for calculating any prices and fees and its application in relation to the respective bids submitted by an advertiser or publisher for each of the advertising intermediation services provided. Furthermore, the gatekeeper should subject the auction-based matching of advertising demand and submit to regular independent audits to ascertain that the outcome of such auctions corresponds to the bids made and the fees charged reflect the pricing information provided by the gatekeeper.

Amendment 31
Proposal for a regulation
Recital 46

Text proposed by the Commission

(46) A gatekeeper may use different means to favour its own services or products on its core platform service, to the detriment of the same or similar services that end users could obtain through third parties. This may for instance be the case where certain software applications or services are pre-installed by a gatekeeper. To enable end user choice, gatekeepers should not prevent end users from uninstalling any pre-installed software applications on its core platform service and thereby favour their own software applications.

Amendment

(46) A gatekeeper may use different means to favour its own services or products on its core platform service, to the detriment of the same or similar services that end users could obtain through third parties. This may for instance be the case where certain software applications, software application stores or ancillary services are pre-installed by a gatekeeper. To enable end user choice, gatekeepers should not prevent end users from uninstalling any pre-installed software applications on its core platform service and thereby favour their own software applications.

Amendment 32
Proposal for a regulation
Recital 46 a (new)
Securing default positions across the main search access points of an operating system, such as the pre-installed browser, the home screen search bar, or the voice assistant, can entrench the dominant position of an established core platform service and prevent contestability of digital markets. Even where users can change the default manually, they rarely do so, due to behavioural bias. In order to ensure contestability, when they set up their device, end users should be able to select their preferred core platform service default through a preference menu of relevant available competing services based on a mix of criteria that enables new entrants to be shown on that menu. End users should be able to access that preference menu after the device is set up.

Amendment 33
Proposal for a regulation
Recital 47

The rules that the gatekeepers set for the distribution of software applications may in certain circumstances restrict the ability of end users to install and effectively use third party software applications or software application stores on operating systems or hardware of the relevant gatekeeper and restrict the ability of end users to access these software applications or software application stores outside the core platform services of that gatekeeper. Such restrictions may limit the ability of developers of software applications to use alternative distribution channels and the ability of end users to choose between different software applications from different distribution channels and should be prohibited as unfair.
and liable to weaken the contestability of core platform services. In order to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper the gatekeeper concerned may implement proportionate technical or contractual measures to achieve that goal if the gatekeeper demonstrates that such measures are necessary and justified and that there are no less restrictive means to safeguard the integrity of the hardware or operating system.

**Amendment 34**

**Proposal for a regulation**

**Recital 48**

*Text proposed by the Commission*

(48) Gatekeepers are often vertically integrated and offer certain products or services to end users through their own core platform services, or through a business user over which they exercise control which frequently leads to conflicts of interest. This can include the situation whereby a gatekeeper offers its own online intermediation services through an online search engine. When offering those products or services on the core platform service, gatekeepers can reserve a better position to their own offering, in terms of ranking, as opposed to the products of third parties also operating on that core platform service.

*Amendment*

(48) Gatekeepers are often vertically integrated and offer certain products or services to end users through their own core platform services, or through a business user over which they exercise control which frequently leads to conflicts of interest. This can include the situation whereby a gatekeeper offers its own online intermediation services through an online search engine. When offering those products or services on the core platform service, gatekeepers can reserve a better position or differentiated treatment to their own offering, in terms of ranking or default settings, as opposed to the products...
service. This can occur for instance with products or services, including other core platform services, which are ranked in the results communicated by online search engines, or which are partly or entirely embedded in online search engines results, groups of results specialised in a certain topic, displayed along with the results of an online search engine, which are considered or used by certain end users as a service distinct or additional to the online search engine. Other instances are those of software applications which are distributed through software application stores, or products or services that are given prominence and display in the newsfeed of a social network, or products or services ranked in search results or displayed on an online marketplace. In those circumstances, the gatekeeper is in a dual-role position as intermediary for third party providers and as direct provider of products or services of the gatekeeper. Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper.

Amendment 35

Proposal for a regulation
Recital 50

Text proposed by the Commission

(50) Gatekeepers should not restrict or prevent the free choice of end users by technically preventing switching between or subscription to different software applications and services. This would allow more providers to offer their services, thereby ultimately providing greater choice to the end user. Gatekeepers of third parties also operating on that core platform service. This can occur for instance with products or services, including other core platform services, which are ranked in the results communicated by online search engines, or which are partly or entirely embedded in online search engines results, groups of results specialised in a certain topic, displayed along with the results of an online search engine, which are considered or used by certain end users as a service distinct or additional to the online search engine. Other instances are those of software applications which are distributed through software application stores, or products or services that are given prominence and display in the newsfeed of a social network, or products or services ranked in search results, displayed on an online marketplace or in results of a search through virtual assistants. In those circumstances, the gatekeeper is in a dual-role position as intermediary for third party providers and as direct provider of products or services of the gatekeeper. Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper.

Amendment

(50) Gatekeepers should not restrict or prevent the free choice of end users by preventing switching between or subscription to different software applications and services. This would allow more providers to offer their services, thereby ultimately providing greater choice to the end user. Gatekeepers
should ensure a free choice irrespective of whether they are the manufacturer of any hardware by means of which such software applications or services are accessed and shall not raise artificial technical barriers so as to make switching impossible or ineffective. The mere offering of a given product or service to consumers, including by means of pre-installation, as well as the improvement of the offering to end users, such as price reductions or increased quality, should not be construed as constituting a prohibited barrier to switching.

Amendment 36

Proposal for a regulation
Recital 51

Text proposed by the Commission

(51) Gatekeepers can hamper the ability of end users to access online content and services including software applications. Therefore, rules should be established to ensure that the rights of end users to access an open internet are not compromised by the conduct of gatekeepers. Gatekeepers can also technically limit the ability of end users to effectively switch between different Internet access service providers, in particular through their control over operating systems or hardware. This distorts the level playing field for Internet access services and ultimately harms end users. It should therefore be ensured that gatekeepers do not unduly restrict end users in choosing their Internet access service provider.

Amendment

(51) Gatekeepers can hamper the ability of end users to access online content and services including software applications. Therefore, rules should be established to ensure that the rights of end users to access an open internet are not compromised by the conduct of gatekeepers. Gatekeepers can also technically limit the ability of end users to effectively switch between different Internet access service providers, in particular through their control over operating systems or hardware. This distorts the level playing field for Internet access services and ultimately harms end users. It should therefore be ensured that gatekeepers do not restrict end users in choosing their Internet access service provider.

Amendment 37

Proposal for a regulation
Recital 51 a (new)
(51a) Interoperability can have a direct positive impact on contestability, fairness of the market and consumer welfare. Thus, interoperability which requires platforms to use open protocols, such as Application Programming Interface, lowers significantly the barriers to entry for potential competitors on the market, as it would grant competitors access to existing networks and allow them to participate therein. This would also allow competing platforms to offer their internal systems to users whose data lives elsewhere thereby enabling those users to choose an equivalent consumer friendly alternative and at the same time enhance contestability.

Amendment 38
Proposal for a regulation
Recital 51 b (new)

(51b) Similarly, interoperability should be ensured for messaging and social media services, providing the users with the possibility of moving from one platform to another without losing their data and contacts. Equally, users should be able to decide unilaterally, by means of a simple procedure, to newsfeed their data, to save their history or to completely delete their data from the messaging or social media service platform.

Amendment 39
Proposal for a regulation
Recital 52

(52) Gatekeepers may also have a dual
role as developers of operating systems and
device manufacturers, including any
technical functionality that such a device
may have. For example, a gatekeeper that
is a manufacturer of a device may restrict
access to some of the functionalities in this
device, such as near-field-communication
technology and the software used to
operate that technology, which may be
required for the effective provision of an
ancillary service by the gatekeeper as well
as by any potential third party provider of
such an ancillary service. Such access may
equally be required by software
applications related to the relevant
ancillary services in order to effectively
provide similar functionalities as those
offered by gatekeepers. If such a dual role
is used in a manner that prevents
alternative providers of ancillary services
or of software applications to have access
under equal conditions to the same
operating system, hardware or software
features that are available or used in the
provision by the gatekeeper of any
ancillary services, this could significantly
undermine innovation by providers of such
ancillary services as well as choice for end
users of such ancillary services. The
gatekeepers should therefore be obliged to
ensure access under equal conditions to,
and interoperability with, the same
operating system, hardware or software
features that are available or used in the
provision of any ancillary services by the
gatekeeper. **Access under equal conditions**
comprises conditions of technical, legal,
economic or any other nature. The
gatekeeper should not be prevented from
taking indispensable measures to ensure
that third party ancillary services do not
compromise the integrity of the operating
system, hardware or software features it
provides. The gatekeeper should however
be obliged to duly justify such
indispensable measures and provide, free
of charge, an alternative access and
interoperability solution to enable
effective provision of ancillary services.

Amendment 40
Proposal for a regulation
Recital 53

Text proposed by the Commission

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

Amendment

(53) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This often leads to a lack of information for advertisers and publishers about the effect of a given ad. To further enhance fairness, transparency and contestability of online advertising services designated under this Regulation as well as those that are fully integrated with other core platform services of the same provider, the designated gatekeepers should therefore provide advertisers and publishers, when requested, with continuous, real-time and free of charge access to the performance measuring tools of the gatekeeper and provide for entire disclosure and transparency of the parameters and data, including aggregated data, used for decision making, execution and measurement of the intermediation services for advertisers, advertising agencies acting on behalf of a company placing advertising, as well as for publishers to carry out their own independent verification of the provision of the relevant online advertising services. A gatekeeper should further provide, free of charge, reliable, non-aggregated, granular and complete data necessary for advertisers and publishers to carry out their own independent high-quality and real-time evaluation of intermediation services, including verification of the ad inventory. That data should include data relating to all parameters which gatekeepers, or providers of services belonging to the same undertaking, use in
the context of advertising intermediation services in order to determine the outcome of such intermediation and to determine corresponding prices for advertisements or charges for any intermediation service provided, either on the buy-side or the sell-side.

Amendment 41
Proposal for a regulation
Recital 54

Text proposed by the Commission

(54) Gatekeepers benefit from access to vast amounts of data that they collect while providing the core platform services as well as other digital services. To ensure that gatekeepers do not undermine the contestability of core platform services as well as the innovation potential of the dynamic digital sector by restricting the ability of business users to effectively port their data, business users and end users should be granted effective and immediate access to the data they provided or generated in the context of their use of the relevant core platform services of the gatekeeper, in a structured, commonly used and machine-readable format. This should apply also to any other data at different levels of aggregation that may be necessary to effectively enable such portability. It should also be ensured that business users and end users can port that data in real time effectively, such as for example through high quality application programming interfaces. Facilitating switching or multi-homing should lead, in turn, to an increased choice for business users and end users and an incentive for gatekeepers and business users to innovate.

Amendment

(54) Gatekeepers benefit from access to vast amounts of data that they collect while providing the core platform services as well as other digital services. To ensure that gatekeepers do not undermine the contestability of core platform services as well as the innovation potential of the dynamic digital sector by restricting the ability of business users to effectively port their data, business users and end users should be granted effective and immediate access to the data they provided or generated in the context of their use of the relevant core platform services of the gatekeeper, in a structured, commonly used and machine-readable format. This should apply also to any other data at different levels of aggregation that may be necessary to effectively enable portability of end user data. It should also be ensured that business users and end users can port that data in real time effectively, such as for example through high quality application programming interfaces. Facilitating switching or multi-homing should lead, in turn, to an increased choice for business users and end users and an incentive for gatekeepers and business users to innovate. These portability rights would afford users the possibility of accessing and anonymising their data on different platforms.
Amendment 42

Proposal for a regulation
Recital 57

Text proposed by the Commission

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

- prices charged or conditions imposed for the same or similar services by other providers of **software application stores**;
- prices charged or conditions imposed by the **provider of the software application store** for different related or similar services or to different types of end users;
- prices charged or conditions imposed by the provider of the software application store for the same service in different geographic regions;
- prices charged or conditions imposed by the **provider of the software application store** for the same service the gatekeeper offers to itself. This obligation should not establish an access right and it should be without prejudice to the ability of providers of software

Amendment

(57) **Gatekeepers** which provide access to **core platform services** serve as an important gateway for business users that seek to reach end users. In view of the imbalance in bargaining power between those gatekeepers **on the one hand** and business users of their **core platform services**, **especially those that are SMEs on a given sectorial market, such as small press publishers, particularly when accessing online search engine and online social networks, on the other hand**, those gatekeepers should not be allowed to impose general conditions, including pricing conditions, **data usage conditions or conditions related to the licensing of rights held by the business user**, that would be unfair or lead to unjustified differentiation. Pricing or other general access or treatment conditions should be considered unfair if they lead to an imbalance of rights and obligations imposed on business users or confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper or a disadvantage for business users in providing the same or similar services as the gatekeeper. The following benchmarks can serve as a yardstick to determine the fairness of general access conditions:

- prices charged or conditions imposed for the same or similar services by other providers of **the relevant core platform service**;
- prices charged or conditions imposed by the **gatekeeper** for different related or similar services or to different types of end users;
- prices charged or conditions imposed by the provider of the software application store for the same
service in different geographic regions; prices charged or conditions imposed by the provider of core platform services for the same service the gatekeeper offers to itself. **Determining the fairness of general access conditions should lead to the opportunity to make the revenue stream of digital content providers, such as press publishers being in a dominant position on their market, more transparent, notably in terms of revenues deriving from advertisement, and in terms of distribution of appropriate shares of revenues to the authors of works incorporated in press publications.** This obligation should not establish an access right and it should be without prejudice to the ability of providers of software application stores to take the required responsibility in the fight against illegal and unwanted content as set out in Regulation [Digital Services Act]. **It should also be without prejudice to the ability of business users that are SMEs on a given sectorial market, such as small press publishers, to offer royalty-free licenses in order to ensure access to their content, visibility on online search engines and online social networking services, and it should be without prejudice to the ability of end users to perform acts of hyperlinking in accordance with Article 15(1) of Directive (EU) 2019/790.**

**Amendment 43**

**Proposal for a regulation**  
**Recital 58**

**Text proposed by the Commission**

(58) To ensure the effectiveness of the obligations laid down by this Regulation, while also making certain that these obligations are limited to what is necessary to ensure contestability and tackling the harmful effects of the unfair behaviour by

**Amendment**

(58) To ensure the effectiveness of the obligations laid down by this Regulation, while also making certain from the beginning of the compliance period that these obligations are limited to what is necessary to ensure contestability and
gatekeepers, it is important to clearly define and circumscribe them so as to allow the gatekeeper to immediately comply with them, in full respect of Regulation (EU) 2016/679 and Directive 2002/58/EC, consumer protection, cyber security and product safety. The gatekeepers should ensure the compliance with this Regulation by design. The necessary measures should therefore be as much as possible and where relevant integrated into the technological design used by the gatekeepers. However, it may in certain cases be appropriate for the Commission, following a dialogue with the gatekeeper concerned, to further specify some of the measures that the gatekeeper concerned should adopt in order to effectively comply with those obligations that are susceptible of being further specified. This possibility of a regulatory dialogue should facilitate compliance by gatekeepers and expedite the correct implementation of the Regulation.

tackling the harmful effects of the unfair behaviour by gatekeepers, it is important to clearly define and circumscribe them so as to allow the gatekeeper to immediately comply with them, in full respect of Regulation (EU) 2016/679 and Directive 2002/58/EC, consumer protection, cyber security and product safety. The gatekeepers should ensure the compliance with this Regulation by design. The necessary measures should therefore be as much as possible and where relevant integrated into the technological design used by the gatekeepers. As business practices and aspects of the core platform, services offered by gatekeepers might differ from one another, it is likely that uncertainties and misinterpretations about appropriateness of the implemented measures arise. To eliminate them even before the compliance period commences, it is necessary that gatekeepers have the possibility to request the Commission to determine whether the measures that they intend to implement are effective in achieving the objective of the relevant obligation in the specific circumstances. However, it may in certain cases be appropriate for the Commission, following a dialogue within legally binding deadlines with the gatekeeper concerned, to further specify some of the measures that the gatekeeper concerned should adopt in order to effectively comply with those obligations that are susceptible of being further specified. In this process, the Commission may need additional advice, insight knowledge and experience about the market of the core platform service subject to the dialogue. In such cases, the Commission should have the possibility to consult third parties like business users and competitors, civil society organisations, national competent authorities and others, which the Commission has determined as relevant for the respective core platform service. The Commission should act with due respect for and ensure protection of
business secrets during those consultations. This possibility of a regulatory dialogue should facilitate compliance by gatekeepers and expedite the correct implementation of the Regulation.

Amendment 44
Proposal for a regulation
Recital 58 a (new)

*Text proposed by the Commission*

Amendment

(58a) The Commission should also have the power to swiftly adopt decisions in case of non-compliance of a gatekeeper with the obligations laid down in this Regulation. In taking such decisions, the Commission should be allowed to specify the measures that would be needed to ensure full compliance with this Regulation and restore the contestability of digital markets when it has been undermined.

Amendment 45
Proposal for a regulation
Recital 59

*Text proposed by the Commission*

Amendment

(59) As an additional element to ensure proportionality, gatekeepers should be given an opportunity to request the suspension, to the extent necessary, of a specific obligation in exceptional circumstances that lie beyond the control of the gatekeeper, such as for example an unforeseen external shock that has temporarily eliminated a significant part of end user demand for the relevant core platform service, where compliance with a specific obligation is shown by the gatekeeper to endanger the economic viability of the Union operations of the
The Commission should state in its decision the reasons for granting the suspension and review it on a regular basis to assess if the conditions for granting it are still viable or not.

Amendment 46

Proposal for a regulation
Recital 59 a (new)

Text proposed by the Commission

(59a) Within the timeframe for meeting their obligations, designated gatekeepers should inform the Commission about the measures implemented to effectively meet their obligations. The Commission should make such information available to third parties affected by the actions of gatekeepers while respecting the business secrets of designated gatekeepers.

Amendment 47

Proposal for a regulation
Recital 61

Text proposed by the Commission

(61) The data protection and privacy interests of end users are relevant to any assessment of potential negative effects of the observed practice of gatekeepers to collect and accumulate large amounts of data from end users. Ensuring an adequate level of transparency of profiling practices employed by gatekeepers facilitates contestability of core platform services, by putting external pressure on gatekeepers to prevent making deep consumer profiling the industry standard, given that potential entrants or start-up providers cannot access data to the same extent and depth, and at a similar scale. Enhanced transparency should allow other providers of core platform services to differentiate.

Artificial Intelligence could be used to nudge users to engage in certain actions or predict their actions without necessarily profiling them. The power of Big Data Artificial Intelligence that is exclusively developed or brought up by undertakings which engage with gatekeepers position and practices should not be neglected. Ensuring an adequate level of transparency of profiling practices employed by gatekeepers facilitates contestability of
themselves better through the use of superior privacy guaranteeing facilities. To ensure a minimum level of effectiveness of this transparency obligation, gatekeepers should at least provide a description of the basis upon which profiling is performed, including whether personal data and data derived from user activity is relied on, the processing applied, the purpose for which the profile is prepared and eventually used, the impact of such profiling on the gatekeeper’s services, and the steps taken to enable end users to be aware of the relevant use of such profiling, as well as to seek their consent.

core platform services, by putting external pressure on gatekeepers to prevent making deep consumer profiling the industry standard, given that potential entrants or start-up providers cannot access data to the same extent and depth, and at a similar scale. Enhanced transparency should allow other providers of core platform services to differentiate themselves better through the use of superior privacy guaranteeing facilities. To ensure a minimum level of effectiveness of this transparency obligation, gatekeepers should at least provide a description of the basis upon which profiling is performed, including whether personal data and data derived from user activity is relied on, the processing applied, the purpose for which the profile is prepared and eventually used, the impact of such profiling on the gatekeeper’s services, and the steps taken to enable end users to be aware of the relevant use of such profiling, as well as to seek their consent. They should make that description publicly available. The Commission should develop, in consultation with the EU Data Protection Supervisor, the European Data Protection Board, civil society and experts, the standards and process of the audit. The audited description, as well as any relevant material that is collected in the context of supervising the gatekeepers and that relates to the processing of personal data, shall be shared by the Commission with any competent supervisory authority represented in the European Data Protection Board, upon such an authority’s request.

Amendment 48
Proposal for a regulation
Recital 62

Text proposed by the Commission

(62) In order to ensure the full and

Amendment

(62) In order to ensure the full and

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

Amendment 49
Proposal for a regulation
Recital 63

Text proposed by the Commission

(63) Following a market investigation, an undertaking providing a core platform service could be found to fulfil all of the overarching qualitative criteria for being identified as a gatekeeper. It should then, in principle, comply with all of the relevant obligations laid down by this Regulation. However, for gatekeepers that have been designated by the Commission as likely to enjoy an entrenched and durable position in the near future, the Commission should only impose those obligations that are necessary and appropriate to prevent that the gatekeeper concerned achieves an entrenched and durable position in its operations. With respect to such emerging gatekeepers, the Commission should take into account that this status is in principle

Amendment

(63) Following a market investigation, a provider of a core platform service could be found to fulfil all of the overarching qualitative criteria for being identified as a gatekeeper. It should then, in principle, comply with all of the relevant obligations laid down by this Regulation. However, for gatekeepers that have been designated by the Commission as likely to enjoy an entrenched and durable position in the near future, the Commission should only impose those obligations that are necessary and appropriate to prevent that the gatekeeper concerned achieves an entrenched and durable position in its operations. With respect to such emerging gatekeepers, the Commission should take into account that this status is in principle
of a temporary nature, and it should therefore be decided at a given moment whether such a provider of core platform services should be subjected to the full set of gatekeeper obligations because it has acquired an entrenched and durable position, or conditions for designation are ultimately not met and therefore all previously imposed obligations should be waived.

Amendment 50

Proposal for a regulation
Recital 64

Text proposed by the Commission

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

Amendment

(64) The Commission should investigate and assess whether structural remedies or equally effective behavioural remedies are justified, in order to ensure that the gatekeeper cannot frustrate the objectives of this Regulation by non-compliance with one or several of the obligations laid down in this Regulation. The Commission should therefore in such cases have the power to impose any remedy, whether behavioural or structural, having due regard to the principle of proportionality.
undertaking concerned than the structural remedy. Changes to the structure of an undertaking as it existed before the systematic non-compliance was established would only be proportionate where there is a substantial risk that this systematic non-compliance results from the very structure of the undertaking concerned.

Amendment 51
Proposal for a regulation
Recital 65 a (new)

*(Text proposed by the Commission)*

Amendment

(65a) In case of urgency where a risk of serious and immediate damage for business users or end users could arise as a result of new practices that might undermine the contestability of core platform services or be unfair, the Commission should have the power to implement interim measures that would temporarily impose obligations on the gatekeeper concerned. These interim measures should be limited to what is necessary and justified. They should apply pending the conclusion of the market investigation and the corresponding final decision of the Commission pursuant to Article 17.

Amendment 52
Proposal for a regulation
Recital 66 a (new)

*(Text proposed by the Commission)*

Amendment

(66a) The Commission should provide regular updates to the European Parliament as regards the evaluations of the enforcement of the obligations set out in Articles 5 and 6 and the possible need to update the relevant provisions. Where
an evaluation would lead to a legislative proposal, the European Parliament should consider using its urgency procedure, which allows for faster parliamentary scrutiny of the Commission’s proposals while fully respecting Parliament’s democratic prerogatives.

Amendment 53
Proposal for a regulation
Recital 67

Text proposed by the Commission

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

Amendment

(67) Where, in the course of a proceeding into non-compliance or an investigation into systemic non-compliance, a gatekeeper offers commitments to the Commission, the latter should be able to adopt a decision making these commitments binding on the gatekeeper concerned, where it finds that the commitments ensure effective compliance with the obligations of this Regulation. *Before the adoption of such a decision, the Commission should be empowered, where appropriate, to require the commitments to be tested, including A/B testing in order to optimise their effectiveness. The commitments should be reviewed after they have been in place for an appropriate period. Should the review of the commitments by the Commission show ineffective compliance, the Commission should be empowered to require modification or revoke the ineffective remedies.*

Amendment 54
Proposal for a regulation
Recital 68

Text proposed by the Commission

Amendment
In order to ensure effective implementation and compliance with this Regulation, the Commission should have strong investigative and enforcement powers, to allow it to investigate, enforce and monitor the rules laid down in this Regulation, while at the same time ensuring the respect for the fundamental right to be heard and to have access to the file in the context of the enforcement proceedings. The Commission should dispose of these investigative powers also for the purpose of carrying out market investigations for the purpose of updating and reviewing this Regulation. National competent authorities should assist the Commission in monitoring and enforcing obligations laid down in this Regulation by providing support and expertise to the Commission or by requesting the Commission to open a market investigation based on evidence collected.

Amendment 55
Proposal for a regulation
Recital 70

Text proposed by the Commission

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

Amendment

The Commission should be able to directly request that undertakings or association of undertakings provide any relevant evidence, data and information. In addition, the Commission should be able to request any relevant information from any public authority, body or agency within the Member State, or from any natural person or legal person for the purpose of this Regulation. Public authorities, bodies or agencies within Member States should have the possibility to provide the Commission with relevant information on their own initiative. When complying with a decision of the Commission, undertakings are obliged to answer factual questions and to provide documents.
Amendment 56

Proposal for a regulation
Recital 71 a (new)

Text proposed by the Commission

Amendment

(71a) The Commission should be empowered to request the assistance of Member State authorities. The relevant national authorities might include competition authorities, consumer protection authorities, data protection authorities and other relevant national regulators. It should likewise be possible for those bodies in each Member State to forward to the Commission any information which might be relevant in this context.

Amendment 57

Proposal for a regulation
Recital 72

Text proposed by the Commission

Amendment

(72) The Commission should be able to take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in this Regulation. Such actions should include the ability of the Commission to appoint independent external experts, such as and auditors to assist the Commission in this process, including where applicable from competent independent authorities, such as data or consumer protection authorities. The experts may be embedded within the gatekeeper to ensure the monitoring process. Considering the large number of business and end users of gatekeepers’ core platform services might result in exponentially larger number of non-compliance practices, cases and scenarios, a reporting mechanism for
business and end users would facilitate the Commission in the swift identification of systemic non-compliance by gatekeepers. Such a reporting practice would additionally reduce the need for formal litigation practices and thus reduce the burden in national courts as well as the European Court of Justice.

Amendment 58
Proposal for a regulation
Recital 72 a (new)

Text proposed by the Commission

Amendment

(72a) The Commission should be adequately staffed to ensure the successful implementation, effective enforcement of and monitoring of compliance with this Regulation. The estimated budget for the number of staff should therefore be raised in order to sufficiently prepare the Commission to face all the tasks attributed by this Regulation.

Amendment 59
Proposal for a regulation
Recital 75

Text proposed by the Commission

Amendment

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

Amendment 60
Proposal for a regulation
Recital 77

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


### Amendment 61

**Proposal for a regulation**

**Recital 78**

**Text proposed by the Commission**

(78) The Commission should periodically evaluate this Regulation and closely monitor its effects on the contestability and fairness of commercial relationships in the online platform economy, in particular with a view to determining the need for amendments in light of relevant technological or commercial developments. This evaluation should include the regular review of the list of core platform services and the obligations addressed to gatekeepers as well as enforcement of these, in view of ensuring that digital markets across the Union are contestable and fair. In order to obtain a broad view of developments in the sector, the evaluation should take into account the experiences of Member States and relevant stakeholders. The

**Amendment**

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

The Commission should also consider whether this Regulation should be added to the Annex of Directive (EU) 2020/1828 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC.

Amendment 62
Proposal for a regulation
Article 1 – paragraph 1

Text proposed by the Commission

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

Amendment

1. The purpose of this Regulation is to contribute to the proper functioning of the internal market by laying down harmonised rules ensuring contestable and fair markets with a level playing field in the digital sector across the Union where gatekeepers are present.

Amendment 63
Proposal for a regulation
Article 1 – paragraph 2

Text proposed by the Commission

2. This Regulation shall apply to core platform services provided or offered by gatekeepers to business users established in

Amendment

2. In order to strengthen the proper functioning of the internal market, this Regulation shall apply to core platform services provided or offered by gatekeepers to business users established in
the Union or end users established or located in the Union, irrespective of the place of establishment or residence of the gatekeepers and irrespective of the law otherwise applicable to the provision of service.

Amendment 64

Proposal for a regulation
Article 1 – paragraph 6

Text proposed by the Commission

6. This Regulation is without prejudice to the application of Articles 101 and 102 TFEU. It is also without prejudice to the application of: national rules prohibiting anticompetitive agreements, decisions by associations of undertakings, concerted practices and abuses of dominant positions; national competition rules prohibiting other forms of unilateral conduct insofar as they are applied to undertakings other than gatekeepers or amount to imposing additional obligations on gatekeepers; Council Regulation (EC) No 139/200438 and national rules concerning merger control; Regulation (EU) 2019/1150 and Regulation (EU) …/.. of the European Parliament and of the Council39.

Amendment


requirements for products and services.

Amendment 65

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

Text proposed by the Commission Amendment

(ca) web browsers;

Amendment 66

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

Text proposed by the Commission Amendment

(cb) virtual assistants;

Amendment 67

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

Text proposed by the Commission Amendment

(g) cloud computing services; (g) infrastructure as a service, software as a service and other cloud computing services, including business to business cloud, enterprise software, applications, and solution services;

Amendment 68

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

Text proposed by the Commission Amendment

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

Amendment 69
Proposal for a regulation
Article 2 – paragraph 1 – point 3 a (new)

Text proposed by the Commission

(3a) ‘Virtual assistant’ means software that responds to oral or written commands expressed in non-technical natural language by end users and performs tasks or services, such as search queries or accessing and interacting with other digital services on behalf of the end user, independently or through IT systems including voice based apps and voice assistants;

Amendment 70
Proposal for a regulation
Article 2 – paragraph 1 – point 7 a (new)

Text proposed by the Commission

(7a) ‘Web browser’ means software applications used by users of client PCs, smart mobile devices and other devices which allow end users to access and interact with web content hosted on servers that are connected to networks such as the internet, including standalone web browsers as well as web browsers integrated or embedded in software or similar;

Amendment 71
Proposal for a regulation
Article 2 – paragraph 1 – point 10 a (new)

Text proposed by the Commission

Amendment
(10a) "Software as a service" means a method of software delivery in which software is accessed online via a subscription;

Amendment 72
Proposal for a regulation
Article 2 – paragraph 1 – point 14

Text proposed by the Commission

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

Amendment

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

Amendment 73
Proposal for a regulation
Article 2 – paragraph 1 – point 14 a (new)

Text proposed by the Commission

(14a) "Payment aggregation services" means technical services within the meaning of article 3(j) of Directive (EU) 2015/2366 of the European Parliament and of the Council allowing end users to initiate and execute payment services within the meaning of article 4(3) of Directive (EU) 2015/2366 of the European Parliament and of the Council provided by one or more Payment Service Providers on the basis of a contractual relationship between the payment aggregation service provider and the payment service providers whose payment services are aggregated.

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

Text proposed by the Commission

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

Amendment

(18) ‘Ranking’ means the relative prominence given to goods or services offered or provided through online intermediation services, operating systems, video-sharing platform services, web browsers, including software application stores and virtual assistants, or online social networking services, or the relevance given to search results by online search engines, as presented, organised or communicated by the providers of such services respectively, whatever the technological means used for such presentation, organisation or communication;

Amendment 75

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

Text proposed by the Commission

(18a) "Search result" means any information presented in any format, including texts, graphics, videos, voice or other output, returned in response and related to any written, oral or equivalent search query, irrespective of whether it constitutes an organic result, a paid result, a direct answer or any product, service or information offered in connection with, or displayed along with, or partly or entirely embedded in the results interface.

Amendment 76

Proposal for a regulation
Article 2 – paragraph 1 – point 22 a (new)
"Provider of a core platform service" means an entity or part thereof, irrespective of their legal form, which provide any of the core platform services listed in paragraph 2 to business users or end users.

Amendment 77
Proposal for a regulation
Article 2 – paragraph 1 – point 23 a (new)

"Consent" of the data subject means any freely given, specific, informed and unambiguous indication of the data subject's wishes as defined in Article 4(11) of Regulation (EU) 2016/679;

Amendment 78
Proposal for a regulation
Article 2 – paragraph 1 – point 23 b (new)

‘Turnover’ means the amount derived by an undertaking as set out in Article 5(1) of Regulation (EC) No 139/2004;

Amendment 79
Proposal for a regulation
Article 3 – paragraph 1 – point b

it operates a core platform service which serves as an important gateway for business users to reach end users; and
Amendment 80
Proposal for a regulation
Article 3 – paragraph 1 – point c

Text proposed by the Commission

(c) it enjoys an entrenched and durable position in its operations or it is foreseeable that it will enjoy such a position in the near future.

Amendment

(c) it enjoys an entrenched and durable position in its operations or it is foreseeable that it will enjoy such a position.

Amendment 81
Proposal for a regulation
Article 3 – paragraph 2 – point a

Text proposed by the Commission

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

Amendment

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

Amendment 82
Proposal for a regulation
Article 3 – paragraph 2 – point b – subparagraph 1

Text proposed by the Commission

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

Amendment

(b) the requirement in paragraph 1 point (b) where it provides one or more core platform services that has more than 45 million monthly active end users established or located in the Union and more than 10 000 yearly active business users established in the Union during in the last financial year;
Amendment 83

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

Text proposed by the Commission

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

Amendment

for the purpose of the first subparagraph, monthly active end users shall refer to the average number of monthly active end users throughout the largest part of the last financial year; monthly active end users shall be measured taking into account the indicators set out in the Annex to this Regulation.

Amendment 84

Proposal for a regulation
Article 3 – paragraph 2 – point c

Text proposed by the Commission

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

Amendment

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

Amendment 85

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

Text proposed by the Commission

Where a provider of core platform services meets all the thresholds in paragraph 2, it shall notify the Commission thereof within three months after those thresholds are satisfied and provide it with the relevant information identified in paragraph 2.. That notification shall include the relevant information identified in paragraph 2 for each of the core platform services of the provider that meets the thresholds in

Amendment

Where a provider of core platform services meets all the thresholds in paragraph 2, it shall notify the Commission thereof without undue delay and no later than 45 days after those thresholds are satisfied and provide it with the relevant information identified in paragraph 2.. That notification shall include the relevant information relating to the quantitative thresholds identified in paragraph 2 for each of the
paragraph 2 point (b). The notification shall be updated whenever other core platform services individually meet the thresholds in paragraph 2 point (b).

core platform services of the provider that meets the thresholds in paragraph 2 point (b). The notification shall be updated whenever other core platform services individually meet the thresholds in paragraph 2 point (b).

Amendment 86

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

Text proposed by the Commission

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

Amendment

Should the Commission consider that an undertaking providing core platform services meets all the thresholds provided in paragraph 2, but has failed to notify the required information pursuant to the first subparagraph of this paragraph, the Commission shall require that pursuant to Article 19 the undertaking provide the relevant information relating to the quantitative thresholds identified in paragraph 2 within 30 days. The failure by the undertaking providing core platform services to comply with the Commission’s request shall not prevent the Commission from designating that undertaking as a gatekeeper based on any other information available to the Commission. Where the undertaking providing core platform services complies with the request, the Commission shall apply the procedure set out in paragraph 4 at any time.

Amendment 87

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

Text proposed by the Commission

The Commission shall, without undue delay and at the latest 60 days after receiving the complete information

Amendment

The Commission shall, without undue delay and at the latest 40 working days after receiving the complete information
referred to in paragraph 3, designate the provider of core platform services that meets all the thresholds of paragraph 2 as a gatekeeper, unless that provider, with its notification, presents sufficiently substantiated arguments to demonstrate that, in the circumstances in which the relevant core platform service operates, and taking into account the elements listed in paragraph 6, the provider does not satisfy the requirements of paragraph 1.

Amendment 88

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

Text proposed by the Commission

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

Amendment

Where the provider of core platform services presents such sufficiently substantiated arguments to demonstrate that it exceptionally does not satisfy the requirements set out in paragraph 1 although it meets all the thresholds set out in paragraph 2, the Commission shall designate that provider as a gatekeeper, in accordance with the procedure laid down in Article 15(3), if it concludes that the provider was not able to demonstrate that the relevant core platform service it provides does not satisfy the requirements set out in paragraph 1.

Amendment 89

Proposal for a regulation
Article 3 – paragraph 4 – subparagraph 2 a (new)

Text proposed by the Commission

Where the provider of a core platform service that satisfies the quantitative thresholds set out in paragraph 2 fails to comply with the investigative measures
ordered by the Commission and the failure persists after the provider has been invited to comply within a reasonable time and to submit the relevant information the Commission shall be entitled to designate that provider as a gatekeeper.

Amendment 90
Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 91
Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 2 – point a

Text proposed by the Commission

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

Amendment

(a) the size, including turnover and market capitalisation, operations and position of the provider of core platform services, as well as their share of the market relevant to their core platform services;

Amendment 92
Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 2 – point c

Text proposed by the Commission

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

this would include the employment of data-intelligence to coordinate, organise and control the entire set of activities and actors involved, often described as digital ecosystems.

Amendment 93

Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 2 – point e

Text proposed by the Commission

(e) business user or end user lock-in;

Amendment

(e) entrenched lack of choice, business user or end user dependency or lock-in and users’ ability to use similar services simultaneously;

Amendment 94

Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 2 – point f

Text proposed by the Commission

(f) other structural market characteristics.

Amendment

(f) other relevant business or service characteristics, such as a conglomerate corporate structure or vertical integration, including whether there are other gatekeepers identified pursuant to paragraph 2, within the same undertaking providing core platform services, for instance allowing cross subsidisation or combination of data from different sources.

Amendment 95

Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 4
Where the provider of a core platform service that satisfies the quantitative thresholds of paragraph 2 fails to comply with the investigative measures ordered by the Commission in a significant manner and the failure persists after the provider has been invited to comply within a reasonable time-limit and to submit observations, the Commission shall be entitled to designate that provider as a gatekeeper.

Amendment 96
Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 5

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

Amendment 97
Proposal for a regulation
Article 3 – paragraph 7

7. For each gatekeeper identified pursuant to paragraph 4 or paragraph 6, the Commission shall identify the relevant undertaking to which it belongs and list the relevant core platform services that are provided within that same undertaking and
Amendment 98

Proposal for a regulation
Article 3 – paragraph 8

Text proposed by the Commission

8. The gatekeeper shall comply with the obligations laid down in Articles 5 and 6 within six months after a core platform service has been included in the list pursuant to paragraph 7 of this Article.

Amendment

8. The gatekeeper shall notify the Commission of the measures that it intends to implement to ensure compliance with the obligations laid down in Articles 5 and 6 after a core platform service has been included in the list pursuant to paragraph 7 of this Article and shall comply with the obligations laid down in Articles 5 and 6 as soon as possible, and in any case no later than four months after a core platform service has been included in the list pursuant to paragraph 7 of this Article. If a gatekeeper fails to comply with the obligations within these four months, consequences set out in Articles 25 and 26 shall be considered.

Amendment 99

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

Text proposed by the Commission

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

Amendment

The Commission shall regularly, and at least every 4 years, review whether the designated gatekeepers continue to satisfy the requirements laid down in Article 3(1), and at least every year whether new providers of core platform services satisfy those requirements. The regular review shall also examine whether the list of affected core platform services of the gatekeeper needs to be adjusted.
reviews shall not have any suspending effect on the obligations.

Amendment 100
Proposal for a regulation
Article 4 – paragraph 3

Text proposed by the Commission

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

Amendment

3. The Commission shall publish and update the list of gatekeepers and the list of the core platform services for which they need to comply with the obligations laid down in Articles 5 and 6 on an ongoing basis. The Commission shall report on the findings of its monitoring activities in its annual report on Competition Policy.

Amendment 101
Proposal for a regulation
Article 5 – paragraph 1 – point a

Text proposed by the Commission

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

Amendment

(a) not combine or cross-use personal data initially or primarily sourced from any of its core platform services with personal data from any other service offered by the gatekeeper or with personal data from third-party services, nor sign in or register business users or end users to other services of the gatekeeper, unless the business or end user has been given a clear request, easy-to-understand and user-friendly, outlining at least the specific purpose, the sources and the result of the combination or cross-use of the personal data using a fair and neutral designed choice screen to provide its informed consent in line with the requirements under Article 4(11), Article 6(1)(a) and Article 7 of Regulation (EU) 2016/679.

The processing of personal data for
advertising purposes shall not include personal data containing indications or actual knowledge of racial or ethnic origin, the political opinions, the religious or philosophical beliefs, the trade union membership, the health, the sex life or the sexual orientation of the business user or end user and the processing shall be in line with the requirements of data minimisation under Article 5 (1)(c) of Regulation (EU) 2016/679.

Amendment 102
Proposal for a regulation
Article 5 – paragraph 1 – point b

_text proposed by the Commission_

(b) allow business users to offer the same products or services to end users through third party online intermediation services at prices or conditions that are different from those offered through the online intermediation services of the gatekeeper;

Amendment

(b) allow business users to offer the same products or services to end users by any other means, including through their own direct online sales channels and through third party online intermediation services at prices or conditions that are different from those offered through the online intermediation services of the gatekeeper;

Amendment 103
Proposal for a regulation
Article 5 – paragraph 1 – point c

_text proposed by the Commission_

(c) allow business users to promote offers to end users acquired via the core platform service, and to conclude contracts with these end users regardless of whether for that purpose they use the core platform services of the gatekeeper or not, and allow end users to access and use, through the core platform services of the gatekeeper, content, subscriptions, features or other items by using the software application of a business user, where these items have been

Amendment

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

Amendment 104
Proposal for a regulation
Article 5 – paragraph 1 – point d

Text proposed by the Commission

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

Amendment

(d) not directly or indirectly prevent, restrict or discourage, including by contractual obligations, business users or end users from raising issues with any relevant public authority relating to any practice of gatekeepers;

Amendment 105
Proposal for a regulation
Article 5 – paragraph 1 – point e

Text proposed by the Commission

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

Amendment

(e) not require business users to use, offer or interoperate with any specified ancillary service in the context of services offered by the business users using the core platform services of that gatekeeper;

Amendment 106
Proposal for a regulation
Article 5 – paragraph 1 – point f

Text proposed by the Commission

(f) refrain from requiring business users or end users to subscribe to or register with any other core platform services identified pursuant to Article 3 or

Amendment

(f) not require business users or end users to subscribe to or register with any other core platform services, including core platform services identified pursuant
which meets the thresholds in Article 3(2)(b) as a condition to access, sign up or register to any of their core platform services identified pursuant to that Article; to Article 3 or which meets the thresholds in Article 3(2)(b) as a condition to access, sign up or register to any of their core platform services identified pursuant to that Article or as a condition for obtaining a better price for the use of such core platform services, nor achieve the same result through product design, nor automatically sign users of a core platform service into any such services owned or controlled by the gatekeeper;

Amendment 107

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

Text proposed by the Commission

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

Amendment

(g) provide each advertiser and publisher to which it supplies services or third parties authorised by advertisers and publishers, free of charge, upon their request, with information on the price paid by the advertiser, publisher or advertising intermediary, as well as the remuneration paid to the publisher, including any deductions and surcharges, for the publishing of a given ad and for each of the relevant advertising services provided by the gatekeeper, as well as information on price-setting mechanisms and schemes for the calculation of those prices and remuneration and all non-price criteria in the auction process;

Amendment 108

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

Text proposed by the Commission

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

(See amendment relating to Article 6 paragraph 1 point b.)

Amendment 109

Proposal for a regulation
Article 5 – paragraph 1 – point g b (new)

Text proposed by the Commission

Amendment

( gb) not use, directly or by any third party belonging to the same undertaking, in competition with business users and providers of ancillary services, any data not publicly available, which is generated through or in the context of activities by those business users, including by the end users of these business users, via its core platform services or ancillary services or provided by those business users of its core platform services or ancillary services or by the end users of those business users;

(See amendment relating to Article 6 paragraph 1 point a.)

Amendment 110

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

Text proposed by the Commission

Amendment

(a) refrain from using, in competition with business users, any data not publicly deleted

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available, which is generated through activities by those business users, including by the end users of these business users, of its core platform services or provided by those business users of its core platform services or by the end users of these business users;

(See amendment relating to Article 5 paragraph 1 point gb.)

(See amendment relating to Article 5 paragraph 1 point gb.)

Amendment 111
Proposal for a regulation
Article 6 – paragraph 1 – point b

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

(See amendment relating to Article 5 paragraph 1 point ga.)

Amendment 112
Proposal for a regulation
Article 6 – paragraph 1 – point c

(c) allow the installation and effective use of third party software applications or software application stores using, or interoperating with, operating systems of that gatekeeper and allow these software applications or software application stores to be accessed by means other than the
core platform services of that gatekeeper. The gatekeeper shall not be prevented from taking proportionate measures to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper; **those** software applications or software application stores to be accessed by means other than the *relevant* core platform services of that gatekeeper. **The gatekeeper shall prompt the end user to decide whether the downloaded application or application store should become the default service.** The gatekeeper shall not be prevented from taking proportionate measures to ensure that third party software applications or software application stores do not endanger the safety and integrity of the hardware or operating system provided by the gatekeeper. **If the gatekeeper takes such measures, it shall provide the third party affected by those measures with detailed justification and limit those measures to what it can prove to be strictly indispensable for the objective of avoiding to endanger the integrity of the hardware or operating system provided by the gatekeeper, without prejudice to the freedom of consumers, duly informed, to choose the software application or software application stores they prefer;**

**Amendment 113**

**Proposal for a regulation**

**Article 6 – paragraph 1 – point d**

*Text proposed by the Commission*

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

**Amendment**

(d) **not treat differently, and in particular** more favourably, in **crawling, indexing, ranking, installation, activation, or equivalent in meaning and result,** services and products offered by the gatekeeper itself or by any third party belonging to the same undertaking compared to similar services or products of another third party and apply fair and non-discriminatory conditions to such **crawling, indexing, ranking, installation or activation;**
Amendment 114
Proposal for a regulation
Article 6 – paragraph 1 – point e

Text proposed by the Commission

(e) refrain from technically restricting the ability of end users to switch between and subscribe to different software applications and services to be accessed using the operating system of the gatekeeper, including as regards the choice of Internet access provider for end users;

Amendment

(e) not technically, commercially or operationally restrict the ability of business users or end users to switch between and subscribe to different software applications and services to be accessed, in particular when using the operating system or the cloud computing services of the gatekeeper or when using its virtual assistant, and including as regards the choice of Internet access provider for end users;

Amendment 115
Proposal for a regulation
Article 6 – paragraph 1 – point f

Text proposed by the Commission

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

Amendment

(f) allow, by providing complete and accurate information, while guaranteeing a high level of security, business users, end users and providers of services and hardware to have, to the fullest extent technically supported, equivalent access to and interoperability with the same hardware, or software features accessed or controlled via an operating system, including near-field-communication antennas or technology related to those antennas that are available or used in the provision by the gatekeeper, directly or through a partnership agreement, of any core and ancillary services. Access and interoperability shall be granted on fair, reasonable and non-discriminatory conditions. The gatekeeper shall not be prevented from taking indispensable measures to ensure that such interoperability does not endanger or compromise the integrity of the operating
system, hardware or software features provided by the gatekeeper, provided that such indispensable measures are duly justified by the gatekeeper, while providing alternative access and interoperability on fair, reasonable and non-discriminatory conditions to enable effective provision of ancillary services;

Amendment 116
Proposal for a regulation
Article 6 – paragraph 1 – point g

Text proposed by the Commission

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

Amendment

(g) provide advertisers and publishers, or third parties mandated by advertisers and publishers, upon their request and free of charge, via a suitable interface, with high quality, granular, continuous, effective and real time access to the performance measuring tools of the gatekeeper, to the parameters and data used for decision making, execution and measurement of the intermediation service and to the same aggregated and non-aggregated data accessible to the gatekeeper for the measurement and verification of advertising, in a format that is reconcilable with equivalent data from other sources, so that advertisers and publishers and/or third parties mandated by them are enabled to carry out their own independent verification of the ad inventory, and to run their own verification and measurement tools to assess performance of the core services provided by the gatekeeper;

Amendment 117
Proposal for a regulation
Article 6 – paragraph 1 – point h
Amendment

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

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

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

**Amendment 119**

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

*Text proposed by the Commission*

(j) provide to any third party providers of online search engines, upon their request, with access on fair, reasonable and non-discriminatory terms to ranking, query, click and view data in relation to free and paid search generated by end users on online search engines of the gatekeeper, subject to anonymisation for the query, click and view data that constitutes personal data;

*Amendment*

(j) provide to any third party providers of online search engines, upon their request, with access on fair, reasonable and non-discriminatory terms to ranking, query, click and view data in relation to free and paid search generated by end users on online search engines of the gatekeeper, subject to anonymisation for the *ranking*, query, click and view data that constitutes personal data;

**Amendment 120**

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

*Text proposed by the Commission*

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

*Amendment*

(k) apply *transparent*, fair and non-discriminatory general conditions of access and treatment for business users to its *core platform services* designated pursuant to Article 3 of this Regulation.

**Amendment 121**

**Proposal for a regulation**
**Article 6 – paragraph 2**
Text proposed by the Commission

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

Amendment

2. For the purposes of point (a) of paragraph 1 data that is not publicly available shall include any aggregated and non-aggregated data provided by, or observed from business users or end users through the commercial activities on the core platform service of the gatekeeper.

Amendment 122

Proposal for a regulation
Article 6 – paragraph 2 a (new)

Text proposed by the Commission

2a. The Commission shall publish the technical specifications for individual gatekeepers, without prejudice to business secrets.

Amendment

2a. Before implementing any change in fees or fee structure charged to business users and related to obligations pursuant to paragraph 1, the gatekeeper shall notify such change to the Commission and to the affected business users.

Amendment 123

Proposal for a regulation
Article 6 – paragraph 2 b (new)

Text proposed by the Commission

2b. Before implementing any change in fees or fee structure charged to business users and related to obligations pursuant to paragraph 1, the gatekeeper shall notify such change to the Commission and to the affected business users.

Amendment 124

Proposal for a regulation
Article 7 – paragraph 1
1. The measures implemented by the gatekeeper to ensure compliance with the obligations laid down in Articles 5 and 6 shall be effective in achieving the objective of the relevant obligation. The gatekeeper shall ensure that these measures are implemented in compliance with Regulation (EU) 2016/679 and Directive 2002/58/EC, and with legislation on cyber security, consumer protection and product safety.

Amendment 125
Proposal for a regulation
Article 7 – paragraph 1 a (new)

Text proposed by the Commission

1a. Within five months after its designation pursuant to Article 3, the gatekeeper shall publish and provide the Commission with a non-confidential summary of the report referred to in paragraph 1 of this Article. The Commission shall publish without delay the non-confidential summary of the report. This non-confidential summary
Amendment 126
Proposal for a regulation
Article 7 – paragraph 2

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

Amendment 127
Proposal for a regulation
Article 7 – paragraph 3

3. Paragraph 2 of this Article is without prejudice to the powers of the Commission under Articles 25, 26 and 27.

shall be updated each time the report referred to in paragraph 1 of this Article is updated.
Amendment 128

Proposal for a regulation
Article 7 – paragraph 4

Text proposed by the Commission

4. In view of adopting the decision under paragraph 2, the Commission shall communicate its preliminary findings within three months from the opening of the proceedings. In the preliminary findings, the Commission shall explain the measures it considers to take or it considers that the provider of core platform services concerned should take in order to effectively address the preliminary findings.

Amendment

4. In view of adopting the decision under paragraph 2, the Commission shall communicate its preliminary findings to the gatekeeper within two months from the opening of the proceedings. In the preliminary findings, the Commission shall explain the measures it considers to take or it considers that the provider of core platform services concerned should take in order to effectively address the preliminary findings. The Commission may consult interested third parties demonstrating sufficient interest when drafting the preliminary findings. The preliminary findings shall be made public.

Amendment 129

Proposal for a regulation
Article 7 – paragraph 6 a (new)

Text proposed by the Commission

6a. For the purposes of specifying the obligations under point (f) of Article 6(1) the gatekeeper shall, in cooperation with business users and end user representatives, define the open technologies, open standards and open protocols, including the technical interface (Application Programming Interface), that allows end users of competing software and services and business users to connect to the gatekeeper's core service and to interoperate with it, and shall inform the Commission of these technologies, standards and protocols. This is without prejudice to the right of the Commission to apply paragraph 2 of this Article in circumstances where there are concerns
Amendment 130
Proposal for a regulation
Article 7 – paragraph 7

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

7. To ensure effective compliance with the obligations laid down in this Regulation, within one month after its effective designation, a gatekeeper may, prior to the implementation deadline of Article 3(8), request the opening of proceedings pursuant to Article 18 for the Commission to determine whether the measures that the gatekeeper intends to implement or has implemented are proportionate and effective in achieving the objective of the relevant obligation in the specific circumstances. A gatekeeper shall, with its request, provide a reasoned submission to explain in particular why the measures that it intends to implement or has implemented are proportionate and effective in complying with the relevant obligation in the specific circumstances. In the preparation of its position following the request of the gatekeeper, the Commission may consult third parties such as business users and competitors, civil society organisations, national competent authorities and others deemed relevant by the Commission for the respective core platform services which are the subject of the request of the gatekeeper. The Commission may specify the measures that the gatekeeper concerned shall implement and shall adopt its decision within three months after it has received the request of the gatekeeper. A gatekeeper shall continue to comply with all relevant obligations during the proceedings pursuant to
Article 18.

Amendment 131

Proposal for a regulation
Article 8 – paragraph 1

*Text proposed by the Commission*

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

*Amendment*

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

Amendment 132

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

*Text proposed by the Commission*

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

*Amendment*

In cases of urgency, the Commission may, acting on a reasoned request by a gatekeeper, provisionally suspend the application of the relevant obligation to one or more individual core platform services already prior to the decision pursuant to paragraph 1.
Amendment 133

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 134

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

Text proposed by the Commission

1a. Where an exemption is granted pursuant to paragraph 1, the Commission shall review its exemption decision every 2 years. Following such a review, the Commission shall either wholly or partially lift the exemption or decide that the conditions of paragraph 1 continue to be met.

Amendment

1a. Where an exemption is granted pursuant to paragraph 1, the Commission shall review its exemption decision every 2 years. Following such a review, the Commission shall either wholly or partially lift the exemption or decide that the conditions of paragraph 1 continue to be met.

Amendment 135

Proposal for a regulation
Article 10 – paragraph 1
1. The Commission is empowered to adopt delegated acts in accordance with Article 34 to update the obligations laid down in Articles 5 and 6 where, based on a market investigation pursuant to Article 17, it has identified the need for new obligations addressing practices that limit the contestability of core platform services or are unfair in the same way as the practices addressed by the obligations laid down in Articles 5 and 6.

Amendment 136

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

Text proposed by the Commission

1a. The delegated acts that supplement the obligations set out in Articles 5 and 6 in accordance with paragraph 1 shall be limited to:

(a) extending any obligation that applies to a certain core platform service or to any other core platform service listed in point (2) of Article 2;

(b) specifying the manner in which the obligations of the gatekeepers under Articles 5 and 6 are to be implemented, including through incorporating the specifications set out in Article 7(2) into the obligations;

(c) extending any obligation that identifies a certain subset of users as beneficiaries to any other subset of users as beneficiaries;

(d) supplementing the obligations with a view to improving the effectiveness of their application.

Amendment 137
Proposal for a regulation
Article 10 – paragraph 2 – point a

Text proposed by the Commission

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

Amendment

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

Amendment 138

Proposal for a regulation
Article 11 – paragraph 1

Text proposed by the Commission

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

Amendment

1. A gatekeeper shall ensure that the obligations of Articles 5 and 6 are fully and effectively complied with. While the obligations of Articles 5 and 6 apply in respect of core platform services designated pursuant to Article 3, their implementation shall not be undermined by any behaviour of the undertaking to which the gatekeeper belongs. Neither the gatekeeper nor the undertaking to which it belongs shall engage in any behaviour, regardless of whether this behaviour is of a contractual, commercial, technical or any other nature, including product or interface design, structure, function or manner of operation or behavioural techniques, capable of influencing user choice and autonomy or through agreements with third party business partners of the gatekeepers, which is able to have an equivalent object or effect to a behaviour prohibited pursuant to Articles 5 and 6.

Amendment 139

Proposal for a regulation
Article 11 – paragraph 2

Text proposed by the Commission

2. Where consent for collecting and processing of personal data is required to ensure compliance with this Regulation, a gatekeeper shall take the necessary steps to either enable business users to directly obtain the required consent to their processing, where required under Regulation (EU) 2016/679 and Directive 2002/58/EC, or to comply with Union data protection and privacy rules and principles in other ways including by providing business users with duly anonymised data where appropriate. The gatekeeper shall not make the obtaining of this consent by the business user more burdensome than for its own services.

Amendment

2. Where consent for collecting, processing and sharing of personal data is required to ensure compliance with this Regulation, a gatekeeper shall take the necessary steps to either enable business users to directly obtain the required consent to their processing and retrieval, where required under Regulation (EU) 2016/679 and Directive 2002/58/EC, or, if such consent is not obtained, to comply with Union data protection and privacy rules and principles in other ways including by providing business users with duly anonymised data. The gatekeeper shall not make the obtaining of this consent by the business user more burdensome than for its own services, including through product design, structure, function or manner of operation capable of influencing user choice and autonomy or through agreements with third party business partners of the gatekeepers, and shall offer users a choice in a neutral way, safeguarding the autonomous decision-making of business users or end users via form, function or operation of the user interface.

In the event that the business user or end user has been presented with the choice of giving consent to the combination of data for a specific processing purpose and has not provided consent, or has withdrawn consent, or the business user’s or end user’s terminal equipment signals his or her objection to the processing of personal data pursuant to Article 21(5) of Regulation (EU) 2016/679, the gatekeeper shall not prompt again a consent request and shall not exclude access to the services nor offer different or degraded services compared to the services offered to a business user or end user that provided consent.
Amendment 140
Proposal for a regulation
Article 11 – paragraph 3

Text proposed by the Commission

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

Amendment

3. A gatekeeper shall not degrade the conditions or quality of any of the core platform services provided to business users or end users who avail themselves of the rights or choices laid down in Articles 5 and 6, or obstruct or make discriminatory the exercise of those rights or choices or make such exercise unduly difficult, including through the use of manipulative choice architectures. The gatekeeper shall not subvert or impair consumers’ autonomy, decision-making, or choice via the structure, function or manner of operation of their online interface or any part thereof while those consumers are exercising those rights or specific choices.

Amendment 141
Proposal for a regulation
Article 11 – paragraph 3 a (new)

Text proposed by the Commission

3a. A gatekeeper shall not obstruct or dissuade end users from switching to other software applications and services nor directly or indirectly circumvent any of the obligations laid down in Articles 5 and 6, including through the use of manipulative choice architectures.

Amendment

3a. A gatekeeper shall not obstruct or dissuade end users from switching to other software applications and services nor directly or indirectly circumvent any of the obligations laid down in Articles 5 and 6, including through the use of manipulative choice architectures.

Amendment 142
Proposal for a regulation
Article 12 – paragraph 1 – subparagraph 1
A gatekeeper shall inform the Commission of any intended concentration within the meaning of Article 3 of Regulation (EC) No 139/2004 involving another provider of core platform services or of any other services provided in the digital sector irrespective of whether it is notifiable to a Union competition authority under Regulation (EC) No 139/2004 or to a competent national competition authority under national merger rules.

**Justification**

This information obligation should apply to any proposed concentration of the gatekeepers.

**Amendment 143**

**Proposal for a regulation**

**Article 12 – paragraph 2**

**Text proposed by the Commission**

2. The **notification** pursuant to paragraph 1 shall at least describe for the acquisition targets their EEA and worldwide annual turnover, for any relevant core platform services their respective EEA annual turnover, their number of yearly active business users and the number of monthly active end users, as well as the rationale of the intended concentration.

**Amendment**

2. The **information delivered** pursuant to paragraph 1 shall explicitly explain that the intended concentration would not endanger the contestability of the relevant markets but promote competition and innovation and at least describe for the acquisition targets their EEA and worldwide annual turnover, for any services their respective EEA annual turnover, their number of yearly active business users and the number of monthly active end users, the categories of personal data they process, as well as the rationale of the intended concentration, and its potential impact on the rights and interests of business users and end users.

In addition to the information specified in the first subparagraph, the gatekeeper shall provide to the Commission:

(a) a study undertaken by an
independent ISO 17020 certified auditor to confirm the correctness of the provided documentation to substantiate that the intended concentration would not hamper competition and innovation; and
(b) an opinion on the relevance of datasets for the intended concentration requested from the European Data Protection Board (EDPB).

Amendment 144
Proposal for a regulation
Article 12 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 145
Proposal for a regulation
Article 12 – paragraph 3 a (new)

Text proposed by the Commission

3a. The information gathered pursuant to this Article may be used in parallel competition cases, especially for purposes of merger control.

Amendment

Amendment 146
Proposal for a regulation
Article 12 – paragraph 3 b (new)
Amendment 147

Proposal for a regulation
Article 13 – paragraph 1

Text proposed by the Commission

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

Amendment

Within six months after its designation pursuant to Article 3, a gatekeeper shall submit to the Commission an independently audited description of any techniques for profiling of business users and end users and the personalisation of their service and any other digital technology technique used to entice users to engage in certain actions or predict their actions that the gatekeeper applies to or across its core platform services identified pursuant to Article 3, and make that description publicly available. This description shall be updated at least annually.

Amendment 148

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

Text proposed by the Commission

An audit performed pursuant to paragraph 1 shall be performed by organisations which:

(a) is independent from the gatekeeper concerned and has not provided any other service to the undertaking to which the gatekeeper belongs in the previous 12 months;

(b) has proven expertise in the area of risk management, technical competence and
capabilities in the area of digital technologies;
(c) has proven objectivity and professional ethics, based in particular on adherence to codes of practice or appropriate standards; and
(d) has not provided such an audit to the same gatekeeper for more than 3 consecutive years.

Amendment 149

Proposal for a regulation
Article 14 – paragraph 3 – point b a (new)

Text proposed by the Commission

Amendment

(ba) there have been alerts about unfair practices raised by national authorities through the reporting mechanism.

Amendment 150

Proposal for a regulation
Article 15 – paragraph 1

Text proposed by the Commission

Amendment

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

Amendment 151
Proposal for a regulation
Article 15 – paragraph 2

Text proposed by the Commission

2. In the course of a market investigation pursuant to paragraph 1, the Commission shall endeavour to communicate its preliminary findings to the provider of core platform services concerned within six months from the opening of the investigation. In the preliminary findings, the Commission shall explain whether it considers, on a provisional basis, that the provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6).

Amendment

2. In the course of a market investigation pursuant to paragraph 1, the Commission shall communicate its preliminary findings to the provider of core platform services concerned within six months from the opening of the investigation. In the preliminary findings, the Commission shall explain whether it considers, on a provisional basis, that the provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6).

Amendment 152

Proposal for a regulation
Article 15 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 153

Proposal for a regulation
Article 15 – paragraph 4
4. When the Commission pursuant to Article 3(6) designates as a gatekeeper a provider of core platform services that does not yet enjoy an entrenched and durable position in its operations, but it is foreseeable that it will enjoy such a position \textit{in the near future}, it shall declare applicable to that gatekeeper \textit{only} obligations laid down in Article 5(b) and Article 6(1) points (e), (f), (h) and (i) as specified in the designation decision. The Commission shall only declare applicable those obligations that are appropriate and necessary to prevent that the gatekeeper concerned achieves by unfair means an entrenched and durable position in its operations. The Commission shall review such a designation in accordance with the procedure laid down in Article 4.

\textbf{Amendment 154}

\textbf{Proposal for a regulation}
\textbf{Article 16 – paragraph 1}

\textit{Text proposed by the Commission}

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

\textit{Amendment}

1. Where the market investigation shows that a gatekeeper has systematically infringed \textit{the} obligations laid down in Articles 5 and 6 \textit{and has further strengthened or extended its gatekeeper position in relation to the characteristics} under Article 3(1), or where the \textit{Commission is informed under Article 12 that any intended concentration has an adverse impact on the contestability of markets}, the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) impose on such gatekeeper any behavioural or structural remedies which are proportionate to the infringement committed and necessary to ensure compliance with this Regulation. The
market investigation.

Commission shall conclude its investigation by adopting a decision within twelve months from the opening of the market investigation.

Amendment 155

Proposal for a regulation
Article 16 – paragraph 2

Text proposed by the Commission

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

Amendment

2. The Commission may also impose structural remedies pursuant to paragraph 1 where it considers them more effective than behavioural remedies in ensuring compliance with the obligations laid down in Articles 5 and 6. Such structural remedies may include:

(a) separation of business units;
(b) unbundling and horizontal division of services;
(c) changes to the gatekeeper’s financing model;
(d) disgorging financial benefits to end-users.

Amendment 156

Proposal for a regulation
Article 16 – paragraph 3

Text proposed by the Commission

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

Amendment

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

the possible adoption of a decision pursuant to this Article.

Amendment 157
Proposal for a regulation
Article 16 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. In order to ensure effective compliance by the gatekeeper with its obligations laid down in Articles 5 or 6, the Commission shall regularly review the remedies imposed in accordance with paragraph 1 or commitments made binding in accordance with paragraph 6. The Commission shall be entitled to require changes to the imposed remedies if, following an assessment, it finds that the remedies are not effective.

Amendment 158
Proposal for a regulation
Article 17 – paragraph 1

Text proposed by the Commission

Amendment

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

The Commission may conduct a market investigation with the purpose of examining whether one or more services within the digital sector should be added to the list of core platform services or to detect types of practices that may limit the contestability of core platform services or may be unfair and which are not effectively addressed by this Regulation. It shall issue a public report at the latest within 20 months from the opening of the market investigation.

Amendment 159
Proposal for a regulation
Article 18
Text proposed by the Commission

Where the Commission intends to carry out proceedings in view of the possible adoption of decisions pursuant to Article 7, 25 and 26, it shall adopt a decision opening a proceeding.

Amendment

Where the Commission intends to carry out proceedings in view of the possible adoption of decisions pursuant to Article 7, 25 and 26, it shall adopt and make publicly available a decision opening a proceeding.

Amendment 160

Proposal for a regulation
Article 19 – paragraph 1

Text proposed by the Commission

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

Amendment

1. The Commission may by simple request or by decision require information from undertakings and associations of undertakings to provide all necessary information, including for the purpose of monitoring, implementing and enforcing the rules laid down in this Regulation. The Commission may also request access to data bases, algorithms and A/B testing of undertakings and request explanations on those by a simple request or by a decision. Where the information required by simple request is not provided within a period of three weeks, the Commission may require that information by decision.

Amendment 161

Proposal for a regulation
Article 21 – paragraph 1

Text proposed by the Commission

1. The Commission may conduct on-site inspections at the premises of an undertaking or association of undertakings.

Amendment

1. The Commission may conduct on-site inspections at the premises of an undertaking or association of undertakings for the purposes of investigations under Articles 14 to 17 of this Regulation.

Amendment 162
Proposal for a regulation
Article 21 – paragraph 3

Text proposed by the Commission

3. **During on-site inspections the Commission and auditors or experts appointed by it may require the undertaking or association of undertakings to provide access to and explanations on its organisation, functioning, IT system, algorithms, data-handling and business conducts.** The Commission and auditors or experts appointed by it may address questions to key personnel.

Amendment

3. **During on-site inspections the Commission and auditors or experts appointed by it may require the undertaking or association of undertakings to provide access to and explanations on its organisation, functioning, IT system, algorithms, data-handling and business conducts.** *They may run behavioural experiments to evaluate the algorithm and use of the data.* The Commission and auditors or experts appointed by it may address questions to key personnel.

Amendment 163

Proposal for a regulation
Article 21 a (new)

Text proposed by the Commission

**Article 21a**

**Reporting mechanism for business users and end users**

1. *Business users, competitors and end users of core platform services may report to the Commission or national regulators any practice or behaviour by gatekeepers that falls within the scope of this Regulation, including non-compliance. The Commission and Member States shall inform each other of such reports.*

2. *The Commission shall set its priorities for the task of examining the reports referred to paragraph 1. Subject to the provisions of paragraph 5 of this Article and of Article 33, the Commission may choose not to examine a report on the grounds that it does not consider such a report to be an enforcement priority.*

3. *When the Commission considers*
that a report is an enforcement priority, it may open a proceeding pursuant to Article 18 or a market investigation pursuant to Article 14.

4. Without prejudice to Article 33, a Member State may request the Digital Markets Advisory Committee to adopt an opinion in order to determine whether one or several reports should be considered an enforcement priority. In its opinion the Digital Markets Advisory Committee may request the Commission to open a proceeding pursuant to Article 18 or a market investigation pursuant to Article 14. The Advisory Committee shall adopt an opinion within 1 month of receiving the request. In its opinion, it shall state the reasons why the report is considered to be, or not to be, an enforcement priority. If the report is considered to be an enforcement priority, the Commission shall, within four months of receiving the opinion, examine whether there are reasonable grounds for opening such a proceeding or investigation. Where the Commission does not comply with the request of the Advisory Committee, it shall state the reasons for not initiating a proceeding under Article 18 or a market investigation under Article 14.

Amendment 164

Proposal for a regulation

Article 22 – paragraph 1

Text proposed by the Commission

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

Amendment

1. In case of urgency due to the risk of serious and immediate damage for business users or end users of gatekeepers, the Commission may, by decision adopt in accordance with the advisory procedure referred to in Article 32(4), order interim measures against a gatekeeper on the basis of a prima facie finding of an infringement of Articles 5 or 6.
Amendment 165
Proposal for a regulation
Article 22 – paragraph 2 a (new)

Text proposed by the Commission

2a. In case of urgency, due to the risk of serious and immediate damage for business users or end users resulting from new practices implemented by one or several gatekeepers, that may undermine the contestability of core platform services or may be unfair pursuant to Article 10(2), the Commission may, by decision adopted in accordance with the advisory procedure referred to in Article 32(4), order interim measures against the gatekeepers concerned in order to avoid the materialisation of such risk.

Amendment 166
Proposal for a regulation
Article 22 – paragraph 2 b (new)

Text proposed by the Commission

2b. A decision pursuant to paragraph 2a may only be adopted in the context of a market investigation pursuant to Article 17 and within 6 months of the opening of such an investigation. The interim measures shall apply for a specified period and, in any case, shall be replaced by new obligations that may result from the final decision of the market investigation pursuant to Article 17.

Amendment 167
Proposal for a regulation
Article 23 – paragraph 1
1. If during proceedings under Articles 16 or 25 the gatekeeper concerned offers commitments for the relevant core platform services to ensure compliance with the obligations laid down in Articles 5 and 6, the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) make those commitments binding on that gatekeeper and declare that there are no further grounds for action.

Amendment 168

Proposal for a regulation
Article 23 – paragraph 2 – introductory part

Text proposed by the Commission

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

Amendment

2. The Commission may, upon request by one or more national competent authorities or on its own initiative, reopen by decision the relevant proceedings, where:

Amendment 169

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

Text proposed by the Commission

(aa) the measures proposed by the gatekeeper have proven ineffective to ensure compliance with the obligations set out in Articles 5 and 6;

Amendment

Amendment 170

Proposal for a regulation
Article 23 – paragraph 3

*Text proposed by the Commission*

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

*Amendment*

3. Should the Commission consider that the commitments submitted by the gatekeeper concerned cannot ensure effective compliance with the obligations laid down in Articles 5 and 6, it shall explain the reasons for not making those commitments binding in the decision concluding the relevant proceedings and, following an investigation pursuant to Article 16 or 17, require changes to the commitments in order to make them effective.

Amendment 171

Proposal for a regulation

Article 24 – paragraph 1

*Text proposed by the Commission*

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

*Amendment*

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

Amendment 172

Proposal for a regulation

Article 24 – paragraph 1 a (new)

*Text proposed by the Commission*

1a. The Commission shall establish and maintain a publicly accessible and user-friendly website containing at least the following information:

(a) the number of non-compliance decisions adopted pursuant to Article 25;

(b) the number of fines imposed pursuant to Article 26;

*Amendment*
(c) the names of the companies that have been subject to the non-compliance decisions;
(d) the names of the companies on which fines were imposed.

Amendment 173
Proposal for a regulation
Article 24 – paragraph 2

Text proposed by the Commission

2. The actions pursuant to paragraph 1 may include the appointment of independent external experts and auditors to assist the Commission to monitor the obligations and measures and to provide specific expertise or knowledge to the Commission.

Amendment

2. The actions pursuant to paragraph 1 may include the appointment of independent external experts and auditors to assist the Commission to monitor the obligations and measures and to provide specific expertise or knowledge to the Commission. Those external experts and auditors must not have had any contractual relations with the undertaking providing the core platform services referred to in paragraph 1 during the 12 months preceding the appointment by the Commission.

Amendment 174
Proposal for a regulation
Article 24 – paragraph 2 a (new)

Text proposed by the Commission

2a. To ensure direct involvement on a daily basis, the Commission shall appoint a compliance officer, to be funded by the relevant gatekeeper, to oversee the implementation of and compliance with the obligations and measures. The officer shall carry out its tasks under the supervision of the Commission and shall follow any orders or instructions given by the Commission.

Amendment

2a. To ensure direct involvement on a daily basis, the Commission shall appoint a compliance officer, to be funded by the relevant gatekeeper, to oversee the implementation of and compliance with the obligations and measures. The officer shall carry out its tasks under the supervision of the Commission and shall follow any orders or instructions given by the Commission.
Amendment 175

Proposal for a regulation
Article 24 – paragraph 2 b (new)

Text proposed by the Commission

2b. The Commission is empowered to adopt a delegated act in accordance with Article 37 to supplement this Regulation by specifying the mandate which compliance officers shall fulfil and the obligations of gatekeepers to provide information to and to cooperate with compliance officers.

Amendment 176

Proposal for a regulation
Article 25 – paragraph 1 – introductory part

Text proposed by the Commission

1. The Commission shall adopt a non-compliance decision in accordance with the advisory procedure referred to in Article 32(4) where it finds that a gatekeeper does not comply with one or more of the following:

Amendment

1. The Commission shall, within six months from the opening of a proceeding in accordance with Article 18, adopt a non-compliance decision in accordance with the advisory procedure referred to in Article 32(4) where it finds that a gatekeeper does not comply with one or more of the following:

Amendment 177

Proposal for a regulation
Article 25 – paragraph 2

Text proposed by the Commission

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

Amendment

2. Before adopting the decision pursuant to paragraph 1, the Commission shall communicate its preliminary findings to the gatekeeper concerned. In the preliminary findings, the Commission shall explain the measures it considers to take or it considers that the gatekeeper should take in order to effectively address the
preliminary findings. The Commission shall take into account the views of third parties affected by the conduct of the gatekeeper concerned before adopting a decision.

Amendment 178
Proposal for a regulation
Article 25 – paragraph 3

Text proposed by the Commission

3. In the non-compliance decision adopted pursuant to paragraph 1, the Commission shall order the gatekeeper to cease and desist with the non-compliance within an appropriate deadline and to provide explanations on how it plans to comply with the decision.

Amendment

3. In the non-compliance decision adopted pursuant to paragraph 1, the Commission shall order the gatekeeper to cease and desist with the non-compliance within an appropriate deadline, which shall not be longer than three months and to provide explanations on how it plans to comply with the decision. The Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) impose on such gatekeeper any behavioural remedies which are proportionate to the infringement committed and necessary to ensure compliance with this Regulation.

Amendment 179
Proposal for a regulation
Article 25 – paragraph 4

Text proposed by the Commission

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

Amendment

4. The gatekeeper shall provide the Commission with the description of the measures it took to ensure compliance with the decision adopted pursuant to paragraph 1. If the Commission, following an investigation pursuant to Article 16 or 17, finds that the measures are not effective to ensure compliance by the gatekeeper with its obligations under Articles 5 and 6, the Commission shall be entitled to require
changes to those measures.

Amendment 180
Proposal for a regulation
Article 26 – paragraph 1 – introductory part

Text proposed by the Commission

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

Amendment

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

Amendment 181
Proposal for a regulation
Article 26 – paragraph 1 – point e a (new)

Text proposed by the Commission

(ea) the obligation to provide within a time-limit, which shall not be less than three months, information that is required for assessing an undertaking’s designation as a gatekeeper pursuant to Article 3(2) or supplies incorrect, or misleading information;

Amendment

(ea) the obligation to provide within a time-limit, which shall not be less than three months, information that is required for assessing an undertaking’s designation as a gatekeeper pursuant to Article 3(2) or supplies incorrect, or misleading information;

Amendment 182
Proposal for a regulation
Article 26 – paragraph 2 – introductory part

Text proposed by the Commission

2. The Commission may by decision impose on undertakings and associations of undertakings fines not exceeding 1% of the total turnover in the preceding financial year where they intentionally or

Amendment

2. The Commission may by decision impose on undertakings and associations of undertakings fines not exceeding 5% of the total worldwide turnover in the preceding financial year where they intentionally or
negligently:

Amendment 183
Proposal for a regulation
Article 26 – paragraph 2 – point a

Text proposed by the Commission
(a) fail to provide within the time-limit information that is required for assessing their designation as gatekeepers pursuant to Article 3(2) or supply incorrect, incomplete or misleading information;

Amendment
(a) fail to supply complete information pursuant to Article 3(2);

Amendment 184
Proposal for a regulation
Article 26 – paragraph 4 – subparagraph 5

Text proposed by the Commission
The financial liability of each undertaking in respect of the payment of the fine shall not exceed 10 % of its total turnover in the preceding financial year.

Amendment
The financial liability of each undertaking in respect of the payment of the fine shall not exceed 10 % of its total worldwide turnover in the preceding financial year.

Amendment 185
Proposal for a regulation
Article 28 – paragraph 1

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

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

Amendment 186
Proposal for a regulation
Article 29 – paragraph 1
1. The power of the Commission to enforce decisions taken pursuant to Articles 26 and 27 shall be subject to a limitation period of **five** years.

1. The power of the Commission to enforce decisions taken pursuant to Articles 26 and 27 shall be subject to a limitation period of **seven** years.

**Amendment 187**

Proposal for a regulation

Article 30 – paragraph 1 – introductory part

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

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

**Amendment 188**

Proposal for a regulation

Article 30 – paragraph 2

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

**Amendment 189**

Proposal for a regulation

Article 30 – paragraph 3
Text proposed by the Commission

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

Amendment

3. The Commission shall base its decisions only on objections on which gatekeepers, undertakings and associations of undertakings concerned, including third-parties affected by the conduct of the gatekeeper concerned have been able to comment.

Amendment 190

Proposal for a regulation
Article 31 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 191

Proposal for a regulation
Article 31 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 192

Proposal for a regulation

Article 31 a (new)

Text proposed by the Commission

Amendment

Article 31 a

Cooperation and coordination with Member States

1. In accordance with the principles laid down in Article 1 and subject to Article 32a, the Commission shall be the sole decision-maker with regard to the correct application of this Regulation. To ensure effective enforceability and coherent implementation, national competent authorities shall fully support the Commission with their expertise.

2. The Commission and Member States shall work in close cooperation to ensure coherent, effective and complementary enforcement of available legal instruments applied to gatekeepers within the meaning of this Regulation.

3. National authorities shall not take decisions which are inconsistent with any decision adopted by the Commission under this Regulation.

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

5. Information exchanged pursuant to paragraph 3 of this Article shall only be exchanged and used for the purposes of coordinating the enforcement of this Regulation and the rules referred to in Article 1(6).
6. National competent authorities may report to the Commission any practice or behaviour of gatekeepers that falls within the scope of this Regulation. The Commission and Member States shall inform each other of such reports.

7. The national competent authorities enforcing the rules referred to in Article 1(6) may consult the Commission on any matter relating to the application of this Regulation.

Amendment 193

Proposal for a regulation
Article 32 – paragraph 1

Text proposed by the Commission

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

Amendment

1. The Commission shall be assisted by the Digital Markets Advisory Committee. That Committee shall be a Committee within the meaning of Regulation (EU) No 182/2011. The Digital Markets Advisory Committee may establish one or more technical expert groups that can be consulted on an ad hoc basis and that will include relevant national authorities and regulators including representatives of the national competent authorities for competition, electronic communications audio-visual services, electoral oversight, and consumer protection, representatives of the European Data Protection Board established in accordance with Article 68 of Regulation (EU) 2016/679 of the European Parliament and of the Council.

Amendment 194

Proposal for a regulation
Article 32 a (new)
Article 32a

Cooperation with national competition authorities

1. The Commission shall apply the provisions of this Regulation in close cooperation with national competition authorities, acting within the European Competition Network as defined in point (5) of Article 2 of Directive (EU)2019/1 of the European Parliament and of the Council, in accordance with the provisions of this Article. It shall, in particular and as appropriate, make use of the European Competition Network System referred to in Article 33 of that Directive for the exchange of information, in particular as regards concentrations as referred to in Article 12 of this Regulation, decisions relating to the opening of a market investigation pursuant to Article 14 of this Regulation or proceedings pursuant to Article 18 of this Regulation.

2. At the request of the Commission, national competition authorities shall cooperate in the application of Articles 12, 15, 16 and 17.

3. Where requested by the Commission to assist in any investigation pursuant to paragraph 2 of this Article, the national competition authorities shall have the power to apply, mutatis mutandis, the powers of the Commission set out in Articles 19, 20 and 21.

4. The national competition authorities shall have the power to exercise the powers conferred on the Commission by Article 24.

5. When requesting a national competition authority to cooperate in accordance with paragraph 2, the Commission shall transmit, to that competition authority, copies of the most
important documents it has collected with a view to applying Articles 15, 16 and 17. At the request of the national competition authority, the Commission shall provide it with a copy of other existing documents necessary for the assessment of the case. When deciding on whether to request a competition authority to cooperate, the Commission may take into account the importance of the national market for the respective gatekeeper.

6. When acting in accordance with paragraph 3, the national competition authority shall inform the Commission in writing before and without delay after commencing the first formal investigative measure. This information may also be made available to the national competition authorities of other Member States.

7. The national competition authority shall make available to the Commission any information it receives in the exercise of powers as set out in paragraph 3. The information supplied to the Commission may be made available to the national competition authorities of other Member States. National competition authorities may also exchange information necessary for the assessment of a case that they are dealing with under this Regulation.

8. National competition authorities of the Member States may consult the Commission on any case involving the application of Union law.

Amendment 195
Proposal for a regulation
Article 33 – title

Text proposed by the Commission
Request for a market investigation

Amendment
Request for a market investigation and non-compliance proceedings
Amendment 196

Proposal for a regulation
Article 33 – paragraph 1

Text proposed by the Commission

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

Amendment

1. When **competent authorities in one** Member State request the Commission to:

(a) open an investigation pursuant to **Articles 15** because they consider that there are reasonable grounds to suspect that a provider of core platform services should be designated as a gatekeeper;

(b) open an investigation pursuant to **Article 16** because they consider that there are reasonable grounds to suspect that a gatekeeper has been in a position of systemic non-compliance with Articles 5 and 6;

(c) open an investigation pursuant to **Article 17** because they consider that one or more services should be added to the list of core platform services as defined in Article 2 (2) of this Regulation; or

(d) carry out proceedings in view of the possible adoption of a decision pursuant to **Article 25** because they consider that a gatekeeper is not complying with its obligations, the Commission shall within four months examine **and decide** whether there are reasonable grounds to open such an investigation or carry out such proceedings. The Commission shall add to this decision a detailed argumentation of its choice of action. The decision shall be publicly available and communicated to all national competent authorities.
Amendment 197

Proposal for a regulation
Article 38 – paragraph 1

*Text proposed by the Commission*

1. By *DD/MM/YYYY*, 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 *three years after the entry into force of this Regulation*, 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. With respect to the obligations set out in Article 5 and 6, the Commission shall carry out an evaluation by twelve months after the entry into force of this Regulation, and subsequently every twelve months.

Amendment 198

Proposal for a regulation
Article 38 – paragraph 2

*Text proposed by the Commission*

2. The evaluations shall establish whether *additional* rules, including regarding the list of core platform services laid down in point 2 of Article 2, the obligations laid down in Articles 5 and 6 and their enforcement, *may be required* to ensure that digital markets across the Union are contestable and fair. Following the evaluations, the Commission shall take appropriate measures, which may include legislative proposals.

*Amendment*

2. The evaluations shall establish whether *it is required to modify, add or remove* rules, including regarding the list of core platform services laid down in point 2 of Article 2, the obligations laid down in Articles 5 and 6 and their enforcement, *in order* to ensure that digital markets across the Union are contestable and fair;

Following the evaluations, the Commission shall take appropriate measures, which may include legislative proposals.

Amendment 199
Proposal for a regulation
Article 38 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The review referred to in the first sentence of paragraph 1 shall consider whether this Regulation should be added to the Annex to Directive (EU) 2020/1828.

Amendment 200

Proposal for a regulation
Article 38 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Commission shall report on the implementation of this Regulation in its annual report on Competition Policy.

Amendment 201

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

Text proposed by the Commission

Amendment

This Regulation shall apply from six months after its entry into force. This Regulation shall apply from three months after its entry into force.
## PROCEDURE – COMMITTEE ASKED FOR OPINION

<table>
<thead>
<tr>
<th>Title</th>
<th>Contestable and fair markets in the digital sector (Digital Markets Act)</th>
</tr>
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<tbody>
<tr>
<td>Committee responsible</td>
<td>IMCO 8.2.2021</td>
</tr>
<tr>
<td>Opinion by</td>
<td>ECON 8.2.2021</td>
</tr>
<tr>
<td>Associated committees - date announced in plenary</td>
<td>20.5.2021</td>
</tr>
<tr>
<td>Rapporteur for the opinion</td>
<td>Stéphanie Yon-Courtin 10.5.2021</td>
</tr>
<tr>
<td>Discussed in committee</td>
<td>1.9.2021</td>
</tr>
<tr>
<td>Date adopted</td>
<td>26.10.2021</td>
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| Result of final vote | +: 55  
-: 3  
0: 2 |
| Substitutes present for the final vote | Janusz Lewandowski, Mikuláš Peksa, Mick Wallace |
### FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

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<td>Valentino Grant, Antonio Maria Rinaldi, Marco Zanni</td>
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<tr>
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<td>Enikő Győri</td>
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<td>PPE</td>
<td>Isabel Benjumea Benjumea, Stefan Berger, Markus Ferber, Frances Fitzgerald, Danuta Maria Hübner, Othmar Karas, Georgios Kyrtsos, Janusz Lewandowski, Aušra Maldeikienė, Siegfried Mureşan, Luděk Niedermayer, Lídia Pereira, Sirpa Pietikäinen, Ralf Seekatz, Inese Vaidere</td>
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<td>Renew</td>
<td>Gilles Boyer, Engin Eroglu, Luis Garicano, Billy Kelleher, Ondřej Kovářík, Caroline Nagtegaal, Dragoş Pîslaru, Stéphanie Yon-Courtin</td>
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<td>The Left</td>
<td>José Gusmão, Martin Schirdewan, Mick Wallace</td>
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<tr>
<td>Verts/ALE</td>
<td>Sven Giegold, Claude Gruffat, Stasys Jakeliūnas, Piernicola Pedicini, Mikuláš Peksa, Kira Marie Peter-Hansen, Ernest Urtasun</td>
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<td>Gerolf Annemans, France Jamet</td>
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**Key to symbols:**
- + : in favour
- - : against
- 0 : abstention
24.11.2021

OPINION OF THE COMMITTEE ON INDUSTRY, RESEARCH AND ENERGY

for the Committee on the Internal Market and Consumer Protection


Rapporteur for opinion: Carlos Zorrinho

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

SHORT JUSTIFICATION

1. Background

The Digital Markets Act (DMA), like the Digital Services Act (DSA), forms part of a broader package of legislation which provides the legal framework for the Commission’s strategy entitled ‘Shaping Europe’s Digital Future’. It is thus a component of a wider body of legislation and needs to be defined in terms of its links with other relevant legislative texts, avoiding any overlaps liable to hinder implementation.

2. Principles

The purpose of the Digital Markets Act is to ensure the proper functioning of the internal market by fostering competitive and fair markets. Specific aims stem from this overall objective that can only be effectively achieved by addressing and solving market failures, ensuring competitive digital markets, building ecosystems conducive to innovation and providing a free and informed choice for consumers, monitoring and remedying distortions caused by inappropriate practices by gatekeepers and shoring up the security and coherence of the applicable legal framework, thereby safeguarding the structure of the internal market.

In view of these objectives and since the ITRE Committee is competent to deliver an opinion on the Digital Markets Act as a whole, the rapporteur has taken into account the complementarity of the competitive dimension, where the DMA must be a powerful, clear, pragmatic and easy-to-apply tool with which to achieve a level playing field, while also constituting a pillar of the second wave of digitalisation of European society, and should therefore incorporate the principles and the common values of the EU strategy for its digital future.

3. Vision
Digital services in general and online platforms in particular are playing an increasingly prominent role in the economy, and are thus crucial in determining the smooth functioning and balance of the internal market, establishing a transparent and fair relationship between providers and consumers, building an environment conducive to new business opportunities, in particular for small and medium-sized businesses and start-ups, promoting a challenging and favourable climate for innovation and fostering cross-border trade relations.

The Digital Markets Act was proposed by a European Commission that has described itself as geopolitical. The rapporteur views the geopolitical dimension as twofold.

If implemented successfully it will make the internal market more robust, while also increasing the Union’s external competitive capacity.

A European approach to digital markets focused on better services for citizens and better conditions for business will create a more balanced and transparent global digital market, inspired by common European principles and values, thus enhancing the European Union’s geopolitical relevance and helping build a fairer and more sustainable globalisation.

4. Overall approach

The amendments proposed in this report are the reflection of the principles and vision set out above.

4.1 - We take the view that in defining core platform services the DMA should take account of the effects of the development of the Internet of Things.

4.2 - We believe that gatekeepers should not be able to restrict users’ free choice through contractual rules or technical practices that impede mobility between services or software applications.

4.3 - We believe that gatekeepers must comply with a set of rules that do not jeopardise diversity in Europe’s digital environment or stifle an economic ecosystem in which SMEs play a key role in wealth creation, innovation, employment and regional development.

4.4 - We propose strengthening the legislation’s capacity to limit unfair practices and foster the opening up of competition on platforms, thus providing opportunities for application developers and small competing platforms in conditions of balanced competition.

4.5 - We believe that high interoperability standards must be ensured for core messaging and media services, not just for ancillary services, as the Commission proposes.

4.6 - We propose monitoring portability and the right to access and transfer the data held by companies, in order to prevent abusive practices that aid and abet trends towards market concentration or monopolisation.

4.7 - We stress the conditions for combating targeted advertising and the ban on commercial tracking for the purposes of establishing consumer profiles.

4.8 - We propose regular monitoring of gatekeepers’ compliance with their obligations in a transparent manner.
4.9 - We propose that gatekeepers be required to refrain from patterns of behaviour that give rise to dependency or the forced bundling of users.

4.10 - We are of the opinion that regulation should be based on constructive dialogue and avoid the fragmentation of regulatory power, without impeding the combined use of the capacities and competences of the various relevant bodies at European and national level.

**AMENDMENTS**

The Committee on Industry, Research and Energy calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to take into account the following amendments:

**Amendment 1**

Proposal for a regulation
Recital 1

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>(1) Digital services in general and online platforms in particular play an increasingly important role in the economy, in particular in the internal market, by providing new business opportunities in the Union and facilitating cross-border trading.</td>
<td>(1) Digital services in general and online platforms in particular play an increasingly important role in the economy, in particular in the internal market, by providing new business opportunities, <em>in particular for SMEs and start-ups</em> in the Union and facilitating cross-border trading. <em>They serve as essential facilities for the digital economy by providing access to critical infrastructures. Furthermore, they could play an important role in safeguarding the freedom and pluralism of the media, including by disseminating news and by facilitating public debate.</em></td>
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</table>

**Amendment 2**

Proposal for a regulation
Recital 1 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>(1a) Digital technologies, such as artificial intelligence, block-chains, robotics, crowdfunding and social media platforms, digital 3D printing, big data, cloud and mobile devices enable the</td>
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</tr>
</tbody>
</table>
creation of new entrepreneurial initiatives and create a wide spectrum of opportunities leading to new ways of doing business. Digital entrepreneurship includes entrepreneurial processes, outcomes and services transformed by digitization and digital transformation.

Amendment 3
Proposal for a regulation
Recital 1 b (new)

Text proposed by the Commission

Amendment

(1b) A common European approach focused on better services for citizens and businesses, should create a fairer global digital market inspired by European common shared principles and values.

Amendment 4
Proposal for a regulation
Recital 1 c (new)

Text proposed by the Commission

Amendment

(1c) Network effects are factors that accelerated very large online platforms growth, increasing the value of their services to its users and the user base and they are particularly strong for the core platform services of interpersonal communication services and online social networking and could significantly undermine innovation by providers of such services as well as choice for end users of these services. Gatekeepers should provide interoperability using globally recognised industry-standard service features of social networking services or number-independent interpersonal communications services to end users, business users and competing providers or potential providers of number-independent interpersonal
communication services and online social networking at the request of these providers in order to foster the emergence of alternative platforms, which could deliver quality innovative products and services at affordable prices. Due to its social importance, access to internet was recently included in the Universal Service obligations, and as a particular case of services, number independent interpersonal communication services are subject to potential remedies by National Regulatory Agencies according to the Directive 2018/1792, the European Electronic Communication Code.

Amendment 5

Proposal for a regulation
Recital 2

Text proposed by the Commission

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

Amendment

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

Amendment 6

Proposal for a regulation
Recital 7

Text proposed by the Commission

(7) Therefore, business users and end-users of core platform services provided by gatekeepers should be afforded appropriate regulatory safeguards throughout the Union against the unfair behaviour of gatekeepers in order to facilitate cross-border business within the Union and thereby improve the proper functioning of the internal market and to address existing or likely emerging fragmentation in the specific areas covered by this Regulation. Moreover, while gatekeepers tend to adopt global or at least pan-European business models and algorithmic structures, they can adopt, and in some cases have adopted, different business conditions and practices in different Member States, which is liable to create disparities between the competitive conditions for the users of core platform services provided by gatekeepers, to the detriment of integration within the internal market.

Amendment

(7) Therefore, the objective of this Regulation is to contribute to the proper functioning of the internal market by laying down rules to ensure contestability and fairness for the digital sector in general and for business users and end-users of core platform services provided by gatekeepers in particular business users and end-users of core platform services provided by gatekeepers should be afforded appropriate regulatory safeguards throughout the Union against the unfair behaviour of gatekeepers in order to facilitate cross-border business within the Union and thereby improve the proper functioning of the internal market and to address existing or likely emerging fragmentation in the specific areas covered by this Regulation. Moreover, while gatekeepers tend to adopt global or at least pan-European business models and algorithmic structures, they can adopt, and in some cases have adopted, different business conditions and practices in different Member States, which is liable to create disparities between the competitive conditions for the users of core platform services provided by gatekeepers, to the detriment of integration within the internal market.
Amendment 7

Proposal for a regulation
Recital 10

Text proposed by the Commission

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

Amendment

(10) Articles 101 and 102 TFEU and the corresponding national competition rules concerning anticompetitive multilateral and unilateral conduct as well as merger control have as their objective the protection of undistorted competition on the market. This Regulation pursues an objective that is complementary to, but different from that of protecting undistorted competition on any given market, as defined in competition-law terms, which is to ensure that markets where gatekeepers are present are and remain contestable and fair, independently from the actual, likely or presumed effects of the conduct of a given gatekeeper covered by this Regulation on competition on a given market. This Regulation therefore aims at protecting a different legal interest from those rules and should complement their application.

Amendment 8

Proposal for a regulation
Recital 11

Text proposed by the Commission

(11) This Regulation should also complement, without prejudice to their application, the rules resulting from other acts of Union law regulating certain aspects of the provision of services covered by this Regulation, in particular Regulation (EU) 2019/1150 of the European Parliament and of the Council26,

Amendment

(11) This Regulation should also complement, without prejudice to their application, the rules resulting from other acts of Union law regulating certain aspects of the provision of services covered by this Regulation, in particular Regulation (EU) 2019/1150 of the European Parliament and of the Council26,

\textsuperscript{27} Regulation (EU) …/.. of the European Parliament and of the Council – proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC.


Amendment 9

Proposal for a regulation
Recital 13

Text proposed by the Commission

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

Amendment

(13) In particular, online intermediation services, online search engines, operating systems, digital voice assistants and platforms that use integrated voice assistant technologies, web-browsers, online social networking, video sharing platform services, number-independent interpersonal communication services, digital services which allow the creation of, processing of, accessing or storage of data in digital form, including software as a service such as cloud computing services, meaning an electronic platform or a cloud storage facility, that the consumer selects for receiving or storing the digital content or digital service and online advertising services all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They therefore should be stated as examples of core platform services and fall into the scope of this Regulation. However, this should be without prejudice to the inclusion of other categories of digital services into the scope of this Regulation upon future revisions of this Regulation.
their own purposes. The fact that weak contestability and unfair practices in the digital sector are more frequent and pronounced in certain digital services than in others does not imply that other categories of services are exempt from it. The core platform services falling under the scope of this Regulation should therefore not be limited to certain types of services. Online intermediation services should be included irrespective of the technology used to provide such services. For that reason, virtual or voice activated assistants and other connected devices should fall within the scope of this Regulation, whether their software is considered an operating system, an online intermediation service or a search engine. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council. In certain circumstances, the notion of end users should encompass users that are traditionally considered business users, but in a given situation do not use the core platform services to provide goods or services to other end users, such as for example businesses relying on cloud computing services for their own purposes.

Amendment 10
Proposal for a regulation
Recital 20

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

The level of the number of business users should be determined on the basis of the entire global population of business users active on a given core platform service when the Commission is designating the gatekeeper using especially the qualitative assessment procedure. Active end users as well as business users should be defined in a way that adequately represents the role and reach of the specific core platform service in question. In order to provide legal certainty for gatekeepers, the elements of such definitions per core platform service should be set out in this Regulation and be subject to possible amendment by the Commission by means of delegated acts to be able to keep them up to date in the light of technological or other developments.

Amendment 11
Proposal for a regulation
Recital 21

Text proposed by the Commission

(21) An entrenched and durable position in its operations or the foreseeability of achieving such a position future occurs

Amendment

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

Amendment 12

Proposal for a regulation
Recital 25

Text proposed by the Commission

(25) Such an assessment can only be done in light of a market investigation, while taking into account the quantitative thresholds. In its assessment the Commission should pursue the objectives of preserving and fostering the level of innovation, the quality of digital products and services, the degree to which prices are fair and competitive, and the degree to which quality or choice for business users and for end users is or remains high. Elements that are specific to the providers of core platform services concerned, such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration, can be taken into account. In addition, a very high market capitalisation, a very high ratio of equity value over profit or a very high turnover derived from end users of a single core platform service can point to the tipping of the market or leveraging potential of such providers. Together with market capitalisation, high growth rates, or decelerating growth rates read together with profitability growth, are examples of dynamic parameters that are particularly relevant to identifying such providers of core platform services that are foreseen to

Amendment

(25) Such an assessment can only be done in light of a market investigation, while taking into account the quantitative thresholds. In its assessment the Commission should pursue the objectives of preserving and fostering the level of innovation, the quality of digital products and services, the degree to which prices are fair and competitive, and the degree to which quality or choice for business users and for end users is or remains high. Elements that are specific to the providers of core platform services concerned, such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration, can be taken into account. The Commission should take into consideration the impact of these elements on business users, especially on SMEs, other end users and consumers. In addition, a very high market capitalisation, a very high ratio of equity value over profit or a very high turnover derived from end users of a single core platform service can point to the tipping of the market or leveraging potential of such providers. Together with market capitalisation, high growth rates, or decelerating growth rates read together with profitability growth, are
become entrenched. The Commission should be able to take a decision by drawing adverse inferences from facts available where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.

Amendment 13
Proposal for a regulation
Recital 26

Text proposed by the Commission

(26) A particular subset of rules should apply to those providers of core platform services that are foreseen to enjoy an entrenched and durable position in the near future. The same specific features of core platform services make them prone to tipping: once a service provider has obtained a certain advantage over rivals or potential challengers in terms of scale or intermediation power, its position may become unassailable and the situation may evolve to the point that it is likely to become durable and entrenched in the near future. Undertakings can try to induce this tipping and emerge as gatekeeper by using some of the unfair conditions and practices regulated in this Regulation. In such a situation, it appears appropriate to intervene before the market tips irreversibly.

Amendment

(26) A particular subset of rules should apply to those providers of core platform services that are foreseen to enjoy an entrenched and durable position in the near future for instance because the Commission has been notified of an intended concentration and assessed its impact on the contestability of digital markets. The same specific features of core platform services make them prone to tipping: once a service provider has obtained a certain advantage over rivals or potential challengers in terms of scale or intermediation power, its position may become unassailable and the situation may evolve to the point that it is likely to become durable and entrenched in the near future. Undertakings can try to induce this tipping and emerge as gatekeeper by using some of the unfair conditions and practices regulated in this Regulation. In such a situation, it appears appropriate to intervene before the market tips irreversibly.
Amendment 14
Proposal for a regulation
Recital 30

Text proposed by the Commission

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

Amendment

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

Amendment 15
Proposal for a regulation
Recital 31

Text proposed by the Commission

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

Amendment

(31) To ensure the effectiveness of the review of gatekeeper status as well as the possibility to adjust the list of core platform services provided by a gatekeeper, the gatekeepers should inform the Commission and other competent national authorities of all of their intended and concluded concentrations within the meaning of Article 3 of Regulation (EC) No 139/2004 or any agreement or series of agreements having a substantially similar effect. Such information, especially regarding acquisitions of emerging competitors, should not only serve the review process mentioned above, regarding the status of individual gatekeepers, but will also provide information that is crucial to monitoring broader contestability trends.
Amendment 16

Proposal for a regulation
Recital 32

Text proposed by the Commission

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

Amendment

(32) To safeguard the fairness and contestability of core platform services provided by gatekeepers, it is necessary to provide in a clear and unambiguous manner for a set of harmonised obligations with regard to those services. Such rules are needed to address the risk of harmful effects of unfair practices imposed by gatekeepers, to the benefit of the business environment in the services concerned, to the benefit of users and ultimately to the benefit of society as a whole. Given the fast-moving and dynamic nature of digital markets, and the substantial economic power of gatekeepers, it is important that these obligations are effectively applied without being circumvented. To that end, the obligations in question should apply to any practices by a gatekeeper, irrespective of its form and irrespective of whether it is of a contractual, commercial, technical or any other nature, including through product design or by presenting end-user choices in a non-neutral manner, or by otherwise subverting or impairing user autonomy, decision-making, or choice via the structure, function or manner of operation of a user interface or a part thereof, insofar as a practice corresponds to the type of practice that is the subject of one of the obligations of this Regulation.

Amendment 17
Proposal for a regulation
Recital 33

Text proposed by the Commission

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

Amendment

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

Amendment 18

Proposal for a regulation
Recital 35
(35) The obligations laid down in this Regulation are necessary to address identified public policy concerns, there being no alternative and less restrictive measures that would effectively achieve the same result, having regard to need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices.

Amendment

(35) The obligations laid down in this Regulation are necessary to address identified public policy concerns, there being no alternative and less restrictive measures that would effectively achieve the same result, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial or manipulative practices.

Amendment 19

Proposal for a regulation

Recital 36

Text proposed by the Commission

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

Amendment

(36) The conduct of combining end user data from different sources or signing in users to different services of gatekeepers gives them potential advantages in terms of accumulation of data, thereby raising barriers to entry. Individual consent, expressed in accordance with GDPR is always needed in order to combine personal data across services. To ensure that gatekeepers do not unfairly undermine the contestability of core platform services, they should enable their end users to freely choose to opt-in to such business practices by offering a less personalised alternative. The possibility should cover all possible sources of personal data, including own services of the gatekeeper as well as third party websites. When the gatekeeper requests consent, it should proactively present a user-friendly solution to end users to provide, modify or revoke consent in an explicit, clear and straightforward manner. Consent should be given in a clear, informed and specific way by the end user who should be informed that a refusal could lead to a less personalised offer. The gatekeeper should ensure that the quality and functionalities of the core
platform service would remain unchanged.

Amendment 20
Proposal for a regulation
Recital 37

Text proposed by the Commission

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

Amendment

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

Amendment 21
Proposal for a regulation
Recital 38

Text proposed by the Commission

(38) To prevent further reinforcing their dependence on the core platform services of gatekeepers, the business users of these gatekeepers should be free in promoting and choosing the distribution channel they consider most appropriate to interact with any end users that these business users have already acquired through core platform services provided by the gatekeeper. Conversely, end users should also be free to choose offers of such business users and to enter into contracts with them either through core platform services of the gatekeeper, if applicable, or from a direct distribution channel of the business user or another indirect distribution channel such business user may use. This should apply to the promotion of offers and conclusion of contracts between business users and end users. Moreover, the ability of end users to freely acquire content, subscriptions, features or other items outside the core platform services of the gatekeeper should not be undermined or restricted. In particular, it should be avoided that gatekeepers restrict end users from access to and use of such services via a software application running on their core platform service. For example, subscribers to online content purchased outside a software application download or purchased from a software application store should not be prevented from accessing such online content on a software application on the gatekeeper’s core platform service simply because it was purchased outside such software application or software application store.

Amendment

(38) To prevent further reinforcing their dependence on the core platform services of gatekeepers, the business users of these gatekeepers should be free in promoting and choosing the distribution channel they consider most appropriate to interact with any end users that these business users have already acquired through core platform services provided by the gatekeeper. Conversely, end users should also be free to choose offers of such business users and to enter into contracts with them either through core platform services of the gatekeeper, if applicable, or from a direct distribution channel of the business user or another indirect distribution channel such business user may use. This should apply to the promotion of offers, any communications and conclusion of contracts between business users and end users. Moreover, the ability of end users to freely acquire content, subscriptions, features or other items outside the core platform services of the gatekeeper should not be undermined or restricted. In particular, it should be avoided that gatekeepers restrict end users from access to and use of such services via a software application running on their core platform service. For example, subscribers to online content purchased outside a software application download or purchased from a software application store should not be prevented from accessing such online content on a software application on the gatekeeper’s core platform service simply because it was purchased outside such software application or software application store.
Amendment 22

Proposal for a regulation
Recital 39

Text proposed by the Commission

(39) To safeguard a fair commercial environment and protect the contestability of the digital sector it is important to safeguard the right of business users to raise concerns about unfair behaviour by gatekeepers with any relevant administrative or other public authorities. For example, business users may want to complain about different types of unfair practices, such as discriminatory access conditions, unjustified closing of business user accounts or unclear grounds for product de-listings. Any practice that would in any way inhibit such a possibility of raising concerns or seeking available redress, for instance by means of confidentiality clauses in agreements or other written terms, should therefore be prohibited. This should be without prejudice to the right of business users and gatekeepers to lay down in their agreements the terms of use including the use of lawful complaints-handling mechanisms, including any use of alternative dispute resolution mechanisms or of the jurisdiction of specific courts in compliance with respective Union and national law. This should therefore also be without prejudice to the role gatekeepers play in the fight against illegal content online.

Amendment

(39) To safeguard a fair commercial environment and protect the contestability of the digital sector it is important to safeguard the right of business users, end users and civil organisations to raise concerns about unfair behaviour by gatekeepers with any relevant administrative or other public authorities. For example, business users, end users and civil organisations may want to complain about different types of unfair practices, such as discriminatory access conditions, unjustified closing of business user accounts or unclear grounds for product de-listings. Any practice that would in any way inhibit such a possibility of raising concerns or seeking available redress, for instance by means of confidentiality clauses in agreements or other written terms, should therefore be prohibited. This should be without prejudice to the right of business users and gatekeepers to lay down in their agreements the terms of use including the use of lawful complaints-handling mechanisms, including any use of alternative dispute resolution mechanisms and providing clear information on the jurisdiction of specific courts in compliance with respective Union and national law. This should therefore also be without prejudice to the role gatekeepers play in the fight against illegal content online.

Amendment 23

Proposal for a regulation
Recital 39 a (new)
Text proposed by the Commission

(39a) National competent authorities and relevant competition authorities should gather complaints from third parties on unfair behaviours by gatekeepers that fall within the scope of this Regulation and report relevant cases to the Commission. Based on clearly defined conditions and investigation priorities, the Commission should then examine the complaints and act accordingly by, for example, opening a formal market investigation.

Amendment 24
Proposal for a regulation
Recital 41

Text proposed by the Commission

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

Amendment

(41) Gatekeepers should not restrict or prevent the free choice of end users by technically preventing switching between or subscription to different software applications and services. This would allow more providers to offer their services, thereby ultimately providing greater choice to the end user. Gatekeepers should therefore ensure a free choice irrespective of whether they are the manufacturer of any hardware by means of which such software applications or services are accessed and should not raise artificial technical barriers so as to make switching impossible or ineffective. The mere offering of a given product or service to end users, including by means of pre-installation, as well the improvement of end user offering, such as better prices or increased quality, would not in itself constitute a barrier to switching.
Amendment 25

Proposal for a regulation
Recital 42

Text proposed by the Commission

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

Amendment

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

A gatekeeper should further provide, free of charge, reliable, non-aggregated, granular and complete data necessary for advertisers and publishers to carry out their own independent high-quality and real-time evaluation of intermediation services, including verification of the ad inventory. Moreover, a prohibition on combining data sets should prevent tracking of end users and thereby level the playing field for providers of online advertising services, strengthening funding of public media and restoring privacy of end-users.

Amendment 26
Proposal for a regulation
Recital 43

Text proposed by the Commission

(43) A gatekeeper may in certain circumstances have a dual role as a provider of core platform services whereby it provides a core platform service to its business users, while also competing with those same business users in the provision of the same or similar services or products to the same end users. In these circumstances, a gatekeeper may take advantage of its dual role to use data, generated from transactions by its business users on the core platform, for the purpose of its own services that offer similar services to that of its business users. This may be the case, for instance, where a gatekeeper provides an online marketplace or app store to business users, and at the same time offer services as an online retailer or provider of application software against those business users. To prevent gatekeepers from unfairly benefitting from

Amendment

(43) A gatekeeper may in certain circumstances have a dual role as a provider of core platform services whereby it provides a core platform service to its business users, while also competing with those same business users in the provision of the same or similar services or products to the same end users, including as part of an ancillary service. In these circumstances, a gatekeeper should not take advantage of its dual role to use data, generated from transactions by its business users on the core platform, including from transactions on its ancillary service, for the purpose of its own services that offer similar services or goods to that of its business users or of its suppliers. This may be the case, for instance, where a gatekeeper provides an online marketplace or app store to business users, and at the same time offer services as an online
their dual role, it should be ensured that they refrain from using any aggregated or non-aggregated data, which may include anonymised and personal data that is not publicly available to offer similar services to those of their business users. This obligation should apply to the gatekeeper as a whole, including but not limited to its business unit that competes with the business users of a core platform service.

Amendment 27
Proposal for a regulation
Recital 46

Text proposed by the Commission

(46) A gatekeeper may use different means to favour its own services or products on its core platform service, to the detriment of the same or similar services that end users could obtain through third parties. This may for instance be the case where certain software applications or services are pre-installed by a gatekeeper. To enable end user choice, gatekeepers should not prevent end users from un-installing any pre-installed software applications on its core platform service and thereby favour their own software applications.

Amendment

(46) A gatekeeper may use different means to favour its own or third party services or products on an operating system it provides or effectively controls, to the detriment of the same or similar services that end users could obtain through third parties. This may for instance be the case where certain software applications or services are pre-installed by a gatekeeper. To enable end user choice, gatekeepers should not prevent end users from un-installing any pre-installed software applications on an operating system they provide or effectively control its core platform service and thereby favour their own or third party software applications. The gatekeeper can restrict such un-installation when such applications are essential to the functioning of the operating system or the device.
Amendment 28
Proposal for a regulation
Recital 46 a (new)

Text proposed by the Commission

(46a) Securing default positions across the main search access points of an operating system, such as the pre-installed browser, the home screen search bar, or the voice assistant, can entrench the dominant position of an established core platform service and prevent contestability of digital markets. Even where users can change the default manually, they rarely do so, due to behavioural bias. In order to ensure contestability, end users should be able to select their preferred core platform service default through a preference menu when they set up their device. End users should be able to access that preference menu the device is set up. A gatekeeper should not be able to offer compensation or benefits to hardware manufacturers or network operators, or otherwise require them to offer its core platform service pre-installed or set as a default as these practices do not allow third-party business users to bid for pre-installation or for a default position.

Amendment 29
Proposal for a regulation
Recital 47

Text proposed by the Commission

(47) The rules that the gatekeepers set for the distribution of software applications may in certain circumstances restrict the ability of end users to install and effectively use third party software applications or software application stores on operating systems or hardware of the relevant gatekeeper and restrict the ability of end users to access these software

Amendment

(47) The rules that the gatekeepers set for the distribution of software applications may in certain circumstances restrict the ability of business users and end users to install, set as default and effectively use third party software applications or software application stores on operating systems or hardware of the relevant gatekeeper and restrict the ability of end
applications or software application stores outside the core platform services of that gatekeeper. Such restrictions may limit the ability of developers of software applications to use alternative distribution channels and the ability of end users to choose between different software applications from different distribution channels and should be prohibited as unfair and liable to weaken the contestability of core platform services. In order to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper the gatekeeper concerned may implement proportionate technical or contractual measures to achieve that goal if the gatekeeper demonstrates that such measures are necessary and justified and that there are no less restrictive means to safeguard the integrity of the hardware or operating system.

**Amendment 30**

**Proposal for a regulation**

**Recital 48**

*Text proposed by the Commission*

(48) Gatekeepers are often vertically integrated and offer certain products or services to end users through their own core platform services, or through a business user over which they exercise control which frequently leads to conflicts of interest. This can include the situation whereby a gatekeeper offers its own online intermediation services through an online search engine. When offering those

*Amendment*

(48) Gatekeepers are often vertically integrated and offer certain products or services to end users through their own core platform services, or through a business user over which they exercise control which frequently leads to conflicts of interest. This can include the situation whereby a gatekeeper offers its own online intermediation services through an online search engine. When offering those
products or services on the core platform service, gatekeepers can reserve a better position to their own offering, in terms of ranking, as opposed to the products of third parties also operating on that core platform service. This can occur for instance with products or services, including other core platform services, which are ranked in the results communicated by online search engines, or which are partly or entirely embedded in online search engines results, groups of results specialised in a certain topic, displayed along with the results of an online search engine, which are considered or used by certain end users as a service distinct or additional to the online search engine. Other instances are those of software applications which are distributed through software application stores, or products or services that are given prominence and display in the newsfeed of a social network, or products or services ranked in search results or displayed on an online marketplace. In those circumstances, the gatekeeper is in a dual-role position as intermediary for third party providers and as direct provider of products or services of the gatekeeper. Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper.

Such preferential or embedded display of a separate online intermediation service should constitute a favouring irrespective of whether the information or results within the favoured groups of specialised results may also be provided by competing services and are as such ranked in a non-discriminatory way. Other instances are those of software applications which are distributed through software application stores, or products or services that are given prominence and display in the newsfeed of a social network, or products or services ranked in search results or displayed on an online marketplace or products or services to which users are directed following a voice request by an end user to a digital voice assistant. In those circumstances, the gatekeeper is in a dual-role position as intermediary for third party providers and as direct provider of products or services of the gatekeeper potentially leading to a conflict of interest. Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper.
Amendment 31

Proposal for a regulation
Recital 48 a (new)

Text proposed by the Commission

Amendment

(48a) Gatekeepers can offer software applications or services which could be used on, or in conjunction with, a core service platform, such as operating systems or cloud computing services, offered by the same gatekeeper. If, in such circumstances, the gatekeeper prevents end users being able to use their software applications or services on, or in conjunction with, products or services of alternative providers under equal conditions as with the products or services of the gatekeeper, this could significantly undermine choice for end users and innovation by alternative providers. It should therefore be ensured that gatekeepers do not restrict to their advantage and to the detriment of alternative providers, end users and business users in choosing the products or services of alternative providers which they use in conjunction with the core platform service offered by the gatekeeper.

Amendment 32

Proposal for a regulation
Recital 50

Text proposed by the Commission

Amendment

(50) Gatekeepers should not restrict or prevent the free choice of end users by technically preventing switching between or subscription to different software applications and services. This would allow more providers to offer their services, thereby ultimately providing greater choice to the end user. Gatekeepers should ensure a free choice irrespective of
whether they are the manufacturer of any hardware by means of which such software applications or services are accessed and shall not raise artificial technical barriers so as to make switching impossible or ineffective. The mere offering of a given product or service to consumers, including by means of pre-installation, as well as the improvement of the offering to end users, such as price reductions or increased quality, should not be construed as constituting a prohibited barrier to switching.

Amendment 33

Proposal for a regulation
Recital 51

Text proposed by the Commission

(51) Gatekeepers can hamper the ability of end users to access online content and services including software applications. Therefore, rules should be established to ensure that the rights of end users to access an open internet are not compromised by the conduct of gatekeepers. Gatekeepers can also technically and commercially limit the ability of end users to effectively switch between different Internet access service providers, in particular through their control over operating systems or hardware. This distorts the level playing field for Internet access services and ultimately harms end users. It should therefore be ensured that gatekeepers do not unduly restrict end users in choosing their Internet access service provider.

Amendment

(51) Gatekeepers can hamper the ability of end users to access electronic communications services including internet access service, online content and services including software applications. Therefore, rules should be established to ensure that the rights of end users to access an open internet are not compromised by the conduct of gatekeepers. Gatekeepers can also technically and commercially limit the ability of end users to effectively switch between different Internet access service providers, in particular through their control over operating systems or hardware. This distorts the level playing field for electronic communications (including Internet access services) and ultimately harms end users. It should therefore be ensured that gatekeepers do not unduly restrict end users in choosing their electronic communications network or Internet access service provider.
Proposal for a regulation
Recital 52 a (new)

Text proposed by the Commission
(52a) Network effects, particularly strong for the core platform services of number-independent interpersonal communication services and online social networking, have significant negative effect for contestability and fairness on the internal market across the Union, undermining innovation, cost and quality competition and limiting business and end users choice. To prevent this, gatekeepers should be obligated to provide interoperability using globally recognised industry-standard service features of social networking services or number-independent interpersonal communications services to end users, business users and providers or potential providers of number-independent interpersonal communication services and online social networking at the request of these providers.

Amendment 35
Proposal for a regulation
Recital 53

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

**Amendment 36**

**Proposal for a regulation**

Recital 54

*Text proposed by the Commission*

(54) Gatekeepers benefit from access to vast amounts of data that they collect while providing the core platform services as well as other digital services. To ensure that gatekeepers do not undermine the contestability of core platform services as well as the innovation potential of the dynamic digital sector by restricting the ability of business users to effectively port their data, business users and end users should be granted effective and immediate access to the data they provided or generated in the context of their use of the relevant core platform services of the gatekeeper, in a structured, commonly used and machine-readable format. This should apply also to any other data at different levels of aggregation that may be necessary to effectively enable such portability. It should also be ensured that business users and end users can port that data in real time effectively, such as for example through high quality application programming interfaces. Facilitating switching or multi-homing should lead, in turn, to an increased choice for business users and end users and an incentive for gatekeepers and publishers, when requested, with free of charge access to the performance measuring tools of the gatekeeper and the information necessary, including non-aggregated data, for advertisers, advertising agencies acting on behalf of a company placing advertising, as well as for publishers, or third parties authorised by publishers and advertisers to carry out their own independent verification of the provision of the relevant online advertising services.

**Amendment**

(54) Gatekeepers benefit from access to vast amounts of data that they collect while providing the core platform services as well as other digital services. To ensure that gatekeepers do not undermine the contestability of core platform services as well as the innovation potential of the dynamic digital sector by restricting the ability of business users to effectively port their data, business users and end users should be granted free of charge effective and immediate access to the data they provided or generated in the context of their use of the relevant core platform services of the gatekeeper, in a structured, commonly used and machine-readable format. This should apply also to any other data at different levels of aggregation that may be necessary to effectively enable such portability. It should also be ensured that business users and end users can port that data in real time effectively, such as for example through high quality application programming interfaces. Facilitating switching or multi-homing should lead, in turn, to an increased choice for business users and end users and an incentive for gatekeepers and business
business users to innovate.

Amendment 37

Proposal for a regulation
Recital 55

Text proposed by the Commission

(55) Business users that use large core platform services provided by gatekeepers and end users of such business users provide and generate a vast amount of data, including data inferred from such use. In order to ensure that business users have access to the relevant data thus generated, the gatekeeper should, upon their request, allow unhindered access, free of charge, to such data. Such access should also be given to third parties contracted by the business user, who are acting as processors of this data for the business user. Data provided or generated by the same business users and the same end users of these business users in the context of other services provided by the same gatekeeper may be concerned where this is inextricably linked to the relevant request. To this end, a gatekeeper should not use any contractual or other restrictions to prevent business users from accessing relevant data and should enable business users to obtain consent of their end users for such data access and retrieval, where such consent is required under Regulation (EU) 2016/679 and Directive 2002/58/EC. Gatekeepers should also facilitate access to these data in real time by means of appropriate technical measures, such as for example putting in place high quality application programming interfaces.

Amendment

(55) Business users that use large core platform services provided by gatekeepers and end users of such business users provide and generate a vast amount of data, including data inferred from such use. In order to ensure that business users have access to the relevant data thus generated, the gatekeeper should, upon their request, allow unhindered access, free of charge, to such aggregated and non-aggregated non-personal data. Such access should also be given to third parties contracted by the business user, who are acting as processors of this data for the business user. For example, such parties can include providers of audience measurement metrics for the purpose of providing the market with impartial benchmarks on the use, effectiveness and reach of content viewed on gatekeepers’ platforms. Data provided or generated by the same business users and the same end users of these business users in the context of other services provided by the same gatekeeper may be concerned where this is inextricably linked to the relevant request. To this end, a gatekeeper should not use any contractual or other restrictions to prevent business users from accessing relevant data and should enable business users to obtain consent of their end users for such data access and retrieval, where such consent is required under Regulation (EU) 2016/679 and Directive 2002/58/EC. The obtaining of this consent should be as user-friendly as possible and under the same conditions. Gatekeepers should also facilitate access to these data in real time by means of appropriate technical measures, such as for example putting in place high quality application programming interfaces.
Amendment 38

Proposal for a regulation
Recital 56

Text proposed by the Commission

(56) The value of online search engines to their respective business users and end users increases as the total number of such users increases. Providers of online search engines collect and store aggregated datasets containing information about what users searched for, and how they interacted with, the results that they were served. Providers of online search engine services collect these data from searches undertaken on their own online search engine service and, where applicable, searches undertaken on the platforms of their downstream commercial partners. Access by gatekeepers to such ranking, query, click and view data constitutes an important barrier to entry and expansion, which undermines the contestability of online search engine services. Gatekeepers should therefore be obliged to provide access, on fair, reasonable and non-discriminatory terms, to these ranking, query, click and view data in relation to free and paid search generated by consumers on online search engine services to other providers of such services, so that these third-party providers can optimise their services and contest the relevant core platform services. Such access should also be given to third parties contracted by a search engine provider, who are acting as processors of this data for that search engine. When providing access to its search data, a gatekeeper should ensure the protection of the personal data of end users by appropriate means, without substantially degrading the quality or usefulness of the

Amendment

(56) The value of online search engines to their respective business users and end users increases as the total number of such users increases. Providers of online search engines collect and store aggregated datasets containing information about what users searched for, and how they interacted with, the results that they were served. Providers of online search engine services collect these data from searches undertaken on their own online search engine service and, where applicable, searches undertaken on the platforms of their downstream commercial partners. Access by gatekeepers to such ranking, query, click and view data constitutes an important barrier to entry and expansion, which undermines the contestability of online search engine services. Gatekeepers should therefore be obliged to provide access, on fair, reasonable and non-discriminatory terms, to these ranking, query, click and view data in relation to free and paid search generated by consumers on online search engine services to other providers of such services, so that these third-party providers can optimise their services and contest the relevant core platform services. **provided that the gatekeeper is able to demonstrate that anonymised query, click and view data have been adequately tested against possible re-identification risks.** Such access should also be given to third parties contracted by a search engine provider, who are acting as processors of this data for that search engine. When providing access to its search data, a
gatekeeper should ensure the protection of the personal data of end users by appropriate means.

Amendment 39
Proposal for a regulation
Recital 57

(Text proposed by the Commission)

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

(57) In particular gatekeepers which provide access to software application stores, online search engine and online social networking service serve as an important gateway for business users that seek to reach end users which can result in an adverse effect on end users' right to receive and impart information and ideas, and ultimately affect media pluralism, diversity of opinion as well as competition. In view of the imbalance in bargaining power between those gatekeepers and business users of their software application stores, especially those that are SMEs on a given sectorial market, such as small press publishers, particularly when accessing online search engine and online social networks, on the other hand, those gatekeepers should not be allowed to impose general conditions, including pricing conditions, data usage conditions or conditions related to the licensing of rights held by the business user that would be unfair or lead to unjustified differentiation. Pricing or other general access conditions should be considered unfair if they lead to an imbalance of rights and obligations imposed on business users or confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users or lead to a disadvantage for business users in providing the same or similar services as the gatekeeper. The following benchmarks can serve as a yardstick to determine the fairness of general access conditions: prices charged or conditions
obligation should not establish an access right and it should be without prejudice to the ability of providers of software application stores to take the required responsibility in the fight against illegal and unwanted content as set out in Regulation [Digital Services Act].

imposed for the same or similar services by other providers of software application stores; prices charged or conditions imposed by the provider of the software application store for different related or similar services or to different types of end users; prices charged or conditions imposed by the provider of the software application store for the same service in different geographic regions; prices charged or conditions imposed by the provider of the software application store for the same service the gatekeeper offers to itself. Determining the fairness of general access conditions should lead to the opportunity to make the revenue stream of digital content providers more transparent, notably in terms of revenues deriving from advertisement, and in terms of distribution of appropriate shares of revenues to the authors of works. This obligation should not establish an access right and it should be without prejudice to the ability of providers of software application stores to take the required responsibility in the fight against illegal and unwanted content as set out in Regulation [Digital Services Act].

Amendment 40

Proposal for a regulation
Recital 58

Text proposed by the Commission

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

Amendment

(58) This Regulation should aim to ensure contestability and fairness of the digital economy, with a view to promoting innovation, high quality of digital products and services, fair and competitive prices, as well as a high quality and choice for end users in the digital sector. To ensure the effectiveness of the obligations laid down by this Regulation, while also making certain that these obligations are limited to what is necessary and proportionate to ensure contestability and tackling the harmful
gatekeepers should ensure the compliance with this Regulation by design. The necessary measures should therefore be as much as possible and where relevant integrated into the technological design used by the gatekeepers. However, it may in certain cases be appropriate for the Commission, following a dialogue with the gatekeeper concerned, to further specify some of the measures that the gatekeeper concerned should adopt in order to effectively comply with those obligations that are susceptible of being further specified. This possibility of a regulatory dialogue should facilitate compliance by gatekeepers and expedite the correct implementation of the Regulation.

**Amendment 41**

Proposal for a regulation
Recital 61

**Text proposed by the Commission**

(61) The data protection and privacy interests of end users are relevant to any assessment of potential negative effects of the observed practice of gatekeepers to collect and accumulate large amounts of data from end users. *Ensuring* an adequate level of *transparency of profiling practices employed by gatekeepers facilitates contestability of core platform services, by putting* external pressure on gatekeepers to prevent making deep consumer profiling the industry standard, effects of the unfair behaviour by gatekeepers, it is important to clearly define and circumscribe them so as to allow the gatekeeper to immediately comply with them, in full respect of Regulation (EU) 2016/679 and Directive 2002/58/EC, consumer protection, cyber security and product safety. The gatekeepers should ensure the compliance with this Regulation by design. The necessary measures should therefore be as much as possible and where relevant integrated into the technological design used by the gatekeepers. However, it may in certain cases be appropriate for the Commission, following a dialogue *within legally binding deadlines*, with the gatekeeper concerned, *and mandatory consultation with interested third parties*, to further specify *in a decision* some of the measures that the gatekeeper concerned should adopt in order to effectively comply with those obligations that are susceptible of being further specified. This possibility of a regulatory dialogue should facilitate compliance by gatekeepers and expedite the correct implementation of the Regulation.

**Amendment**

(61) The data protection and privacy interests of end users are relevant to any assessment of potential negative effects of the observed practice of gatekeepers to collect and accumulate large amounts of data from end users. *In order to ensure* an adequate level of *data and consumer protection*, external pressure *should be put* on gatekeepers to prevent making deep consumer profiling the industry standard, *in particular* given that potential entrants or start-up providers cannot access data to
given that potential entrants or start-up providers cannot access data to the same extent and depth, and at a similar scale. **Enhanced transparency should allow other** providers of core platform services to **differentiate themselves better through the use of** superior privacy guaranteeing facilities. **To ensure a minimum level of effectiveness of this transparency obligation**, gatekeepers should **at least** provide a description of the basis upon which profiling is performed, including whether personal data and data derived from user activity is relied on, the processing applied, the purpose for which the profile is prepared and eventually used, the impact of such profiling on the gatekeeper’s services, and the steps taken to enable end users to be aware of the relevant use of such profiling, as well as to seek their consent. **The commercial tracking and profiling of consumers should be disabled by default allowing for the end-users to explicitly consent to such services upon their decision. Gatekeepers cannot use unfair techniques to exert pressure on the users to opt in to such services, by among others deteriorating core platform service provided or any other service deterioration, beyond what is a direct effect of resignation from this kind of services. To that end the mixing of data from different services should also be prohibited.** Gatekeepers should provide a description of the basis upon which profiling is performed, including whether personal data and data derived from user activity is relied on, the processing applied, the purpose for which the profile is prepared and eventually used, the impact of such profiling on the gatekeeper’s services, and the steps taken to enable end users to be aware of the relevant use of such profiling, as well as to seek their consent. **Such information should be shared with other relevant enforcement authorities, in particular data protection authorities. The Commission should develop, in consultation with the EU Data Protection Supervisor, the European Data Protection Board, civil society and experts, the standards and process of the audit. The audited description, as well as any relevant materials that are collected in the context of supervising the gatekeepers that relate to the processing of personal data, should, where those relate to the processing of personal data, be shared by the Commission with any competent supervisory authority represented in the European Data Protection Board, upon its request of such an authority.**
Amendment 42

Proposal for a regulation
Recital 62

Text proposed by the Commission

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

Amendment

(62) In order to ensure the full and lasting achievement of the objectives of this Regulation, the Commission should be able to assess whether a provider of core platform services should be designated as a gatekeeper without meeting the quantitative thresholds laid down in this Regulation; whether systematic non-compliance by a gatekeeper warrants imposing additional remedies; whether the list of obligations addressing unfair practices by gatekeepers should be reviewed and additional practices that are similarly unfair and limiting the contestability of digital markets should be identified and whether the prior designation of gatekeepers or introduction of obligations has had a significant impact on business users, especially on SMEs, or end users. Such assessment should be based on a public and transparent market investigations to be run in an appropriate timeframe at regular intervals, by using clear procedures and binding deadlines, in order to support the ex ante effect of this Regulation on contestability and fairness in the digital sector, and to provide the requisite degree of legal certainty.

Amendment 43

Proposal for a regulation
Recital 65

Text proposed by the Commission

(65) The services and practices in core platform services and markets in which these intervene can change quickly and to a significant extent. To ensure that this

Amendment

(65) The services and practices in core platform services and markets in which these intervene can change quickly and to a significant extent. To ensure that this
Regulation remains up to date and constitutes an effective and holistic regulatory response to the problems posed by gatekeepers, it is important to provide for a regular review of the lists of core platform services as well as of the obligations provided for in this Regulation. This is particularly important to ensure that behaviour that may limit the contestability of core platform services or is unfair is identified. While it is important to conduct a review on a regular basis, given the dynamically changing nature of the digital sector, in order to ensure legal certainty as to the regulatory conditions, any reviews should be conducted within a reasonable and appropriate time-frame. Market investigations should also ensure that the Commission has a solid evidentiary basis on which it can assess whether it should propose to amend this Regulation in order to expand, or further detail, the lists of core platform services. They should equally ensure that the Commission has a solid evidentiary basis on which it can assess whether it should adopt a delegated act updating such obligations.

Amendment 44

Proposal for a regulation
Recital 65 a (new)

Text proposed by the Commission

Amendment

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

Amendment 45

Proposal for a regulation
Recital 68

Text proposed by the Commission

(68) In order to ensure effective implementation and compliance with this Regulation, the Commission should have strong investigative and enforcement powers, to allow it to investigate, enforce and monitor the rules laid down in this Regulation, while at the same time ensuring the respect for the fundamental right to be heard and to have access to the file in the context of the enforcement proceedings. The Commission should dispose of these investigative powers also for the purpose of carrying out market investigations for the purpose of updating and reviewing this Regulation.

Amendment

(68) In order to ensure effective implementation and compliance with this Regulation, the Commission should have strong investigative and enforcement powers, to allow it to investigate, enforce and monitor the rules laid down in this Regulation, while at the same time ensuring the respect for the fundamental right to be heard and to have access to the file in the context of the enforcement proceedings. The Commission should dispose of these investigative powers also for the purpose of carrying out market investigations for the purpose of updating and reviewing this Regulation. National competent authorities should assist the Commission in monitoring and enforcing obligations laid down in this Regulation by providing support and expertise to the Commission or by requesting the Commission to open a market investigation based on evidence collected.
Amendment 46
Proposal for a regulation
Recital 68 a (new)

Text proposed by the Commission

(68a) In order to ensure effective enforcement and compliance with this Regulation, it should be possible for interested third-parties to lodge a complaint when there is sufficient doubt on the non-compliance of a gatekeeper with the obligations laid down in this Regulation. The Commission should decide within an appropriate timeline on further action based on the evidence submitted.

Amendment 47
Proposal for a regulation
Recital 68 b (new)

Text proposed by the Commission

(68b) In order to facilitate the compliance of gatekeepers with and the enforcement of the obligations in Articles 5, 6, 12 and 13, the Commission can accompany the obligations set out in those Articles with guidelines. Where appropriate and necessary, the Commission can request the standardization bodies to develop standards to facilitate the implementation of those obligations.

Amendment 48
Proposal for a regulation
Recital 72
(72) The Commission should be able to take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in this Regulation. Such actions should include the ability of the Commission to appoint independent external experts, such as auditors to assist the Commission in this process, including where applicable from competent independent authorities, such as data or consumer protection authorities.

Amendment 49
Proposal for a regulation
Recital 72 a (new)

Text proposed by the Commission

(72a) Without prejudice to the budgetary procedure and through existing financial instruments, adequate human, financial and technical resources should be allocated to the Commission to ensure successfully that it can effectively perform its duties and exercise its powers as necessary for the enforcement of this Regulation. The Commission should ensure that the number of permanent staff allocated for activities pertaining to the implementation of this Regulation is no lower than 300.

Amendment 50
Proposal for a regulation
Recital 72 b (new)

Text proposed by the Commission

(72b) Considering the large number of business and end users of gatekeepers’ core platform services resulting in
exponentially larger number of non-compliance practices, cases and scenarios, a reporting mechanism for business and end users would facilitate the Commission in the swift identification of systemic non-compliance by gatekeepers.

Amendment 51

Proposal for a regulation
Recital 75

Text proposed by the Commission

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

Amendment

(75) In the context of proceedings carried out under this Regulation, the undertakings concerned should be accorded the right to be heard by the Commission and the decisions taken should be widely publicised. While ensuring the rights to good administration and the rights of defence of the undertakings concerned, in particular, the right of access to the file and the right to be heard, it is essential that confidential and sensitive commercial information, which could affect the privacy of trade secrets, be protected, ensuring the due respect to Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law. The undertaking should demonstrate a legitimate interest in what it claims as confidential information. It should be up to the Commission to decide ultimately. Furthermore, while respecting the confidentiality of the information, the Commission should ensure that any information relied on for the purpose of the decision is disclosed to an extent that allows the addressee of the decision to understand the facts and considerations that led up to the decision. Finally, under certain conditions certain business records, such as communication between lawyers and their clients, may be considered confidential if the relevant conditions are met. Natural or legal persons with...
sufficient interest should also have a right to be heard. Parties that are directly affected by the obligations pursuant to this Regulation should be considered to have sufficient interest. Consumer associations that apply to be heard should be regarded as having a sufficient interest, where the proceedings concern products or services used by end users.

Amendment 52
Proposal for a regulation
Recital 75 a (new)

Text proposed by the Commission

Amendment

(75a) In order to facilitate cooperation and coordination between the Commission and Member States in their enforcement actions, a group of regulators with responsibilities in the digital sector should be established with the power to advise the Commission on a number of decisions, it should enable the exchange of information and best practices among the Members States, better monitoring and thus strengthen the implementation of this Regulation.

Amendment 53
Proposal for a regulation
Recital 77

Text proposed by the Commission

Amendment

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

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Amendment 54

Proposal for a regulation

Recital 78

Text proposed by the Commission

(78) The Commission should periodically evaluate this Regulation and closely monitor its effects on the contestability and fairness of commercial relationships in the online platform

Amendment

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

Amendment 55

Proposal for a regulation
Recital 79

Text proposed by the Commission

(79) The objective of this Regulation is to ensure a contestable and fair digital sector in general and core platform services in particular, with a view to promoting innovation, high quality of digital products and services, fair and competitive prices, as well as a high quality and choice for end users in the digital sector. This cannot be

Amendment

(79) The objective of this Regulation is to ensure a contestable and fair digital sector in general and core platform services in particular, with a view to promoting innovation, high quality of digital products and services, fair and competitive prices, as well as data protection, transparency, user informed and free choice and
sufficiently achieved by the Member States, but can only, by reason of the business model and operations of the gatekeepers and the scale and effects of their operations, be fully 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 56**

**Proposal for a regulation**

**Article 1 – paragraph 1**

*Text proposed by the Commission*

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

*Amendment*

1. The purpose of this Regulation *is to contribute to the proper functioning of the internal market by laying* down harmonised rules ensuring *a level playing field and contestable* and fair markets for both business users and end users, as well as ensuring consumer protection and fostering innovation in the digital sector across the Union where gatekeepers are present and ultimately contributing to the protection of fundamental rights.

**Amendment 57**

**Proposal for a regulation**

**Article 1 – paragraph 2**

*Text proposed by the Commission*

2. This Regulation shall apply to core platform services provided or offered by

*Amendment*

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

This Regulation shall apply and be interpreted in full respect of fundamental rights and the principles recognised by the Charter of Fundamental Rights of the European Union, in particular Articles 11, 16, 47 and 50 thereof.

Amendment 58

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

Text proposed by the Commission

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

Amendment

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

Amendment 59

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

Text proposed by the Commission

3a. This Regulation shall not apply to the data that is used to maintain or improve the security of online transactions and to prevent fraud.

Amendment

3a. This Regulation shall not apply to the data that is used to maintain or improve the security of online transactions and to prevent fraud.

Amendment 60

Proposal for a regulation
Article 1 – paragraph 4
4. With regard to interpersonal communication services this Regulation is without prejudice to the powers and tasks granted to the national regulatory and other competent authorities by virtue of Article 61 of Directive (EU) 2018/1972.

Amendment

4. With regard to interpersonal communication services this Regulation builds on Article 61 of Directive (EU) 2018/1972 and establishes additional Union level obligations for gatekeepers and is without prejudice to the powers and tasks granted to the national regulatory and other competent authorities by virtue of that Article.

Amendment 61

Proposal for a regulation
Article 1 – paragraph 5

Text proposed by the Commission

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

Amendment

5. In order to avoid the fragmentation of the internal market and to ensure coherent application of this Regulation to guarantee a fully harmonized approach, the Commission shall be the sole enforcer and decision maker on the correct application of the rules and obligations set out in this Regulation. Member States shall not impose on gatekeepers further obligations by way of laws, regulations or administrative action for the purpose of ensuring contestable and fair markets. This is without prejudice to rules pursuing other legitimate public interests, in compliance with Union law. In particular, nothing in this Regulation precludes Member States from imposing obligations, which are compatible with Union law, on undertakings, including providers of core platform services where these obligations are unrelated to the relevant undertakings having a status of gatekeeper within the meaning of this Regulation in order to protect consumers or to fight against acts of unfair competition.
Amendment 62

Proposal for a regulation
Article 1 – paragraph 6

Text proposed by the Commission

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

Amendment


Amendment 63
Proposal for a regulation
Article 2 – paragraph 1 – point 2 – introductory part

Text proposed by the Commission

(2) ‘Core platform service’ means any of the following:

Amendment

(2) ‘Core platform service’ means a widespread and commonly used digital service that intermediates between business users and end users or within either group and is provided by a platform service provider, including and limited to:

Amendment 64
Proposal for a regulation
Article 2 – paragraph 1 – point 2 – point a a (new)

Text proposed by the Commission

(aa) web browsers;

Amendment

Amendment 65
Proposal for a regulation
Article 2 – paragraph 1 – point 2 – point c a (new)

Text proposed by the Commission

(ca) digital voice assistants and virtual assistants;

Amendment

Amendment 66
Proposal for a regulation
Article 2 – paragraph 1 – point 2 – point f a (new)

Text proposed by the Commission

(fa) software as a service;
Amendment 67

Proposal for a regulation
Article 2 – paragraph 1 – point 6 a (new)

Text proposed by the Commission

(6a) ‘Web browser’ means client software programme that enables users of client PCs, smart mobile devices and other devices to navigate in the World Wide Web to access, to display data and interact with web content hosted on servers that are connected to networks such as the Internet, including standalone web browsers as well as web browsers integrated or embedded in software or similar;

Amendment 68

Proposal for a regulation
Article 2 – paragraph 1 – point 8 a (new)

Text proposed by the Commission

(8a) ‘Digital Voice assistants and virtual assistant’ means software that responds to oral or written commands, acting both as a platform for voice applications and a user interface and performs tasks such as executing search queries, accessing and interacting with other digital services on behalf of the end user;

Amendment 69

Proposal for a regulation
Article 2 – paragraph 1 – point 8 b (new)

Text proposed by the Commission

(8b) ‘Mobile payment service’ means a payment service defined in point 3 of Article 4 of Directive (EU) 2015/2366 and
performed from or via a mobile device;

Amendment 70

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

Text proposed by the Commission

(10) ‘Operating system’ means a system software which controls the basic functions of the hardware or software and enables software applications to run on it;

Amendment

(10) ‘Operating system’ means a system software which inter alia, handles the interface to peripheral hardware, schedules tasks, allocates storage, and presents a default interface to the user when no application program is running including a graphical user interface, regardless of whether such software is an integral part of consumer general purpose computer hardware, or constitutes free-standing software intended to be run on consumer general purpose computer hardware or other stationary and mobile devices, televisions or wearables and others but excluding an operating system loader, basic input/output system, or other firmware required at boot time or when installing the operating system;

Amendment 71

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

Text proposed by the Commission

(10a) ‘Software as a service’ means a method of software delivery in which software is accessed online via a subscription;

Amendment

(10a) ‘Software as a service’ means a method of software delivery in which software is accessed online via a subscription;

Amendment 72

Proposal for a regulation
Article 2 – paragraph 1 – point 14
(14) ‘Ancillary service’ means services provided in the context of or together with core platform services, including payment services as defined in point 3 of Article 4 and technical services which support the provision of payment services as defined in Article 3(j) of Directive (EU) 2015/2366, fulfilment, identification or advertising services;

Amendment

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

Text proposed by the Commission

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

Amendment

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

Amendment 74

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

Text proposed by the Commission

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

Amendment 75
Proposal for a regulation
Article 2 – paragraph 1 – point 20 a (new)

Text proposed by the Commission

Amendment
(20a) ‘Consent’ means any freely given, specific, informed and unambiguous indication of the data subject’s wishes as defined in point 11 of Article 4 of Regulation (EU) 2016/679;

Amendment 76
Proposal for a regulation
Article 2 – paragraph 1 – point 20 b (new)

Text proposed by the Commission

Amendment
(20b) ‘Profiling’ means any form of automated processing of personal data as defined in point 4 of Article 4 of Regulation (EU) 2016/679;

Amendment 77
Proposal for a regulation
Article 2 – paragraph 1 – point 23 a (new)

Text proposed by the Commission

Amendment
(23a) ‘Provider of a core platform service’ means an entity or part thereof, irrespective of its legal form, which provides to business users or end users any of the core platform services referred
to in point 2;

Amendment 78

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

Text proposed by the Commission

(23b) ‘Interoperability’ means the ability of the digital content or digital service; within a given ecosystem, to function with hardware or software from ecosystems different from the one in which the digital content or digital service was originally provided, including the ability to access the digital content or digital service without having to use an application software or other technologies for conversion.

Amendment 79

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

Text proposed by the Commission

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

Amendment

(b) it operates a core platform of service or services which serves, individually or jointly, as an important gateway for business users or end users to reach other end users or business users or is able to lock the access to its own essential services; and

Amendment 80

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

Text proposed by the Commission

(c) it enjoys an entrenched and durable position in its operations or it is foreseeable that it will enjoy such a position in the

Amendment

(c) after a thorough evidence based assessment, it has been demonstrated that the gatekeeper enjoys an entrenched and
near future.

durable position in its operations or it is foreseeable that it will enjoy such a position.

Amendment 81

Proposal for a regulation
Article 3 – paragraph 2 – point c

Text proposed by the Commission

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

Amendment

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

Amendment 82

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

Text proposed by the Commission

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

Amendment

Where a provider of core platform services meets all the thresholds in paragraph 2, it shall notify the Commission thereof without undue delay and no later than one month after those thresholds are satisfied and provide it with the relevant information identified in paragraph 2. That notification shall include the relevant information relating to the quantitative thresholds identified in paragraph 2 for each of the core platform services of the provider that meets the thresholds in paragraph 2 point (b). The notification shall be updated whenever other core platform services individually meet the thresholds in paragraph 2 point (b).

Amendment 83

Proposal for a regulation
Article 3 – paragraph 4 – subparagraph 1
The Commission shall, without undue delay and at the latest 60 days after receiving the complete information referred to in paragraph 3, designate the provider of core platform services that meets all the thresholds of paragraph 2 as a gatekeeper, unless that provider, with its notification, presents sufficiently substantiated arguments to demonstrate that, in the circumstances in which the relevant core platform service operates, and taking into account the elements listed in paragraph 6, the provider does not satisfy the requirements of paragraph 1.

Amendment 84
Proposal for a regulation
Article 3 – paragraph 4 – subparagraph 1 a (new)

When a provider of a core platform service fails to provide within the deadline the relevant information required to assess its designation as gatekeeper pursuant to paragraph 2, the Commission shall be entitled to designate that provider as a gatekeeper based on the facts available.

Amendment 85
Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 1

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

Amendment 86

Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 2 – point a

Text proposed by the Commission

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

Amendment

(a) the size, including turnover and market capitalisation, operations and position of the provider of core platform services as well as the market share in the relevant market and taking into account any intended concentration in line with Article 12(1);

Amendment 87

Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 2 – point e a (new)

Text proposed by the Commission

(ea) existing alternative providers;

Amendment

Amendment 88

Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 2 – point e b (new)

Text proposed by the Commission

(eb) the degree of multi-homing among business users and active end users;

Amendment

Amendment 89
Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 2 – point f

Text proposed by the Commission

(f) other structural market characteristics.

Amendment

(f) other structural market characteristics and other relevant business or service characteristics, such as a conglomerate corporate structure or vertical integration of the undertaking providing core platform services, for instance allowing cross subsidisation or combination of data from different sources.

Amendment 90

Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 4

Text proposed by the Commission

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

Amendment

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

Amendment 91

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

Text proposed by the Commission

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

Amendment

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

Amendment 92

Proposal for a regulation
Article 3 – paragraph 7

Text proposed by the Commission

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

Amendment

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

Amendment 93

Proposal for a regulation
Article 3 – paragraph 7 a (new)

Text proposed by the Commission

7a. When designating a gatekeeper, the Commission shall specify, which obligations are to be implemented by the gatekeeper.

Amendment

7a. When designating a gatekeeper, the Commission shall specify, which obligations are to be implemented by the gatekeeper.

Amendment 94

Proposal for a regulation
Article 3 – paragraph 8
8. The gatekeeper shall comply with the obligations laid down in Articles 5 and 6 within six months after a core platform service has been included in the list pursuant to paragraph 7 of this Article.

Amendment
8. The gatekeeper shall comply with the relevant obligations laid down in Articles 5 and 6 without undue delay and in any case no later than two months after a core platform service has been included in the list pursuant to paragraph 7 of this Article.

Amendment 95
Proposal for a regulation
Article 3 – paragraph 8 a (new)

Text proposed by the Commission

8a. The Commission shall publish and update the list of gatekeepers and the list of the core platform services for which they need to comply with the obligations laid down in Articles 5 and 6 and send the lists, and each update thereof, to the European Parliament.

Amendment

Amendment 96
Proposal for a regulation
Article 4 – paragraph 1 – introductory part

Text proposed by the Commission

1. The Commission may upon request or its own initiative reconsider, amend or repeal at any moment a decision adopted pursuant to Article 3 for one of the following reasons:

Amendment
1. On the basis of a fully-reasoned assessment, supported by evidence which shall be made public, the Commission may upon request or its own initiative reconsider, amend or repeal at any moment a decision adopted pursuant to Article 3 for one of the following reasons:

Amendment 97
Proposal for a regulation
Article 4 – paragraph 2 – subparagraph 1
The Commission shall regularly, and at least every 2 years, review whether the designated gatekeepers continue to satisfy the requirements laid down in Article 3(1), or whether new providers of core platform services satisfy those requirements. The regular review shall also examine whether the list of affected core platform services of the gatekeeper needs to be adjusted.

**Amendment 98**

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

**Text proposed by the Commission**

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

**Amendment**

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

**Amendment 99**

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

(a) **refrain from combining** personal

**Amendment**

(a) **not combine or cross-use** personal
data sourced from these core platform services with personal data from any other services offered by the gatekeeper or with personal data from third-party services, and from signing in end users to other services of the gatekeeper in order to combine personal data, unless the end user has been presented with the specific choice and provided consent in the sense of Regulation (EU) 2016/679.

Data sourced from any of its core platform services with personal data from any other core platform service or other services offered by the gatekeeper or with personal data from third-party services for any of the following purposes:

(i) advertising;
(ii) signing in business users and end users to any other services of the gatekeeper.

That obligation shall not apply where the end user has been presented with the specific choice and has provided consent in the sense of Regulation (EU) 2016/679 and in particular, has been presented in a clear and transparent manner with the possibility of selecting the specific purposes for which they consent to the processing of their personal data and the sources of their personal data to be combined.

Amendment 100
Proposal for a regulation
Article 5 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) ensure that the commercial terms, including pricing, for the provision of applications or services to a business user or an end user are not made dependent upon whether or to what degree business user or end user uses other applications or services from the gatekeeper or any third party;

Amendment 101
Proposal for a regulation
Article 5 – paragraph 1 – point b
(b) allow business users to offer the same products or services to end users through third party online intermediation services at prices or conditions that are different from those offered through the online intermediation services of the gatekeeper;

(b) refrain from applying contractual obligations or other means that prevent users and supplier to the gatekeeper’s ancillary service from offering any products or services to end users through third party online intermediation services or through direct business channels at prices or conditions that are different from those offered through the online intermediation services of the gatekeeper; allow such users and suppliers to offer any products or services through the online intermediation services of the gatekeeper, at prices or conditions that are different or the same from those of the gatekeeper’s products or services;

Amendment 102

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

(ba) refrain from requiring business users to inform the gatekeeper of differentiated prices or conditions that those users choose to apply to their own channel of distribution or through third party online intermediation services;

Amendment 103

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

(c) allow business users to promote offers to end users acquired via the core platform service, and to conclude contracts with these end users regardless of whether for that purpose they use the core platform services of the gatekeeper or not, and allow

(c) allow business users engage in in-app and out-of-app communications, including to promote the same or different offers, with end users acquired via the core platform service or through other channels, and to conclude contracts with
end users to access and use, through the core platform services of the gatekeeper, content, subscriptions, features or other items by using the software application of a business user, where these items have been acquired by the end users from the relevant business user without using the core platform services of the gatekeeper; these end users or receive payment for provided services regardless of whether for that purpose they use the core platform services of the gatekeeper or not, and allow end users to access and use, through the core platform services of the gatekeeper, content, subscriptions, features or other items by using the software application of a business user, where these items have been acquired by the end users from the relevant business user without using the core platform services of the gatekeeper;

Amendment 104

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

Text proposed by the Commission

(ca) provide business users with the algorithm’s main parameters which individually or collectively are most significant in determining ranking and the relative importance of those main parameters of aggregation, selection and presentation of products and services by providing an easily and publicly available description, drafted in plain and intelligible language and keep that description up to date;

Amendment 105

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

Text proposed by the Commission

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

Amendment

(d) refrain from preventing or restricting, directly or indirectly, business or end users from raising issues with any relevant public authority or judicial authority relating to any practice of gatekeepers, including by contractual obligations between the gatekeepers and
Amendment 106

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

Text proposed by the Commission

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

Amendment

(e) refrain from requiring business users or end users to use, offer or interoperate with the gatekeeper’s identification service, payment service, payment services supporting services or any ancillary service of the gatekeeper or third party in the context of services offered by the business users using the core platform services of that gatekeeper, provided that it does not result in a lower level of security for users;

Amendment 107

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

Text proposed by the Commission

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

Amendment

(f) refrain from requiring business users or end users to use, subscribe to or register with any other core platform services identified pursuant to Article 3 or any other service or product offered, owned or controlled by the gatekeeper or any third party, particularly any ancillary services of the gatekeeper or any third party belonging to the same undertaking, such as payment services, as a condition to access, use, sign up or register to any of their core platform services identified pursuant to that Article or to any other service offered by the gatekeeper and from automatically signing users of a core platform service into any such services or products offered, owned or controlled by the gatekeeper or any third party;
Amendment 108
Proposal for a regulation
Article 5 – paragraph 1 – point g

Text proposed by the Commission

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

Amendment

(g) provide individual advertisers and publishers to which it supplies advertising services, upon their request, with free of charge, high-quality, effective access to information on the visibility and availability of advertisement portfolio as well as pricing conditions concerning the bids placed by advertisers and advertising intermediaries, the price paid by the advertiser and publisher and the methodology for the calculation of advertising intermediation fees and surcharges, as well as the amount or remuneration paid to the publisher, for the publishing of a given ad and for each of the relevant advertising services provided by the gatekeeper.

Amendment 109
Proposal for a regulation
Article 5 – paragraph 1 – point g a (new)

Text proposed by the Commission

(ga) refrain from requiring the acceptance of supplementary conditions or services that, by their nature or according to commercial usage, have no connection with and are not necessary for the provision of the platform or services to its business users;

Amendment

(ga) refrain from requiring the acceptance of supplementary conditions or services that, by their nature or according to commercial usage, have no connection with and are not necessary for the provision of the platform or services to its business users;

Amendment 110
Proposal for a regulation
Article 5 – paragraph 1 – point g b (new)
ensure that business users have the possibility to opt-out of new, modified or updated terms and conditions requested by the core platform service provider, where such modifications to the terms and conditions are not the result of an existing or new legal requirement;

Amendment 111
Proposal for a regulation
Article 5 – paragraph 1 – point g c (new)

ensure that the full chronology of the contracts concluded between the gatekeeper and a business user or an end user as well as any corresponding terms and conditions is easily available to that business user or end user at all stages of the commercial relationship, as well as for at least five years following the end of that relationship;

Amendment 112
Proposal for a regulation
Article 5 – paragraph 1 – point g d (new)

not avail themselves of consent by way of derogation from Regulation (EU) 2016/679, as a legal ground for processing of personal data in order to target natural persons for purposes of digital advertising;

Amendment 113
Proposal for a regulation
Article 5 – paragraph 1 – point g e (new)

Text proposed by the Commission

(ge) refrain from restricting or obstructing the ability of end users to use their own software license when using the cloud computing service of the gatekeeper;

Amendment 114

Proposal for a regulation
Article 5 – paragraph 1 – point g f (new)

Text proposed by the Commission

(gf) refrain from inserting sponsorship or advertising of third-party content provided through gatekeeper core platform service without the express consent of the provider of such content or from imposing any other conditions or measures hindering business users from monetizing their services and allowing the gatekeeper to monetize on third-party content provided by its business users;

Amendment 115

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

Text proposed by the Commission

(gg) allow end users and business users of number independent interpersonal communication services to access and to interoperate with the same core platform services of the gatekeeper by providing open standards, open protocols including Application Programming Interface; and ensure that this obligation is implemented in a manner compliant with Regulation (EU) 2016/679 and Directive 2002/58/EC,
Amendment 116

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

Text proposed by the Commission

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

Amendment

(b) allow end users and business users to un-install, as easily as any software application installed by the end user at any stage, any pre-installed software applications on its core platform service on an operating system that the gatekeeper provides or effectively controls and refrain from exclusively enabling its own core platform services as default services when equivalent alternative services can be proposed without prejudice to the possibility for a gatekeeper to restrict such un-installation in relation to software applications that cannot technically be offered on a standalone basis by third-parties, where the gatekeeper can prove that those are essential for the functioning of the operating system or of the device;

Amendment 117

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

Text proposed by the Commission

(c) allow the installation and effective use of third party software applications or software application stores using, or interoperating with, operating systems of that gatekeeper and allow these software applications or software application stores to be accessed by means other than the core platform services of that gatekeeper. The gatekeeper shall not be prevented from taking proportionate measures to ensure that third party software

Amendment

(c) allow and technically enable the installation setting as default by business users and end users, and effective use of third party software applications or software application stores or repositories using, or interoperating with, operating systems of that gatekeeper and allow these software applications or software application stores or repositories to be accessed by means other than the core platform services of that gatekeeper;

and with legislation on cyber security, consumer protection, product safety.
applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper;
promptly request the end user to decide whether the downloaded application or application store should become the default one; not be prevented from taking proportionate measures to ensure that third party software applications or software application stores do not endanger cyber security, privacy and data protection and the integrity of the hardware or operating system provided by the gatekeeper, where the gatekeeper can prove that such measures are necessary and justified and there are no less restrictive means to safeguard the integrity of the hardware or operating system; ensure that the obligations set out under this point are implemented in a manner compliant with Regulation (EU) 2016/679 and Directive 2002/58/EC, and with legislation on cyber security, consumer protection, product safety and any other applicable legislation.

Amendment 118

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

Text proposed by the Commission

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

Amendment

(d) refrain from using abusive patterns, including dark patterns or from unduly tying or bundling services; refrain from treating differently or more favourably in display installation, activation, default settings or ranking services, products and software applications offered by the gatekeeper itself or by any third party belonging to the same undertaking compared to similar services, applications or products of third party and apply fair and non-discriminatory conditions to such ranking, services, applications or products; where a results page of a gatekeeper’s online search engine includes the display of separate products or services, third parties shall be afforded equal opportunity to provide this
product or services in exchange for remuneration; to avoid any conflicts of interest, the gatekeeper’s product or service shall be treated as a separate commercial entity and shall be commercially viable as a stand-alone service;

Amendment 119

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

*Text proposed by the Commission*

(da) refrain from using algorithms to give gatekeepers unfair advantages and from treating more favourably in search results any sponsored or paid for online intermediation services as compared to organic, purely relevance-based online intermediation services;

Amendment 120

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

*Text proposed by the Commission*

(e) refrain from technically restricting the ability of end users to switch between and subscribe to different software applications and services to be accessed using the operating system of the gatekeeper, including as regards the choice of Internet access provider for end users;

*Amendment*

(e) refrain in any form from reverting to the applications of the gatekeepers and restricting the ability of end users to switch between and subscribe to different software applications and services to be accessed using the operating system or the cloud computing services of the gatekeeper, or controlled by the gatekeeper, including as regards the choice of providers of electronic communications networks and services for end users, or using its virtual assistant;
Amendment 121

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

Text proposed by the Commission

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

Amendment

(f) allow business users, end users and providers of competing core platform services or ancillary services access under equal conditions and interoperability with the same operating system, hardware or software features that are available or used in the provision by the gatekeeper of any ancillary services or industry-standard features of its core platform services and ensure that new functionalities across software applications and services can be accessed using the operating system of the gatekeeper;

Amendment 122

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

Text proposed by the Commission

(fa) allow end users, business users, providers and potential providers of online social networking services access to and interoperability with the same industry-standard service features that are available or used in the provision by the gatekeeper of any social networking services; minimum interoperability requirements shall be in accordance with the relevant Union legislation or the industry standard, where applicable, by providing open standards, open protocols, including Application Programming Interface;

Amendment

(fa) allow end users, business users, providers and potential providers of online social networking services access to and interoperability with the same industry-standard service features that are available or used in the provision by the gatekeeper of any social networking services; minimum interoperability requirements shall be in accordance with the relevant Union legislation or the industry standard, where applicable, by providing open standards, open protocols, including Application Programming Interface;

Amendment 123

Proposal for a regulation
Article 6 – paragraph 1 – point g
Text proposed by the Commission

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

Amendment (g) provide advertisers and publishers or third parties authorised by advertisers and publishers upon their request and free of charge, with effective and real time access to the performance measuring tools of the gatekeeper and provide for full disclosure and transparency of the parameters and data used for decision making, execution and measurement of the intermediation services; a gatekeeper shall further provide, free of charge, reliable, non-aggregated, granular and complete data necessary for advertisers and publishers to carry out their own independent high-quality and real-time evaluation of intermediation services, including verification of the ad inventory and shall not retain payments for advertisements under the claims that traffic is irregular, without providing detailed evidence for that irregularity and giving the publisher the opportunity to raise objections;

Amendment 124

Proposal for a regulation
Article 6 – paragraph 1 – point h

Text proposed by the Commission

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

Amendment (h) provide end users or third parties authorised by an end user, free of charge, with effective portability of data provided by the end user or generated through the activity of a business user or end user in the context of their use on the relevant core platform service, including by providing tools for end users to facilitate effective portability of data, including personal data generated through the activity as end user of platform services, in line with Regulation (EU) 2016/679, including by the provision of continuous
Amendment 125

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

Text proposed by the Commission

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

Amendment

(i) provide business users and end users, or third parties authorised by a business user, free of charge, in a user friendly manner with effective, secure, high-quality, continuous and real-time access and use of non-personal and non-aggregated reliable and accurate data, based on the preference requested by the business users, or third parties authorised by a business user or several business users that is provided for or generated in the context of the use of the relevant core platform services and ancillary services by those business users and the end users engaging with the products or services provided by those business users; present the data in a comprehensible, structured and consistent format; offer minimal data analysis services for small and medium-sized business users; for personal data, provide access and use, in full compliance with Regulation (EU) 2016/679, only where directly connected with the use effectuated by the end user in respect of the products or services offered by the relevant business user through the relevant core platform service in line with the principles of purpose limitation and data minimisation, and when the end user opts in to such sharing with a consent in the sense of the Regulation (EU) 2016/679;

Amendment 126

Proposal for a regulation
Article 6 – paragraph 1 – point j
(j) provide to any third party providers of online search engines, upon their request, with access on fair, reasonable and non-discriminatory terms to ranking, query, click and view data in relation to free and paid search generated by end users on online search engines of the gatekeeper, subject to anonymisation for the query, click and view data that constitutes personal data;

(j) provide to any third party providers of online search engines, upon their request, with access on fair, reasonable and non-discriminatory terms to ranking, query, click and view data in relation to free and paid search generated by end users on online search engines of the gatekeeper, subject to anonymisation for the query, click and view data that constitutes personal data, provided that the gatekeepers are able to demonstrate that anonymised query, click and view data have been adequately tested against possible re-identification risks;

Amendment 127

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

Text proposed by the Commission

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

(k) apply transparent, fair and non-discriminatory general conditions of access or conditions that are not less favourable than the conditions applied to its own service

- for business users and end users to any of its core platform services by default through implementing appropriate technical and organisational measures to its software application store designated pursuant to Article 3 of this Regulation,

- and for business users that are SMEs to its online search engine and online social networking service designated pursuant to Article 3 of this Regulation;

Amendment 128

Proposal for a regulation
Article 6 – paragraph 1 – point k a (new)
(ka) negotiate, on fair and non-discriminatory terms, the use of third-party content on their core platform services, and participate in final offer arbitration, in good faith, if agreement cannot be reached;

Amendment 129

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

(kb) refrain from imposing on business users or end users software applications or services which are used on, or in conjunction with a core service platform of the gatekeeper, any licensing conditions or economic terms that have the effect of limiting, in a discriminatory manner relative to the gatekeeper’s own offerings, the end users’ ability or economic incentive to use software applications or services on, or in conjunction with, products or services that compete with those of the gatekeeper for instance by attributing a preferential treatment to its own offerings which would bring them forward to the attention of the end users or business users.

Amendment 130

Proposal for a regulation
Article 6 – paragraph 2

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

users or generated by goods and services provided by a supplier to the gatekeeper’s ancillary services notably distribution, that can be inferred from, or collected through, the commercial activities of business users or their customers on the core platform service of the gatekeeper.

Amendment 131

Proposal for a regulation
Article 6 – paragraph 2 a (new)

Text proposed by the Commission

2a. In order to prevent unnecessary commercial tracking of end users, gatekeepers shall refrain from pooling and crossing customer data arising from different services.

Amendment 132

Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission

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

Amendment

1. The measures implemented by the gatekeeper to ensure compliance with the obligations laid down in Articles 5 and 6 shall be effective in achieving the objective of the relevant obligation. The gatekeeper shall ensure and demonstrate full compliance with the obligations laid down in Articles 5 and 6. The gatekeeper shall notify the Commission about these measures and ensure that they are implemented in compliance with Regulation (EU) 2016/679 and Directive 2002/58/EC, and with legislation on cyber security, consumer protection and product safety.
Amendment 133
Proposal for a regulation
Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Within six months after its designation pursuant to Article 3, the gatekeeper shall provide the Commission with a report describing in a detailed and transparent manner the measures implemented to ensure compliance with the obligations set out in Articles 5 and 6. This report shall be updated by the gatekeeper at least annually.

Amendment 134
Proposal for a regulation
Article 7 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Within six months after its designation pursuant to Article 3, the gatekeeper shall publish and provide the Commission with a non-confidential summary of the report referred to in paragraph 1a. The Commission shall publish without undue delay a non-confidential summary of the report. This non-confidential summary shall be updated each time the report is updated.

Amendment 135
Proposal for a regulation
Article 7 – paragraph 2

Text proposed by the Commission

Amendment

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

laid down in Articles 5 and 6, it shall on its own initiative take any appropriate action and by decision specify the measures that the gatekeeper concerned shall implement. The High-Level Group of Digital Regulators referred to in Article 31a, the Digital Markets Advisory Committee referred to in Article 32 and any affected party showing legitimate interest may submit to the Commission opinions on the necessary measures, as soon as possible and no later than 1 month after the opening of proceedings pursuant to Article 18. The Commission shall adopt such a decision within three months from the opening of proceedings pursuant to Article 18.

Amendment 136

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

Text proposed by the Commission

Amendment

2a. In order to effectively comply with the obligations laid down in Article 6, the gatekeeper may engage in a regulatory dialogue with the Commission, whereby the Commission specifies the relevant measures that the gatekeeper concerned shall adopt in order to effectively comply with those obligations. Specifying those measures shall be limited to issues relating to ensuring effective compliance with the obligations while protecting safety, security and privacy and where the modalities of implementation of an obligation can be affected by differences in business models. Affected third parties showing a legitimate interest shall be consulted and be part of the regulatory dialogue between the gatekeeper and the Commission. The regulatory dialogue shall be without prejudice to the powers of the Commission to take appropriate action.
Amendment 137
Proposal for a regulation
Article 7 – paragraph 4

_text proposed by the Commission_

4. In view of adopting the decision under paragraph 2, the Commission shall communicate its preliminary findings within three months from the opening of the proceedings. In the preliminary findings, the Commission shall explain the measures it considers to take or it considers that the provider of core platform services concerned should take in order to effectively address the preliminary findings.

Amendment

4. In view of adopting the decision under paragraph 2, the Commission shall communicate its preliminary findings to gatekeepers within two months from the opening of the proceedings. In the preliminary findings, the Commission shall explain the measures it considers to take or it considers that the provider of core platform services concerned should take in order to effectively address the preliminary findings.

Amendment 138
Proposal for a regulation
Article 7 – paragraph 5

_text proposed by the Commission_

5. In specifying the measures under paragraph 2, the Commission shall ensure that the measures are effective in achieving the objectives of the relevant obligation and proportionate in the specific circumstances of the gatekeeper and the relevant service.

Amendment

5. In specifying the measures under paragraph 2, the Commission shall ensure that the measures are effective in achieving the objectives of the relevant obligation and are proportionate in the specific circumstances of the gatekeeper and the relevant service.

Amendment 139
Proposal for a regulation
Article 7 – paragraph 6 a (new)

_text proposed by the Commission_

6a. For the purposes of specifying the obligations under point (f) of Article 6(1), interoperability shall be defined by reference to the open technologies, open
standards and open protocols, including the technical interface (Application Programming Interface), that allows end users of competing software and services and business users to dock on to the gatekeepers core service and to interoperate with it. Any processing of personal data by gatekeepers, shall comply with Regulation (EU) 2016/679. Interoperability obligations shall not limit, hinder or delay the ability of intermediaries and gatekeepers to address vulnerabilities in order to comply with the relevant EU legislation.

Amendment 140

Proposal for a regulation
Article 7 – paragraph 7

Text proposed by the Commission

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

Amendment

7. A gatekeeper may request within the time-limit set under Article 3(8) the opening of proceedings pursuant to Article 18 for the Commission to determine whether the measures that the gatekeeper intends to implement or has implemented under Article 5 and 6 are effective in achieving the objective of the relevant obligation in the specific circumstances. In its request, the gatekeeper shall provide a reasoned submission to explain in particular why the measures that it has implemented are effective in achieving the objective of the relevant obligation in the specific circumstances. In the preparation of its position following this request of the gatekeeper, the Commission may consult third parties such as business users and competitors, civil society organisations, national competent authorities and others deemed relevant by the Commission for the respective core platform services subject of the request of the gatekeeper. The Commission may specify the measures that the gatekeeper concerned shall implement and shall submit its final
position within three months after it has accepted the request of the gatekeeper. As stipulated in Article 3(8) the gatekeeper shall comply with the obligations laid down in Articles 5 and 6 within four months after the conclusion of the procedure set out in this Article.

**Amendment 141**

Proposal for a regulation

Article 8 – paragraph 1

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 142**

Proposal for a regulation

Article 8 – paragraph 2

*Text proposed by the Commission*

2. Where the suspension is granted

*Amendment*

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

Amendment 143

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

Text proposed by the Commission

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

Amendment

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

Amendment 144

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

Text proposed by the Commission

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

Amendment

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

Amendment 145
Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

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

Amendment

1. The Commission may, by a gatekeeper or on its own initiative, by decision adopted in accordance with the advisory procedure referred to in Article 32(4), exempt a gatekeeper, in whole or in part, for a limited period of time, from a specific obligation laid down in Articles 5 and 6 in relation to an individual core platform service identified pursuant to Article 3(7), where such exemption is justified on the grounds set out in paragraph 2 of this Article. The Commission shall adopt the exemption decision within 3 months; this process shall be transparent and traceable for the public.

Amendment 146
Proposal for a regulation
Article 9 – paragraph 1 a (new)

Text proposed by the Commission

1a. Where the Commission adopts a decision pursuant to paragraph 1, it shall review that decision at least every year. Following such a review, the Commission shall either lift, in whole or in part, the exemption or decide that the conditions of paragraph 1 continue to be met.

Amendment

Amendment 147
Proposal for a regulation
Article 9 – paragraph 2 – introductory part
2. An exemption pursuant to paragraph 1 may only be granted on grounds of:

**public health or public security.**

**Amendment 148**

**Proposal for a regulation**
**Article 9 – paragraph 2 – point a**

- **Text proposed by the Commission**
- **Amendment**

(a) *public morality*;

- *deleted*

**Amendment 149**

**Proposal for a regulation**
**Article 9 – paragraph 2 – point b**

- **Text proposed by the Commission**
- **Amendment**

(b) *public health*;

- *deleted*

**Amendment 150**

**Proposal for a regulation**
**Article 9 – paragraph 2 – point c**

- **Text proposed by the Commission**
- **Amendment**

(c) *public security*.

- *deleted*

**Amendment 151**

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

- **Text proposed by the Commission**
- **Amendment**

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

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

Amendment 152
Proposal for a regulation
Article 9 – paragraph 3 – subparagraph 2

Text proposed by the Commission
In assessing the request, the Commission shall take into account, in particular, the impact of the compliance with the specific obligation on the grounds in paragraph 2 as well as the effects on the gatekeeper concerned and on third parties. The suspension may be made subject to conditions and obligations to be defined by the Commission in order to ensure a fair balance between the goals pursued by the grounds in paragraph 2 and the objectives of this Regulation. Such a request may be made and granted at any time pending the assessment of the Commission pursuant to paragraph 1.

Amendment
In assessing the request, the Commission shall take into account, in particular, the impact of the compliance with the specific obligation on the grounds in paragraph 2 as well as the effects on the gatekeeper concerned and on third parties. The suspension, **limited in time**, may be made subject to conditions and obligations to be defined by the Commission in order to ensure a fair balance between the goals pursued by the grounds in paragraph 2 and the objectives of this Regulation. Such a request may be made and granted at any time pending the assessment of the Commission pursuant to paragraph 1.

Amendment 153
Proposal for a regulation
Article 10 – paragraph 1

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

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

**Amendment 154**

Proposal for a regulation

Article 10 – paragraph 1 a (new)

**Text proposed by the Commission**

1a. The power to adopt delegated acts pursuant to paragraph 1 shall be limited to any of the following:

(a) extending any obligation set out in Articles 5 and 6 that applies to a core platform service of a gatekeeper to any other core platform services;

(b) specifying the manner in which those obligations are to be implemented, including through the incorporation of any measure specified pursuant to point (2) of Article 7 into the obligations;

(c) extending those obligations that apply with respect to a certain category of users as beneficiaries to any other category of users as beneficiaries; or

(d) supplementing or amending those obligations with a view to improving the effectiveness of their application and preventing their circumvention.

**Amendment 155**

Proposal for a regulation

Article 10 – paragraph 2 – point a

**Text proposed by the Commission**

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

**Amendment**

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

Amendment 156
Proposal for a regulation
Article 11 – paragraph 1

Text proposed by the Commission

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

Amendment

1. A gatekeeper shall ensure that the obligations of Articles 5 and 6 are fully and effectively complied with. While the obligations of Articles 5 and 6 apply in respect of core platform services designated pursuant to Article 3, a gatekeeper, as well as any undertaking to which the gatekeeper belongs, shall not engage in any behaviour that would undermine these obligations regardless of whether this behaviour is of a contractual, commercial, technical or any other nature, including through product design, structure, function or manner of operation capable of influencing user choice and autonomy, including by any form of behavioural techniques and interface design, or through agreements with third party business partners of the gatekeepers.

Amendment 157
Proposal for a regulation
Article 11 – paragraph 2

Text proposed by the Commission

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

Amendment

2. Where consent for collecting and processing of personal data is required to ensure compliance with this Regulation, a gatekeeper shall take the necessary steps to either enable business users to directly obtain the required consent to their processing, where required under Regulation (EU) 2016/679 and Directive 2002/58/EC, and to comply with Union data protection and privacy rules and
in other ways including by providing business users with duly anonymised data where appropriate. The gatekeeper shall not make the obtaining of this consent by the business user more burdensome than for its own services.

principles in other ways including by providing business users with duly anonymised data where appropriate. The gatekeeper shall not make the obtaining of this consent by the business user more burdensome than for its own services. When consent is directly expressed by the end-user at the level of the services offered by the business user through the relevant core platform service, it shall prevail over any consent provided at the gatekeeper level.

Amendment 158

Proposal for a regulation
Article 11 – paragraph 3

Text proposed by the Commission

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

Amendment

3. A gatekeeper shall not degrade the conditions or quality of any of the core platform services provided to business users or end users who avail themselves of the rights or choices laid down in Articles 5 and 6, or make the exercise of those rights or choices unduly difficult, including through the use of "dark patterns" or manipulative choice architectures, by presenting end-user choices in a non-neutral manner, or by otherwise subverting or impairing user autonomy, decision-making, or choice via the structure, function or manner of operation of a user interface or a part thereof.

Amendment 159

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

Text proposed by the Commission

A gatekeeper shall inform the Commission of any intended concentration within the

Amendment

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

Amendment 160
Proposal for a regulation
Article 12 – paragraph 2

Text proposed by the Commission

2. The notification pursuant to paragraph 1 shall at least describe for the acquisition targets their EEA and worldwide annual turnover, for any relevant core platform services their respective EEA annual turnover, their number of yearly active business users and the number of monthly active end users, as well as the rationale of the intended concentration.

Amendment

2. The notification pursuant to paragraph 1 shall at least describe for the acquisition targets their EEA and worldwide annual turnover, for any relevant core platform services their respective EEA annual turnover, their number of yearly active business users and the number of monthly active end users, the categories of personal data they process as well as the rationale of the intended concentration and its potential impact on the rights and interests of business users.

Amendment 161
Proposal for a regulation
Article 12 – paragraph 2 a (new)

Text proposed by the Commission

2a. The Commission shall assess the impact of any intended concentration on the contestability of markets by taking into account, inter alia, the elements laid down in Article 3(6). Where, following this assessment, it is demonstrated that a concentration would weaken the contestability of markets, the Commission
shall impose proportionate behavioural or structural remedies to ensure compliance with this Regulation.

Amendment 162

Proposal for a regulation
Article 12 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 163

Proposal for a regulation
Article 13 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Within six months after its designation pursuant to Article 3, a gatekeeper shall submit to the Commission an independently audited description of any techniques for profiling of consumers and any other digital technology technique used to entice users to engage in certain actions or predict their actions especially in view of pricing, offers and ranking that the gatekeeper applies to or across its core platform services identified pursuant to Article 3. This description shall be updated at least annually.

Amendment 164
Proposal for a regulation
Article 13 – paragraph 1 a (new)

*Text proposed by the Commission*

1a. In consultation with the EU Data Protection Supervisor, the European Data Protection Board, civil society and experts, the Commission shall develop, the standards and process of the audits performed pursuant to paragraph 1. The audited description, as well as any relevant materials that is collected in the context of supervising the gatekeepers that relate to the processing of personal data, shall be shared by the Commission with any competent supervisory authority represented in the European Data Protection Board, upon its request.

Amendment 165

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

*Text proposed by the Commission*

1b. Audits performed pursuant to paragraph 1 shall be performed by organisations which meet the following conditions:

(a) they are independent from the gatekeeper concerned and have not provided any other service to the undertaking which the gatekeeper belongs to in the previous 12 months;

(b) they have proven expertise in the area of risk management, technical competence and capabilities in the area of digital technologies;

(c) they have proven objectivity and professional ethics, based in particular on adherence to codes of practice or appropriate standards; and

(d) they have not provided audit to the same gatekeeper for more than 3
consecutive years.

Amendment 166
Proposal for a regulation
Article 13 – paragraph 1 c (new)

Text proposed by the Commission

Amendment 1c. The Commission shall publish every two years key audit results of audits performed pursuant to paragraph 1. Publication shall have regard to the legitimate interest of undertakings in the protection of their business secrets.

Amendment 167
Proposal for a regulation
Article 13 – paragraph 1 d (new)

Text proposed by the Commission

Amendment 1d. The Commission shall submit results of audit performed pursuant to paragraph 1 to the competent national authorities.

Amendment 168
Proposal for a regulation
Article 14 – paragraph 3 a (new)

Text proposed by the Commission

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

Amendment 169
Proposal for a regulation
Article 15 – paragraph 1
1. The Commission may conduct a market investigation for the purpose of examining whether a provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6), or in order to identify core platform services for a gatekeeper pursuant to Article 3(7). It shall endeavour to conclude its investigation by adopting a decision in accordance with the advisory procedure referred to in Article 32(4) within twelve months from the opening of the market investigation.

Amendment

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

Amendment 170

Proposal for a regulation
Article 15 – paragraph 2

Text proposed by the Commission

2. In the course of a market investigation pursuant to paragraph 1, the Commission shall endeavour to communicate its preliminary findings to the provider of core platform services concerned within six months from the opening of the investigation. In the preliminary findings, the Commission shall explain whether it considers, on a provisional basis, that the provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6).

Amendment

2. In the course of a market investigation pursuant to paragraph 1, the Commission shall endeavour to communicate its preliminary findings to the provider of core platform services concerned within three months from the opening of the investigation. In the preliminary findings, the Commission shall explain whether it considers, on a provisional basis, that the provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6).

Amendment 171

Proposal for a regulation
Article 15 – paragraph 3

Text proposed by the Commission

3. Where the provider of core platform services satisfies the thresholds

Amendment

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

**Amendment 172**

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

_**Text proposed by the Commission**_

4. When the Commission pursuant to Article 3(6) designates as a gatekeeper a provider of core platform services that does not yet enjoy an entrenched and durable position in its operations, but it is foreseeable that it will enjoy such a position in the near future, it shall declare applicable to that gatekeeper **only** obligations laid down in Article 5(b) and Article 6(1) points (e), (f), (h) and (i) as specified in the designation decision. **The Commission shall only declare applicable those obligations that are appropriate and necessary to prevent** that the gatekeeper concerned achieves by unfair means an entrenched and durable position in its operations. The Commission shall review such a designation in accordance with the procedure laid down in Article 4.

_**Amendment**_

4. When the Commission pursuant to Article 3(6) designates as a gatekeeper a provider of core platform services that does not yet enjoy an entrenched and durable position in its operations, but it is foreseeable that it will enjoy such a position in the near future, **on the basis of a notification pursuant to Article 12(1),** it shall declare applicable to that gatekeeper **the** obligations laid down in Article 5 and Article 6 as specified in the designation decision, **hence preventing** that the gatekeeper concerned achieves by unfair means an entrenched and durable position in its operations. The Commission shall review such a designation in accordance with the procedure laid down in Article 4.

**Amendment 173**

**Proposal for a regulation**
**Article 16 – title**

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Market investigation into systematic non-compliance

Market investigation into systematic non-compliance or concentration that weakens the contestability of markets

Amendment 174

Proposal for a regulation
Article 16 – paragraph 1

Text proposed by the Commission

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

Amendment

1. The Commission may conduct a market investigation for the purpose of examining whether a gatekeeper has engaged in systematic non-compliance. Where the market investigation shows that a gatekeeper has systematically infringed the obligations laid down in Articles 5 and 6 and has further strengthened or extended its gatekeeper position in relation to the characteristics under Article 3(1), the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) impose on such gatekeeper any behavioural or structural remedies, including separation or divestiture of a business if appropriate, according to competition law, which are effective and necessary to ensure compliance with this Regulation. The Commission may require the remedies to be tested to optimise their effectiveness. The Commission shall conclude its investigation by adopting a decision as soon as possible, and in any case no later than six months from the opening of the market investigation.

Amendment 175

Proposal for a regulation
Article 16 – paragraph 2
2. The Commission may only impose structural remedies pursuant to paragraph 1 either where there is no equally effective behavioural remedy or where any equally effective behavioural remedy would be more burdensome for the gatekeeper concerned than the structural remedy.

Amendment
2. The Commission may also impose structural remedies pursuant to paragraph 1 where it considers it more effective than behavioural remedies in ensuring compliance with the obligations laid down in Articles 5 and 6. Such structural remedies may include and not be limited to any of the following:

(a) separation of business units;

(b) unbundling and horizontal division of services;

(c) changes to the gatekeeper’s financing model; or

(d) disgorging financial benefits to end-users.

Amendment 176
Proposal for a regulation
Article 16 – paragraph 3

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

Amendment
3. A gatekeeper shall be deemed to have engaged in a systematic non-compliance with the obligations laid down in Articles 5 and 6, as soon as the Commission has issued at least two non-compliance or fining decisions pursuant to Articles 25 and 26 respectively against a gatekeeper in relation to any of its core platform services within a period of five years prior to the adoption of the decision opening a market investigation in view of the possible adoption of a decision pursuant to this Article. This circumstance shall be considered as an aggravating factor when setting fines and periodic penalties pursuant to Articles 26 and 27 respectively.
Amendment 177

Proposal for a regulation
Article 16 – paragraph 4

Text proposed by the Commission

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

Amendment

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

Amendment 178

Proposal for a regulation
Article 16 – paragraph 5

Text proposed by the Commission

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

Amendment

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

Amendment 179

Proposal for a regulation
Article 16 – paragraph 6

Text proposed by the Commission

6. The Commission may at any time

Amendment

6. The Commission may at any time
during the market investigation extend its duration where the extension is justified on objective grounds and proportionate. The extension may apply to the deadline by which the Commission has to issue its objections, or to the deadline for adoption of the final decision. The total duration of any extension or extensions pursuant to this paragraph shall not exceed six months. The Commission may consider commitments pursuant to Article 23 and make them binding in its decision.

Amendment 180
Proposal for a regulation
Article 17 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 181
Proposal for a regulation
Article 18 – paragraph 1 a (new)
When the Commission adopts a decision opening a proceeding, it shall gather all relevant findings and information supporting its decision in a report and shall submit that report to the European Parliament and the Council and make it accessible publicly on its official website. The Commission shall thereby not disclose information that is covered by the obligation of professional secrecy according to Article 31.

Amendment 182
Proposal for a regulation
Article 19 – paragraph 4

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

Amendment 183
Proposal for a regulation
Article 19 – paragraph 6

4. Where the Commission requires undertakings and associations of undertakings to supply information by decision, it shall state the purpose of the request, specify what information is required and fix the time-limit within which it is to be provided. Where the Commission requires undertakings to provide access to its data-bases and algorithms, it shall state the legal basis and the purpose of the request, specify what information is required and fix the time-limit within which it is to be provided. It shall also indicate the penalties provided for in Article 26 and indicate or impose the periodic penalty payments provided for in Article 27. It shall further indicate the right to have the decision reviewed by the Court of Justice.
6. At the request of the Commission, the governments and authorities of the Member States shall provide the Commission with all necessary information to carry out the duties assigned to it by this Regulation.

Amendment 184

Proposal for a regulation
Article 20 – paragraph 1

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

Amendment

The Commission and the competent national authorities may, in accordance with Article 32a, interview any natural or legal person which consents to being interviewed for the purpose of collecting information, relating to the subject-matter of an investigation, pursuant to Articles 7, 16, 17, 25 and 26, including in relation to the monitoring, implementing and enforcing of the rules laid down in this Regulation.

Amendment 185

Proposal for a regulation
Article 21 – paragraph 1

1. The Commission may conduct on-site inspections at the premises of an undertaking or association of undertakings.

Amendment

1. The Commission, upon a prior notice, may conduct on-site inspections at the premises of an undertaking or association of undertakings.

Amendment 186
2. On-site inspections may also be carried out with the assistance of auditors or experts appointed by the Commission pursuant to Article 24(2).

Amendment

Proposal for a regulation
Article 21 – paragraph 3

Text proposed by the Commission

3. During on-site inspections the Commission and auditors or experts appointed by it may require the undertaking or association of undertakings to provide access to and explanations on its organisation, functioning, IT system, algorithms, data-handling and business conducts. The Commission and auditors or experts appointed by it may address questions to key personnel.

Amendment

Article 21a

Reporting mechanism for business users

Text proposed by the Commission

3. During on-site inspections the Commission and auditors or experts appointed by it may require the undertaking or association of undertakings to provide access to and explanations on its organisation, functioning, IT system, algorithms, data-handling and business conducts. The Commission shall appoint rotating auditor or expert teams within the undertaking with the aim of having continuous access to the data and algorithms. Those teams should run behavioural experiments to evaluate the algorithm and use of the data. The Commission and auditors or experts appointed by it may address questions to key personnel.
and end users

1. Competitors, business users, and end users of the core platform services may report to the Commission or national regulators any practice or behaviour by gatekeepers that falls within the scope of this Regulation, including non-compliance. The Commission and Member States shall inform each other of such reports.

2. When the Commission considers a report referred to in paragraph 1 to be an enforcement priority, it shall within four months of the reception of the report examine and issue a reasoned decision whether it intends to open an investigation pursuant to Articles 14, 15, 16 or 17. The Commission shall notify the original issuer of the report as well as publicly communicate its decision.

3. Where the Commission does not open such a proceeding or investigation, in disagreement with the request of the Advisory Committee, it shall adopt a reasoned opinion stating the reasons therefor.

Amendment 189

Proposal for a regulation
Article 22 – paragraph 1

Text proposed by the Commission

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

Amendment

1. In case of urgency due to the risk of serious and irreparable damage for business users or end users of gatekeepers, the Commission may, by decision adopted in accordance with the advisory procedure referred to in Article 32(4), order interim measures against a gatekeeper on the basis of a prima facie finding of an infringement of Articles 5 or 6.
Amendment 190

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

Text proposed by the Commission

2a. In case of urgency, due to the risk of serious and irreparable damage for business users or end users of gatekeepers, resulting from new practices implemented by gatekeepers that could be considered to be unfair or limit the contestability of core platform services in accordance with Article 10(2), the Commission may, in order to avoid the materialization of such risk, by decision adopted in accordance with the advisory procedure referred to in Article 32(4), order interim measures against those gatekeepers.

Amendment 191

Proposal for a regulation
Article 23 – paragraph 1

Text proposed by the Commission

1. If during proceedings under Articles 16 or 25 the gatekeeper concerned offers commitments for the relevant core platform services to ensure compliance with the obligations laid down in Articles 5 and 6, the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) make those commitments binding on that gatekeeper and declare that there are no further grounds for action.

Amendment 192
Proposal for a regulation
Article 23 – paragraph 2 – introductory part

Text proposed by the Commission

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

Amendment

2. The Commission may, upon request by one or more national competent authorities or on its own initiative, reopen by decision the relevant proceedings, where:

Amendment 193

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

Text proposed by the Commission

(aa) the measures proposed by the gatekeeper have proven ineffective to ensure compliance with the obligations of Article 5 and 6;

Amendment

Amendment 194

Proposal for a regulation
Article 24 – title

Text proposed by the Commission

Monitoring of obligations and measures

Amendment

Reporting and monitoring of obligations and measures

Amendment 195

Proposal for a regulation
Article 24 – paragraph 2

Text proposed by the Commission

2. The actions pursuant to paragraph 1 may include the appointment of independent external experts and auditors to assist the Commission to monitor the obligations and measures and to provide

Amendment

2. The Commission shall ensure an adequate number of permanent staff exclusively allocated for activities pertaining to the effective implementation of this Regulation. The actions taken
specific expertise or knowledge to the Commission.

pursuant to paragraph 1 shall include the appointment of independent external experts and auditors including from competent national authorities, according to Article 32, or consumers’ right organisations, to be granted full access within the gatekeeper and to assist the Commission to monitor the obligations and measures and to provide specific expertise or knowledge to the Commission. These external experts and auditors shall have, during the 12 months preceding their appointment by the Commission, no contractual relations with the gatekeepers.

Amendment 196

Proposal for a regulation
Article 25 – paragraph 1 – introductory part

Text proposed by the Commission

1. The Commission shall adopt a non-compliance decision in accordance with the advisory procedure referred to in Article 32(4) where it finds that a gatekeeper does not comply with one or more of the following:

Amendment

1. The Commission shall, within six months from the opening of proceedings pursuant to Article 18, adopt a non-compliance decision in accordance with the advisory procedure referred to in Article 32(4) where it finds that a gatekeeper does not comply with one or more of the following:

Amendment 197

Proposal for a regulation
Article 25 – paragraph 3

Text proposed by the Commission

3. In the non-compliance decision adopted pursuant to paragraph 1, the Commission shall order the gatekeeper to cease and desist with the non-compliance within an appropriate deadline and to provide explanations on how it plans to comply with the decision.

Amendment

3. In the non-compliance decision adopted pursuant to paragraph 1, the Commission shall order the gatekeeper to cease and desist with the non-compliance within an appropriate deadline, but not longer than three months, and to impose any appropriate remedies, as necessary and proportionate to the infringement, to
ensure effective compliance with the obligations laid down under Articles 5 and 6 and restore contestability and fairness of markets. The Commission may require, where appropriate, the measures to be tested to optimise their effectiveness.

Amendment 198
Proposal for a regulation
Article 25 – paragraph 4

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

Amendment
4. The gatekeeper shall provide the Commission with the description of the measures it took to ensure compliance with the decision adopted pursuant to paragraph 1. Where the non-compliance persists following a review of the measures taken by the gatekeeper, the Commission shall propose amendments to these measures to ensure full compliance with obligations laid down under Articles 5 and 6.

Amendment 199
Proposal for a regulation
Article 26 – paragraph 1 – introductory part

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

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

Amendment 200
Proposal for a regulation
Article 28 – paragraph 1
1. The powers conferred on the Commission by Articles 26 and 27 shall be subject to a **three** year limitation period.

**Amendment**

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

**Amendment 201**

**Proposal for a regulation**

**Article 30 – paragraph 1 a (new)**

**Text proposed by the Commission**

1a. Where the Commission deems it necessary, it may also hear other natural or legal persons before taking the decisions as provided for in paragraph 1. Applications to be heard on the part of such persons shall, where they show a sufficient interest, be granted. National competent authorities may also ask the Commission to hear any other natural or legal person with sufficient interest.

**Amendment**

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

**Amendment 202**

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

**Amendment 203**

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

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

Amendment

3. The Commission shall base its decisions only on objections on which gatekeepers, undertakings and associations of undertakings concerned, relevant interested natural and legal third persons, have been able to comment.

Amendment 204

Proposal for a regulation
Article 30 – paragraph 4 a (new)

Text proposed by the Commission

4a. Natural or legal persons who can show a legitimate interest shall be entitled to lodge complaints with regard to the non-designation of gatekeepers and non-compliance and systematic non-compliance by gatekeepers with their obligations under this regulation.

Amendment

4a. Natural or legal persons who can show a legitimate interest shall be entitled to lodge complaints with regard to the non-designation of gatekeepers and non-compliance and systematic non-compliance by gatekeepers with their obligations under this regulation.

Amendment 205

Proposal for a regulation
Article 30 a (new)

Text proposed by the Commission

Article 30a

Accountability

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

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

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

4. At the request of the European Parliament, the Commission shall participate in a hearing before the European Parliament. A hearing shall take place at least bi-annually. The respective Commissioner shall make a statement before the European Parliament and answer any questions from its members, whenever so requested. In addition, a continuous, high-level dialogue between the European Parliament and the Commission shall be ensured through exchanges, which take place no less than four times a year.
Amendment 206

Proposal for a regulation
Article 31 – paragraph 1

**Text proposed by the Commission**

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

**Amendment**

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

Amendment 207

Proposal for a regulation
Article 31 – paragraph 2

**Text proposed by the Commission**

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

**Amendment**

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

Amendment 208

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

European High-Level Group of Digital Regulators

1. The Commission shall establish a European High-Level Group of Digital Regulators in the form of an Expert Group, consisting of the representatives of competent authorities of all the Member States, the Commission and other representatives of competent competition authorities in specific sectors including competition, data protection and electronic communications.

2. The work of the high-level group may be organised into Expert Working Groups building cross-regulator specialist teams that provide the Commission with high level of expertise.

Amendment

Proposal for a regulation

Article 31 b (new)

Text proposed by the Commission

Article 31b

Tasks of the European High-Level Group of Digital Regulators

1. The expert group shall have the following tasks:

   (a) to facilitate cooperation and coordination between the Commission and Member States in their respective enforcement actions by promoting the exchange of information and best practices about their work and decision-making principles and practices with the aim to develop a consistent regulatory approach and avoid conflicting decisions;

   (b) to assist the Commission by means of advice, opinions, analysis and expertise
in monitoring compliance with this Regulation;

(c) to deliver background analysis on the issuance of recommendations to update the obligations referred to in Articles 5 and 6, when appropriate;

(d) upon request by the Commission, to provide technical advice and expertise before the adoption of a specification decision under Article 7;

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

(f) to provide technical advice and expertise to the Commission in the preparation of legislative proposals and policy initiatives including under Article 38.

2. The High-Level Group of Digital Regulators shall report every two years about its activities to the European Parliament and offer recommendations and policy suggestions on how to enhance the relevance of Union policies and laws and to enable consistency in the implementation of those policies and laws at national level.

Amendment 210

Proposal for a regulation
Article 32 – paragraph 1

Text proposed by the Commission

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

Amendment

1. The Commission shall be assisted by the Digital Markets Advisory Committee. That Committee shall be a Committee within the meaning of Regulation (EU) No 182/2011. Each Member State shall appoint two representatives, ensuring the gender balance, to the Committee. If the appointed representatives are unable to
attend, other representatives may replace them. At least one of the representatives of a Member State shall be competent in matters of restrictive practices, abuses of dominant positions and other forms of unilateral conduct. Member States shall take all necessary measures to ensure the protection of confidential information by their representatives.

Amendment 211

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

Text proposed by the Commission

Amendment

1a. The Advisory Committee shall be composed of representatives of the competent authorities of the Member States. The Advisory Committee may invite relevant representatives of business users and end users, research, academia, civil society and other relevant stakeholders to its meetings and participate in its work. The invited relevant stakeholders shall be geographically balanced. For meetings in which specific issues are being discussed, Member States shall be able to appoint an additional representative from an authority with the relevant expertise for those specific issues. This is without prejudice to members of the Committee being assisted by other experts from the Member States.

Amendment 212

Proposal for a regulation
Article 32 a (new)

Text proposed by the Commission

Amendment

Article 32a
Cooperation and coordination with Member States

1. In accordance with the principles laid down in Article 1, the Commission shall guarantee the correct application of this Regulation. To ensure effective enforceability and coherent implementation, the Commission shall be supported by the expertise of the competent national competition authorities.

2. The Commission may ask competent national competition authorities, as well as other relevant competent authorities, to support any of its market investigation or proceeding pursuant to Articles 7(2), 15, 16, 17, 19 and 20 by collecting information and providing expertise or by collecting complaints to be transferred to the Commission. Competent national competition authorities shall not take decisions, which run counter to a decision adopted by the Commission.

3. Member States shall designate a competent authority to monitor compliance with obligations laid down in this Regulation and report regularly to the Commission on compliance with this Regulation.

4. When collecting sufficient evidence for designation of a gatekeeper, non-compliance with the obligations laid down in Articles 5 and 6 or need to add new obligations, national competent authorities shall request the opening of a market investigation in accordance with Article 33.

Amendment 213

Proposal for a regulation
Article 33 – paragraph 1
1. When three or more Member States request the Commission to open an investigation pursuant to Article 15 because they consider that there are reasonable grounds to suspect that a provider of core platform services should be designated as a gatekeeper, the Commission shall within four months examine whether there are reasonable grounds to open such an investigation.

Amendment
1. When one or more Member States request the Commission to open an investigation pursuant to Article 15, 16 and 17 because they consider that there are reasonable grounds to suspect that a provider of core platform services should be designated as a gatekeeper, that a gatekeeper is not complying with its obligations as laid down in Articles 5 and 6, that there are reasonable grounds to suspect that one or several types of practices can be unfair or are not effectively addressed by this Regulation and can limit the contestability of core platform services, the Commission shall as soon as possible, and in any case no later than four months examine whether there are reasonable grounds to open such an investigation and adopt a decision. Where the Commission decides that there is no grounds for opening a market investigation, it shall publish a reasoned opinion.

Amendment 214

Proposal for a regulation
Article 33 – paragraph 2

Text proposed by the Commission
2. Member States shall submit evidence in support of their request.

Amendment
2. Member States shall submit evidence in support of their request. Such evidence provided by competent national authorities shall notably include information allowing to evaluate the fairness of general access conditions to core platform services, including as regards revenue streams deriving from advertisement, and the distribution of appropriate shares of revenues to third party right holders.

Amendment 215
Proposal for a regulation
Article 34 – paragraph 1

Text proposed by the Commission

1. The Commission shall publish the decisions which it takes pursuant to Articles 3, 7, 8, 9, 15, 16, 17, 22, 23(1), 25, 26 and 27. Such publication shall state the names of the parties and the main content of the decision, including any penalties imposed.

Amendment

1. The Commission shall publish the decisions which it takes pursuant to Articles 3, 7, 8, 9, 15, 16, 17, 22, 23(1), 25, 26, 27 and 33. Such publication shall state the names of the parties and the main content of the decision, including any penalties imposed and the grounds for such a decision.

Amendment 216

Proposal for a regulation
Article 34 – paragraph 2 a (new)

Text proposed by the Commission

2a. Meetings between representatives of gatekeepers and members of the Digital Market Advisory Committee or the Commission shall be subject to a public disclosure on the official website of the Commission. To this end, the registration in the EU transparency register shall be mandatory for gatekeepers, undertakings and associations of undertakings pursuant to Article 3(1) of this Regulation.

Amendment

2a. Meetings between representatives of gatekeepers and members of the Digital Market Advisory Committee or the Commission shall be subject to a public disclosure on the official website of the Commission. To this end, the registration in the EU transparency register shall be mandatory for gatekeepers, undertakings and associations of undertakings pursuant to Article 3(1) of this Regulation.

Amendment 217

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

Text proposed by the Commission

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

Amendment

1. The Commission may adopt implementing acts concerning: 3, 6, 7, 12, 13, 15, 16, 17, 20, 22, 23, 25 and 30
Amendment 218
Proposal for a regulation
Article 36 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) the procedure for the consultations of the Commission with the High Level Group of Digital Regulators in the performance of its functions under Article 6, 7, 10, 16, 17, 24 and 25;

Amendment 219
Proposal for a regulation
Article 36 – paragraph 2

Text proposed by the Commission

Amendment

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

Amendment 220
Proposal for a regulation
Article 37 – paragraph 2

Text proposed by the Commission

Amendment

2. The power to adopt delegated acts referred to in Articles 3(6) and 9(1) and 10(1) shall be conferred on the Commission for a period of five years from DD/MM/YYYY.
The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

**Amendment 221**

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

**Text proposed by the Commission**

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

**Amendment 3.** The delegation of power referred to in Articles 3(6) and 9(1) and 10(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

**Amendment 222**

**Proposal for a regulation**
**Article 38 – paragraph 2**

**Text proposed by the Commission**

2. The evaluations shall establish whether additional rules, including regarding the list of core platform services laid down in point 2 of Article 2, the obligations laid down in Articles 5 and 6 and their enforcement, may be required to ensure that digital markets across the Union are contestable and fair. Following

**Amendment 2.** The evaluations shall establish whether inclusion of additional rules or deletion of the existing ones, including regarding the list of core platform services laid down in point 2 of Article 2, the obligations laid down in Articles 5 and 6 and their enforcement, may be required to ensure that digital markets across the
the evaluations, the Commission shall take appropriate measures, which may include legislative proposals.

Union are contestable and fair. Following the evaluations, the Commission shall take appropriate measures, which may include legislative proposals.

Amendment 223

Proposal for a regulation
Article 38 – paragraph 3 a (new)

Text proposed by the Commission

3a. The Commission shall report on the implementation of this Regulation in its annual report on Competition Policy.
### PROCEDURE – COMMITTEE ASKED FOR OPINION

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<thead>
<tr>
<th><strong>Title</strong></th>
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<td><strong>References</strong></td>
<td>COM(2020)0842 – C9-0419/2020 – 2020/0374(COD)</td>
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<tr>
<td><strong>Committee responsible</strong></td>
<td>IMCO&lt;br&gt;8.2.2021</td>
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<td><strong>Opinion by</strong></td>
<td>ITRE&lt;br&gt;8.2.2021</td>
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<td>20.5.2021</td>
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<td><strong>Rapporteur for the opinion</strong></td>
<td>Carlos Zorrinho&lt;br&gt;19.1.2021</td>
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<tr>
<td><strong>Discussed in committee</strong></td>
<td>2.9.2021</td>
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<tr>
<td><strong>Date adopted</strong></td>
<td>28.10.2021</td>
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<td><strong>Result of final vote</strong></td>
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<td>Rasmus Andresen, Marek Pawel Balt, Klemen Grošelj, Adam Jarubas, Elena Lizzi, Adriana Maldonado López, Bronis Ropė, Jordi Solé, Nils Torvalds</td>
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## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

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<td>Nicola Beer, Nicola Danti, Valter Flego, Claudia Gamon, Bart Groothuis, Klemen Groselj, Christophe Grudler, Ivars Ijabs, Mauri Pekkarinen, Morten Petersen, Nils Torvalds</td>
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<td>Manuel Bompard, Marisa Matias</td>
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<td>Verts/ALE</td>
<td>Rasmus Andresen, Michael Bloss, Ignazio Corrao, Ciarán Cuffe, Henrik Hahn, Ville Niinistö, Manuela Ripa, Bronis Ropė, Jordi Solé</td>
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<td>The Left</td>
<td>Marc Botenga</td>
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Key to symbols:
+ : in favour
- : against
0 : abstention
OPINION OF THE COMMITTEE ON TRANSPORT AND TOURISM

for the Committee on the Internal Market and Consumer Protection


Rapporteur for opinion: Markus Ferber

AMENDMENTS

The Committee on Transport and Tourism calls on the Committee on Internal Market and Consumer Protection, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation
Recital 7

Text proposed by the Commission

(7) Therefore, business users and end-users of core platform services provided by gatekeepers should be afforded appropriate regulatory safeguards throughout the Union against the unfair behaviour of gatekeepers in order to facilitate cross-border business within the Union and thereby improve the proper functioning of the internal market and to address existing or likely emerging fragmentation in the specific areas covered by this Regulation. Moreover, while gatekeepers tend to adopt global or at least pan-European business models and algorithmic structures, they can adopt, and in some cases have adopted, different business conditions and practices

Amendment

(7) Therefore, business users and end-users of core platform services provided by gatekeepers should be afforded appropriate regulatory safeguards throughout the Union against the unfair behaviour of gatekeepers in order to facilitate cross-border business within the Union and thereby improve the proper functioning of the internal market and to address existing or likely emerging fragmentation in the specific areas covered by this Regulation. The Commission should issue guidelines to promote responsible behaviour, transparency, legal certainty and thereby increase user confidence, in line with the provisions of this Regulation. Moreover,
in different Member States, which is liable to create disparities between the competitive conditions for the users of core platform services provided by gatekeepers, to the detriment of integration within the internal market.

while gatekeepers tend to adopt global or at least pan-European business models and algorithmic structures, they can adopt, and in some cases have adopted, different business conditions and practices in different Member States, which is liable to create disparities between the competitive conditions for the users of core platform services provided by gatekeepers, to the detriment of integration within the internal market.

Amendment 2

Proposal for a regulation
Recital 8

Text proposed by the Commission

(8) By approximating diverging national laws, obstacles to the freedom to provide and receive services, including retail services, within the internal market should be eliminated. A targeted set of harmonised mandatory rules should therefore be established at Union level to ensure contestable and fair digital markets featuring the presence of gatekeepers within the internal market.

Amendment

(8) By approximating diverging national laws, obstacles to the freedom to provide and receive services, including retail services, within the internal market should be eliminated. A targeted set of harmonised mandatory rules should therefore be established at Union level to ensure contestable and fair digital markets featuring the presence of gatekeepers within the internal market, and in order to create and maintain a safer environment and legal certainty for the users and public authorities.

Amendment 3

Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) Weak contestability and unfair practices in the digital sector are more frequent and pronounced for certain digital services than for others. This is the case in particular for widespread and commonly used digital services that mostly directly

Amendment

(12) Weak contestability and unfair practices in the digital sector are more frequent and pronounced for certain digital services than for others. This is the case in particular for widespread and commonly used digital services that mostly directly
intermediate between business users and end users and where features such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration are the most prevalent. Often, there is only one or very few large providers of these digital services. These providers of core platform services have emerged most frequently as gatekeepers for business users and end users with far-reaching impacts, gaining the ability to easily set commercial conditions and terms in a unilateral and detrimental manner for their business users and end users. Accordingly, it is necessary to focus only on those digital services that are most broadly used by business users and end users and where, based on current market conditions, concerns about weak contestability and unfair practices by gatekeepers are more apparent and pressing from an internal market perspective.

The digital economy, particularly platforms, can have a significant impact on long-established regulated business models in many strategic sectors such as transportation, tourism and hospitality. Hence there is a need to foster a level-playing field between gatekeepers and traditional enterprises operating in the transport, tourism and hospitality sectors. Often, there is only one or very few large providers of those digital services. This situation produces disruptions and restrictions, in particular on SMEs in these sectors, where intermediaries have a dominant market position. These providers of core platform services have emerged most frequently as gatekeepers for business users and end users with far-reaching impacts, gaining the ability to easily set commercial conditions and terms in a unilateral and detrimental manner for their business users and end users. Accordingly, it is necessary to focus only on those digital services that are most broadly used by business users and end users and where, based on current market conditions, concerns about weak contestability and unfair practices by gatekeepers are more apparent and pressing from an internal market perspective. In this context, it is important to pay special attention to the particularities of the transport and tourism online platform market. Services are provided on the collaborative economy platforms in the transport, tourism and hospitality sectors by both individuals and professionals. It is important to avoid imposing disproportionate information requirements and administrative burdens.
on peer-to-peer providers of services. In
the interest of consumers it is necessary to
ensure transparency in transport and
tourism platforms, specifically as regards
algorithms affecting service, pricing,
advertising and digital trust building
mechanisms such as ratings and reviews,

Amendment 4
Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) A very significant turnover in the
Union and the provision of a core
platform service in at least three Member
States constitute compelling indications
that the provider of a core platform service
has a significant impact on the internal
market. This is equally true where a
provider of a core platform service in at
least three Member States has a very
significant market capitalisation or
equivalent fair market value. Therefore, a
provider of a core platform service should
be presumed to have a significant impact
on the internal market where it provides a
core platform service in at least three
Member States and where either its group
turnover realised in the EEA is equal to or
exceeds a specific, high threshold or the
market capitalisation of the group is equal
to or exceeds a certain high absolute value.
For providers of core platform services that
belong to undertakings that are not publicly
listed, the equivalent fair market value
above a certain high absolute value should
be referred to. The Commission should use
its power to adopt delegated acts to
develop an objective methodology to
calculate that value. A high EEA group
turnover in conjunction with the threshold
of users in the Union of core platform
services reflects a relatively strong ability
to monetise these users. A high market

Amendment

(17) A very significant turnover in the
Union constitutes a compelling indication
that the provider of a core platform service
has a significant impact on the internal
market or a significant sector thereof. This
is equally true where a provider of a core
platform service has a very significant
market capitalisation or equivalent fair
market value. Therefore, a provider of a
core platform service should be presumed
to have a significant impact on the internal
market or a significant sector thereof
where either its group turnover realised in
the EEA is equal to or exceeds a specific,
high threshold or the market capitalisation
of the group is equal to or exceeds a certain
high absolute value. For providers of core
platform services that belong to
undertakings that are not publicly listed,
the equivalent fair market value above a
certain high absolute value should be
referred to. The Commission should use its
power to adopt delegated acts to develop
an objective methodology to calculate that
value. A high EEA group turnover in
conjunction with the threshold of users in
the Union of core platform services reflects
a relatively strong ability to monetise these
users. A high market capitalisation relative
to the same threshold number of users in
the Union reflects a relatively significant
potential to monetise these users in the near
capitalisation relative to the same threshold number of users in the Union reflects a relatively significant potential to monetise these users in the near future. This monetisation potential in turn reflects in principle the gateway position of the undertakings concerned. Both indicators are in addition reflective of their financial capacity, including their ability to leverage their access to financial markets to reinforce their position. This may for example happen where this superior access is used to acquire other undertakings, which ability has in turn been shown to have potential negative effects on innovation. Market capitalisation can also be reflective of the expected future position and effect on the internal market of the providers concerned, notwithstanding a potentially relatively low current turnover. The market capitalisation value can be based on a level that reflects the average market capitalisation of the largest publicly listed undertakings in the Union over an appropriate period.

Amendment 5

Proposal for a regulation
Recital 20

Text proposed by the Commission

(20) A very high number of business users that depend on a core platform service to reach a very high number of monthly active end users allow the provider of that service to influence the operations of a substantial part of business users to its advantage and indicate in principle that the provider serves as an important gateway. The respective relevant levels for those numbers should be set representing a substantive percentage of the entire population of the Union when it comes to end users and of the entire population of businesses using platforms to determine the future. This monetisation potential in turn reflects in principle the gateway position of the undertakings concerned. Both indicators are in addition reflective of their financial capacity, including their ability to leverage their access to financial markets to reinforce their position. This may for example happen where this superior access is used to acquire other undertakings, which ability has in turn been shown to have potential negative effects on innovation. Market capitalisation can also be reflective of the expected future position and effect on the internal market of the providers concerned, notwithstanding a potentially relatively low current turnover. The market capitalisation value can be based on a level that reflects the average market capitalisation of the largest publicly listed undertakings in the Union over an appropriate period.

Amendment

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

Amendment 6
Proposal for a regulation
Recital 21

Text proposed by the Commission

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

Amendment

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

Amendment 7
Proposal for a regulation
Recital 22

Text proposed by the Commission

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

Amendment

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

Amendment 8
Proposal for a regulation
Recital 25

_text proposed by the Commission_

(25) Such an assessment can only be done in light of a market investigation, while taking into account the quantitative thresholds. In its assessment the Commission should pursue the objectives of preserving and fostering the level of innovation, the quality of digital products and services, the degree to which prices are fair and competitive, and the degree to which quality or choice for business users and for end users is or remains high. Elements that are specific to the providers of core platform services concerned, such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration, can be taken into account. In addition, a very high market capitalisation, a very high ratio of equity value over profit or a very high turnover derived from end users of a single core platform service can point to the tipping of the market or leveraging potential of such providers. Together with market capitalisation, high growth rates, or decelerating growth rates read together with profitability growth, are examples of dynamic parameters that are particularly relevant to identifying such providers of core platform services that are foreseen to become entrenched. The Commission should be able to take a decision by drawing adverse inferences from facts available where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.

_amendment_

(25) Such an assessment can only be done in light of a market investigation, while taking into account the quantitative thresholds. In its assessment the Commission should pursue the objectives of preserving and fostering the level of innovation, the quality of digital products and services, the degree to which prices are fair and competitive, and the degree to which quality, availability or choice for business users and for end users is or remains high, and whether or not fair competition is ensured. Elements that are specific to the providers of core platform services concerned, such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration, can be taken into account. In addition, a very high market capitalisation, a very high ratio of equity value over profit or a very high turnover derived from end users of a single core platform service can point to the tipping of the market or leveraging potential of such providers. Together with market capitalisation, high growth rates, or decelerating growth rates read together with profitability growth, are examples of dynamic parameters that are particularly relevant to identifying such providers of core platform services that are foreseen to become entrenched. The Commission should be able to take a decision by drawing adverse inferences from facts available where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.
Proposal for a regulation
Recital 26

**Text proposed by the Commission**

(26) A particular subset of rules should apply to those providers of core platform services that are foreseen to enjoy an entrenched and durable position in the near future. The same specific features of core platform services make them prone to tipping: once a service provider has obtained a certain advantage over rivals or potential challengers in terms of scale or intermediation power, its position may become unassailable and the situation may evolve to the point that it is likely to become durable and entrenched in the near future. Undertakings can try to induce this tipping and emerge as gatekeeper by using some of the unfair conditions and practices regulated in this Regulation. In such a situation, it appears appropriate to intervene before the market tips irreversibly.

**Amendment**

(26) A particular subset of rules should apply to those providers of core platform services that are foreseen to enjoy an entrenched and durable position in the near future. The same specific features of core platform services make them prone to tipping: once a service provider has obtained a certain advantage over rivals or potential challengers in terms of scale or intermediation power, its position may become unassailable and the situation may evolve to the point that it is likely to become durable and entrenched in the near future. Undertakings can try to induce this tipping and emerge as gatekeeper by using some of the unfair conditions and practices regulated in this Regulation. In such a situation, intervention may be necessary before the market tips irreversibly in favour of the largest competitor and adversely affects other operators.

Amendment 10

Proposal for a regulation
Recital 27

**Text proposed by the Commission**

(27) However, such an early intervention should be limited to imposing only those obligations that are necessary and appropriate to ensure that the services in question remain contestable and allow to avoid the qualified risk of unfair conditions and practices. Obligations that prevent the provider of core platform services concerned from achieving an entrenched and durable position in its operations, such as those preventing unfair leveraging, and those that facilitate switching and multi-homing are more directly geared towards this purpose. To ensure proportionality, the

**Amendment**

(27) However, such an early intervention should be strictly limited to imposing only those obligations that are necessary, justified and appropriate to ensure that the services in question remain contestable and allow to avoid the qualified risk of unfair conditions and practices. Obligations that prevent the provider of core platform services concerned from achieving an entrenched and durable position in its operations, such as those preventing unfair leveraging, and those that facilitate switching and multi-homing are more directly geared towards this purpose.
Commission should moreover apply from that subset of obligations only those that are necessary and proportionate to achieve the objectives of this Regulation and should regularly review whether such obligations should be maintained, suppressed or adapted.

Amendment 11
Proposal for a regulation
Recital 28

Text proposed by the Commission

(28) This should allow the Commission to intervene in time and effectively, while fully respecting the proportionality of the considered measures. It should also reassure actual or potential market participants about the fairness and contestability of the services concerned.

Amendment

(28) This should allow the Commission to intervene in time and effectively, while fully respecting the proportionality of the considered measures. It should also reassure actual or potential market participants about the fairness and contestability of the services concerned. In this regard, calls on the Commission to undertake further steps by initiating a more comprehensive data sharing framework for online platforms dedicated to short-term rentals and to establish an obligation for gatekeepers to share their data accordingly, in full compliance with Regulation (EU) 2016/679, with Eurostat and the national statistics office of the country where the service providers operate, without creating any excessive administrative and financial burden to SMEs and family businesses.

Amendment 12
Proposal for a regulation
Recital 30

Text proposed by the Commission

(30) The very rapidly changing and complex technological nature of core platform services requires a regular review

Amendment

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

Amendment 13
Proposal for a regulation
Recital 31

Text proposed by the Commission

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

Amendment

(31) Considering the essential role that data has on competition, a specific procedure should be introduced for intended concentrations within the meaning of Article 3 of Regulation (EC) No 139/2004 involving another provider of core platform services or of any other services provided via the digital sector. To ensure that the competitiveness in the internal market is not distorted, the effectiveness of the review of gatekeeper status as well as the possibility to adjust the list of core platform services provided by a gatekeeper, the gatekeepers should therefore notify the Commission of all of their intended acquisitions of other providers of core platform services or any other services provided within the digital sector. Such intended concentrations should therefore not only be notified, but explicitly cleared by the Commission. The notification of such concentrations should therefore be subject to the merger control procedure provided for in Regulation (EC) No 139/2004. Such information would also serve the review process mentioned above, regarding the status of individual gatekeepers and provide information that is crucial to monitoring
broader contestability trends in the digital sector and can therefore be a useful factor for consideration in the context of the market investigations foreseen by this Regulation.

Amendment 14

Proposal for a regulation
Recital 32

Text proposed by the Commission

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

Amendment

(32) Given the dynamically changing digital environment, it is important that this Regulation is designed in such a way as to be able to respond to future developments, including in the transport sector, where closed ecosystems of apps that offer a wide range of services, also-called ‘Super-Apps’, could provide digital through-ticketing across all transport-modes, and where future progress in automation solutions will raise questions on the gathering, storage and use of data. To safeguard the fairness and contestability of core platform services provided by gatekeepers, it is necessary to provide in a clear and unambiguous manner for a set of harmonised obligations with regard to those services. Such rules are needed to address the risk of harmful effects of unfair practices imposed by gatekeepers, to the benefit of the business environment in the services concerned, to the benefit of users and ultimately to the benefit of society as a whole. Given the fast-moving and dynamic nature of digital markets, and the substantial economic power of gatekeepers, it is important that these obligations are effectively applied without being circumvented. To that end, the obligations in question should apply to any practices by a gatekeeper, irrespective of its form and irrespective of whether it is of a contractual, commercial, technical or any other nature, including through product design or by presenting end-user choices.
in a non-neutral manner, or by otherwise subverting or impairing user autonomy, decision-making, or choice via the structure, function or manner of operation of a user interface or a part thereof, insofar as a practice corresponds to the type of practice that is the subject of one of the obligations of this Regulation.

Amendment 15

Proposal for a regulation
Recital 37

Text proposed by the Commission

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

Amendment

(37) Because of their position, gatekeepers might in certain cases restrict the ability of business users of their online intermediation services to offer their goods or services to end users under more favourable conditions, including price, through other online intermediation services or alternative distribution channels. Such restrictions have a significant deterrent effect on the business users of gatekeepers in terms of their use of alternative online intermediation services or alternative distribution channels, limiting inter-platform contestability, which in turn limits choice of alternative online intermediation or distribution channels for end users. To ensure that business users of online intermediation services of gatekeepers can freely choose among alternative online services and channels and differentiate the conditions under which they offer their products or services to their end users, it should not be accepted that gatekeepers limit business users from choosing to differentiate commercial conditions, including price. Such a restriction should apply to any measure with equivalent effect, such as for example increased commission rates or de-listing or less favourable ranking of the offers of business users.
Amendment 16

Proposal for a regulation
Recital 41

Text proposed by the Commission

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

Amendment

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

Amendment 17

Proposal for a regulation
Recital 62

Text proposed by the Commission

(62) In order to ensure the full and lasting achievement of the objectives of this Regulation, the Commission should be able to assess whether a provider of core platform services should be designated as a gatekeeper without meeting the quantitative thresholds laid down in this Regulation; whether systematic non-compliance by a gatekeeper warrants

Amendment

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

Amendment 18

Proposal for a regulation
Recital 65

Text proposed by the Commission

(65) The services and practices in core platform services and markets in which these intervene can change quickly and to a significant extent. To ensure that this Regulation remains up to date and constitutes an effective and holistic regulatory response to the problems posed by gatekeepers, it is important to provide for a regular review of the lists of core platform services as well as of the obligations provided for in this Regulation. This is particularly important to ensure that behaviour that may limit the contestability of core platform services or is unfair is identified. While it is important to conduct a review on a regular basis, given the dynamically changing nature of the digital sector, in order to ensure legal certainty as to the regulatory conditions, any reviews should be conducted within a reasonable and appropriate time-frame. Market investigations should also ensure that the Commission has a solid evidentiary basis on which it can assess whether it should propose to amend this Regulation in order to expand, or further detail, the lists of core platform services. They should equally ensure that the Commission has a solid evidentiary basis on which it can assess whether it should propose to amend the obligations laid down in this Regulation.

Amendment

(65) The services and practices in core platform services and markets in which these intervene can change quickly and to a significant extent. To ensure that this Regulation remains up to date and constitutes an effective and holistic regulatory response to the problems posed by gatekeepers, it is important to provide for a regular review of the lists of core platform services as well as of the obligations provided for in this Regulation. This is particularly important to ensure that behaviour that may limit the contestability of core platform services or is unfair is identified. Market investigations should also ensure that the Commission has a solid evidentiary basis on which it can assess whether it should propose to amend this Regulation in order to expand, or further detail, the lists of core platform services. They should equally ensure that the Commission has a solid evidentiary basis on which it can assess whether it should propose to amend the obligations laid down in this Regulation.
detail, the lists of core platform services. They should equally ensure that the Commission has a solid evidentiary basis on which it can assess whether it should propose to amend the obligations laid down in this Regulation or whether it should adopt a delegated act updating such obligations.

Amendment 19

Proposal for a regulation
Recital 66

Text proposed by the Commission

(66) In the event that gatekeepers engage in behaviour that is unfair or that limits the contestability of the core platform services that are already designated under this Regulation but without these behaviours being explicitly covered by the obligations, the Commission should be able to update this Regulation through delegated acts. Such updates by way of delegated act should be subject to the same investigatory standard and therefore following a market investigation. The Commission should also apply a predefined standard in identifying such behaviours. This legal standard should ensure that the type of obligations that gatekeepers may at any time face under this Regulation are sufficiently predictable.

Amendment

By twelve months after the entry into force of this Regulation, and subsequently every twelve months, the Commission should evaluate the effectiveness of the obligations laid down in Articles 5 and 6. In the event that gatekeepers engage in behaviour that is unfair or that limits the contestability of the core platform services that are already designated under this Regulation but without these behaviours being explicitly covered by the obligations, the Commission should present a proposal to amend this Regulation in order to update the obligations laid down in Articles 5 and 6. The Commission should also apply a predefined standard in identifying such behaviours. This legal standard should ensure that the type of obligations that gatekeepers may at any time face under this Regulation are sufficiently predictable.

Amendment 20

Proposal for a regulation
Recital 66 a (new)

Text proposed by the Commission

(66 a) With respect to the obligations laid
down in Articles 5 and 6, the Commission will provide regular updates to the European Parliament, Council and the European Economic and Social Committee as regards the evaluations of the enforcement of these obligations, and the possible need of updating the relevant provisions. Where an evaluation would lead to a legislative proposal the European Parliament should consider using its urgency procedure, which allows for faster parliamentary scrutiny of the Commission’s proposals while fully respecting Parliament’s democratic prerogatives;

Amendment 21

Proposal for a regulation
Recital 70

Text proposed by the Commission

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

Amendment

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

Amendment 22

Proposal for a regulation
Recital 72
Text proposed by the Commission

(72) The Commission should be able to take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in this Regulation. Such actions should include the ability of the Commission to appoint independent external experts, such as auditors to assist the Commission in this process, including where applicable from competent independent authorities, such as data or consumer protection authorities.

Amendment

(72) The Commission should be able to take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in this Regulation. Such actions should include the ability of the Commission to request the active cooperation of the European Court of Auditors and to appoint independent external experts and auditors to assist the Commission in this process, including where applicable from competent national authorities and independent authorities, such as data or consumer protection authorities.

Amendment 23

Proposal for a regulation

Recital 75

Text proposed by the Commission

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

Amendment

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

Amendment 24

Proposal for a regulation
Recital 76

Text proposed by the Commission

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

Amendment

(76) In order to ensure uniform conditions for the implementation of Articles 3, 6, 12, 13, 15, 16, 17, 20, 22, 23, 25 and 30, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council. Before adopting implementing provisions in relation to gatekeepers and core platform services, including the related definition of active end users, the Commission should consult experts on the relevant platforms.


Amendment 25

Proposal for a regulation
Recital 77

Text proposed by the Commission

(77) The advisory committee established in accordance with Regulation (EU) No 182/2011 should also deliver opinions on

Amendment

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

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Amendment 26

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

Amendment 27

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

(78) The Commission should periodically evaluate this Regulation and closely monitor its effects on the contestability and fairness of commercial relationships in the online platform economy, in particular with a view to determining the need for amendments in light of relevant technological or commercial developments. This evaluation should include the regular review of the list of core platform services and the obligations addressed to gatekeepers as well as enforcement of these, in view of ensuring that digital markets across the Union are contestable and fair. In order to obtain a broad view of developments in the sector, the evaluation should take into account the experiences of Member States and relevant stakeholders. The Commission may in this regard also consider the opinions and reports presented to it by the Observatory on the Online Platform Economy that was first established by Commission Decision C(2018)2393 of 26 April 2018, by Eurostat, and by the national statistics offices of the countries where the service providers operate. Following the evaluation, the Commission should take appropriate measures. The Commission should to maintain a high level of protection and respect for the common EU rights and values, particularly equality and non-discrimination, as an objective when conducting the assessments and reviews of the practices and obligations provided in this Regulation.
‘Ancillary service’ means services provided in the context of or together with core platform services, including payment services as defined in point 3 of Article 4 and technical services which support the provision of payment services as defined in Article 3(j) of Directive (EU) 2015/2366, fulfilment, identification or advertising services;

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

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

monthly active end users established or located in the Union and more than **7 000** yearly active business users established in the Union in the last financial year;

**Amendment 30**

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

**Text proposed by the Commission**

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

**Amendment**

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

**Amendment 31**

Proposal for a regulation  
Article 3 – paragraph 2 – point c

**Text proposed by the Commission**

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

**Amendment**

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

**Amendment 32**

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

**Text proposed by the Commission**

Where a provider of core platform services meets all the thresholds in paragraph 2, it shall notify the Commission thereof within three months after those thresholds are satisfied and provide it with the relevant information identified in paragraph 2. That notification shall include the relevant information identified in paragraph 2 for

**Amendment**

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

Without undue delay and at the latest 60 days after receiving the notification, the Commission may decide to conduct a market investigation for designating gatekeepers under Article 15.

Amendment 33

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

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

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

Amendment 34

Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 2 – point f

Text proposed by the Commission
(f) other structural market characteristics.

Amendment
(f) other structural market characteristics, such as the consistent growth of the platform’s core service market share in a given digital sector leading to a dominant market position over a two-year timeframe.

Amendment 35
Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 4

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

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

Amendment 36
Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 5

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

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

Amendment 37
Proposal for a regulation
Article 3 – paragraph 7

Text proposed by the Commission
7. For each gatekeeper identified pursuant to paragraph 4 or paragraph 6, the Commission shall identify the relevant

Amendment
7. For each gatekeeper identified pursuant to paragraph 4 or paragraph 6, the Commission shall, \textit{without undue delay}
undertaking to which it belongs and list the relevant core platform services that are provided within that same undertaking and which individually serve as an important gateway for business users to reach end users as referred to in paragraph 1(b). and at the latest within 60 days, identify the relevant undertaking to which it belongs and list the relevant core platform services that are provided within that same undertaking and which individually serve as an important gateway for business users to reach end users as referred to in paragraph 1(b).

Amendment 38
Proposal for a regulation
Article 3 – paragraph 8

8. The gatekeeper shall comply with the obligations laid down in Articles 5 and 6 within six months after a core platform service has been included in the list pursuant to paragraph 7 of this Article.

Amendment
8. The gatekeeper shall comply with the obligations laid down in Articles 5 and 6 within three months after a core platform service has been included in the list pursuant to paragraph 7 of this Article.

Amendment 39
Proposal for a regulation
Article 3 – paragraph 8 a (new)

8a. The Commission shall, without undue delay and at the latest within six months, open proceedings pursuant to Article 18 where a gatekeeper does not comply with the obligation set in paragraph 8.

Amendment

Amendment 40
Proposal for a regulation
Article 5 – paragraph 1 – point b

(b) allow business users to offer the same products or services to end users

Amendment
(b) allow business users to offer the same products or services to end users
through third party online intermediation services at prices or conditions that are different from those offered through the online intermediation services of the gatekeeper; through third party online intermediation services or through their own direct sales channels at prices or conditions that are different from those offered through the online intermediation services of the gatekeeper;

Amendment 41

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

Text proposed by the Commission

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

Amendment

(e) refrain from requiring business users or end users to use, offer or interoperate with an identification service or any other ancillary service operated by the gatekeeper, as well as by any third party belonging to the same undertaking, in the context of services offered by the business users using the core platform services of that gatekeeper;

Amendment 42

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

Text proposed by the Commission

(ga) refrain from treating more favourably in ranking and giving a more favourable display of services - core platform and ancillary services - and products offered by the gatekeeper itself or by any third party belonging to the same undertaking compared to similar services or products of third party and apply fair and non-discriminatory conditions to such ranking and display;

Amendment

(ga) refrain from treating more favourably in ranking and giving a more favourable display of services - core platform and ancillary services - and products offered by the gatekeeper itself or by any third party belonging to the same undertaking compared to similar services or products of third party and apply fair and non-discriminatory conditions to such ranking and display;
Proposal for a regulation  
Article 5 – paragraph 1 – point g b (new)

_amendment_ Text proposed by the Commission  
_amendment_ (gb) ensure that business users are given the possibility to easily opt-out of new, modified or updated terms and conditions requested by the core platform service provider.

Amendment 44

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

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

Amendment 45

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

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

(d) deleted.
Amendment 46
Proposal for a regulation
Article 6 – paragraph 1 – point e

Text proposed by the Commission

(e) refrain from technically restricting the ability of end users to switch between and subscribe to different software applications and services to be accessed using the operating system of the gatekeeper, including as regards the choice of Internet access provider for end users;

Amendment

(e) refrain from technically restricting, or restricting in any other way, the ability of end users to switch between and subscribe to different software applications and services to be accessed using the operating system of the gatekeeper, including as regards the choice of Internet access provider for end users;

Amendment 47
Proposal for a regulation
Article 6 – paragraph 1 – point i

Text proposed by the Commission

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

Amendment

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

Amendment 48
Proposal for a regulation
Article 7 – paragraph 3

Text proposed by the Commission

3. Paragraph 2 of this Article is without prejudice to the powers of the Commission under Articles 25, 26 and 27.

Amendment

3. Paragraph 2 of this Article is without prejudice to the powers of the Commission under Articles 25, 26 and 27. Following a decision under paragraph 2 of this Article, if the Commission finds the gatekeeper in non-compliance under Article 25 and a decision under Article 26 is taken, the non-compliance period is considered to have commenced from the implementation deadline in Article 3(8).

Amendment 49

Proposal for a regulation
Article 7 – paragraph 7

Text proposed by the Commission

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

Amendment

7. A gatekeeper may, within the deadline set in Article 3(8), request the opening of proceedings pursuant to Article 18 for the Commission to determine whether the measures that the gatekeeper intends to implement or has implemented under Article 6 are effective in achieving the objective of the relevant obligation in the specific circumstances. A gatekeeper may, with its request, provide a reasoned submission to explain in particular why the measures that it intends to implement or has implemented are effective in achieving the objective of the relevant obligation in the specific circumstances. The Commission shall adopt its decision within six months from the opening of proceedings pursuant to Article 18. If in its decision the Commission finds the gatekeeper is non-compliant under Article 25 and a decision under Article 26 is taken, the non-compliance period is considered to have commenced from the implementation deadline in Article 3(8).
Amendment 50

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

Text proposed by the Commission

Amendment

7a. The Commission shall ensure that no barriers are created to entry to the digital market for SMEs.

Amendment 51

Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission

Amendment

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

The suspension decision shall be accompanied by a reasoned statement explaining the grounds for the suspension.

Amendment 52
Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 53

Proposal for a regulation
Article 10

Text proposed by the Commission

Article 10

Updating obligations for gatekeepers

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

2. A practice within the meaning of paragraph 1 shall be considered to be unfair or limit the contestability of core
platform services where:

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

(b) the contestability of markets is weakened as a consequence of such a practice engaged in by gatekeepers.

Amendment 54
Proposal for a regulation
Article 11 – paragraph 1

Text proposed by the Commission

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

Amendment

1. A gatekeeper shall ensure that the obligations of Articles 5 and 6 are fully and effectively complied with. While the obligations of Articles 5 and 6 apply in respect of core platform services designated pursuant to Article 3, their implementation shall not be undermined by any behaviour of the gatekeeper or any part of the undertaking to which the gatekeeper belongs, regardless of whether this behaviour is of a contractual, commercial, technical or any other nature. The end-user's rights or choices laid down in Articles 5 and 6 must be presented in a neutral manner and must not be undermined through product design or by impairing user autonomy, decision-making, or choice via the structure, function or manner of operation of a user interface or a part thereof.

Amendment 55
Proposal for a regulation
Article 11 – paragraph 2
2. Where consent for collecting and processing of personal data is required to ensure compliance with this Regulation, a gatekeeper shall take the necessary steps to either enable business users to directly obtain the required consent to their processing, where required under Regulation (EU) 2016/679 and Directive 2002/58/EC, or to comply with Union data protection and privacy rules and principles in other ways including by providing business users with duly anonymised data where appropriate. The gatekeeper shall not make the obtaining of this consent by the business user more burdensome than for its own services.

Amendment

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

Amendment 56

Proposal for a regulation
Article 11 – paragraph 3

Text proposed by the Commission

3. A gatekeeper shall not degrade the conditions or quality of any of the core platform services provided to business users or end users who avail themselves of the rights or choices laid down in Articles 5 and 6, or make the exercise of those rights or choices unduly difficult. The end-user’s rights or choices laid down in Articles 5 and 6 must be presented in a neutral manner and must not be undermined through product design or by impairing user autonomy, decision-making, or choice via the structure, function or manner of operation of a user interface or a part thereof.

Amendment 57

Amendment
Proposal for a regulation
Article 12 – title

Text proposed by the Commission

Amendment

Obligation to inform about concentrations

Prior notification of concentrations

Amendment 58

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

Text proposed by the Commission

Amendment

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

Amendment 59

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

Text proposed by the Commission

Amendment

A gatekeeper shall inform the Commission of such a concentration prior to its implementation and following the conclusion of the agreement, the announcement of the public bid, or the acquisition of a controlling interest.

Amendment 60
Proposal for a regulation
Article 14 – paragraph 2 – point c

Text proposed by the Commission
(c) the purpose of the investigation.

Amendment
(c) the purpose of the investigation and the specific aims sought to be achieved.

Amendment 61

Proposal for a regulation
Article 16 – paragraph 3

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

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

Amendment 62

Proposal for a regulation
Article 17 – paragraph 1

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

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

within 24 months from the opening of the market investigation.

Amendment 63

Proposal for a regulation
Article 17 – paragraph 2 – point a

Text proposed by the Commission

(a) be accompanied by a proposal to amend this Regulation in order to include additional services within the digital sector in the list of core platform services laid down in point 2 of Article 2;

Amendment

(a) be accompanied by a proposal to amend this Regulation in order to include additional services within the digital sector in the list of core platform services laid down in point 2 of Article 2, or to update the obligations laid down in Articles 5 and 6.

Amendment 64

Proposal for a regulation
Article 17 – paragraph 2 – point b

Text proposed by the Commission

(b) be accompanied by a delegated act amending Articles 5 or 6 as provided for in Article 10.

Amendment

deleted

Amendment 65

Proposal for a regulation
Article 24 – paragraph 1

Text proposed by the Commission

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

Amendment

1. The Commission shall take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in Articles 5 and 6 and the decisions taken pursuant to Articles 7, 16, 22 and 23.
Proposal for a regulation
Article 24 – paragraph 1 a (new)

Text proposed by the Commission

1a. The Commission shall establish and maintain a publicly accessible and user-friendly website with information on
- the number of non-compliance decisions adopted pursuant to Article 25,
- the number of fines imposed pursuant to Article 26, and
- the names of the companies subject to the non-compliance decisions and the fines.

The Commission shall not publish any commercially confidential information, which may prejudice the interests of a company.

Amendment 67

Proposal for a regulation
Article 25 – paragraph 1 – introductory part

Text proposed by the Commission

1. The Commission shall adopt a non-compliance decision in accordance with the advisory procedure referred to in Article 32(4) where it finds that a gatekeeper does not comply with one or more of the following:

Amendment

1. The Commission shall endeavour to adopt, within six months from the opening of the proceedings under Article 18, a non-compliance decision in accordance with the advisory procedure referred to in Article 32(4) where it finds that a gatekeeper does not comply with one or more of the following:

Amendment 68

Proposal for a regulation
Article 25 – paragraph 3

Text proposed by the Commission

3. In the non-compliance decision

Amendment

3. In the non-compliance decision
adopted pursuant to paragraph 1, the Commission shall order the gatekeeper to cease and desist with the non-compliance within an appropriate deadline and to provide explanations on how it plans to comply with the decision.

Amendment 69

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

Text proposed by the Commission

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

Amendment

1. In the decision pursuant to Article 25, the Commission may impose on a gatekeeper fines not exceeding 30% of its total turnover in the preceding financial year where it finds that the gatekeeper, intentionally or negligently, fails to comply with:

Amendment 70

Proposal for a regulation
Article 26 – paragraph 2 – introductory part

Text proposed by the Commission

2. The Commission may by decision impose on undertakings and associations of undertakings fines not exceeding 1% of the total turnover in the preceding financial year where they intentionally or negligently:

Amendment

2. The Commission may by decision impose on undertakings and associations of undertakings fines not exceeding 5% of the total turnover in the preceding financial year where they intentionally or negligently:

Amendment 71

Proposal for a regulation
Article 26 – paragraph 4 – subparagraph 5
The financial liability of each undertaking in respect of the payment of the fine shall not exceed 10% of its total turnover in the preceding financial year.

Amendment 72

Proposal for a regulation
Article 27 – paragraph 1 – introductory part

Text proposed by the Commission

1. The Commission may by decision impose on undertakings, including gatekeepers where applicable, periodic penalty payments not exceeding 5% of the average daily turnover in the preceding financial year per day, calculated from the date set by that decision, in order to compel them:

Amendment

1. The Commission may by decision impose on undertakings, including gatekeepers where applicable, periodic penalty payments not exceeding 10% of the average daily turnover in the preceding financial year per day, calculated from the date set by that decision, in order to compel them:

Amendment 73

Proposal for a regulation
Article 28 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 74

Proposal for a regulation
Article 29 – paragraph 1

Text proposed by the Commission

1. The power of the Commission to enforce decisions taken pursuant to Articles 26 and 27 shall be subject to a

Amendment

1. The power of the Commission to enforce decisions taken pursuant to Articles 26 and 27 shall be subject to a
limitation period of *five* years. 

limitation period of *seven* years.

**Amendment 75**

**Proposal for a regulation**

**Article 30 – paragraph 1 – subparagraph 1 a (new)**

*Text proposed by the Commission*

**Amendment**

The Commission shall also seek to consult other relevant stakeholders, including consumer organisations and business users.

**Amendment 76**

**Proposal for a regulation**

**Article 33 – paragraph 1**

*Text proposed by the Commission*

**Amendment**

1. When three or more Member States request the Commission to open an investigation pursuant to Article 15 because they consider that there are reasonable grounds to suspect that a provider of core platform services should be designated as a gatekeeper, the Commission shall within four months examine whether there are reasonable grounds to open such an investigation. The result of any such investigation shall be made publicly available. The Commission shall not publish any commercially confidential information, which may prejudice the interests of a company.

**Amendment 77**

**Proposal for a regulation**

**Article 33 a (new)**

*Text proposed by the Commission*

**Amendment**

**Article 33a**
Amendment to Directive (EU) 2020/1828

1. In the Annex I to Directive (EU) 2020/1828 of the European Parliament and of the Council\(^1a\), the following point is added:

‘(67) Regulation (EU) \(20XX/XXXX\) of the European Parliament and of the Council of DD MMM YYYY on contestable and fair markets in the digital sector.’


Amendment 78

Proposal for a regulation
Article 37 – paragraph 2

*Text proposed by the Commission*

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

*Amendment*

2. The power to adopt delegated acts referred to in *Article 3(5)* shall be conferred on the Commission for a period of five years from DD/MM/YYYY. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

Amendment 79

Proposal for a regulation
Article 37 – paragraph 3
3. The delegation of power referred to in Articles 3(6) and 9(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment 80
Proposal for a regulation
Article 37 – paragraph 6

Text proposed by the Commission

6. A delegated act adopted pursuant to Articles 3(6) and 9(1) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Amendment

6. A delegated act adopted pursuant to Article 3(5) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Amendment 81
Proposal for a regulation
Article 37 a (new)

Text proposed by the Commission

Article 37a
Reporting
The Commission’s annual report on Competition Policy shall include a chapter on the implementation of this Regulation.

Amendment 82

Proposal for a regulation
Article 38 – paragraph 1

Text proposed by the Commission

1. By DD/MM/YYYY, 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 three years and six months after the entry into force of this Regulation, 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 83

Proposal for a regulation
Article 38 – paragraph 2

Text proposed by the Commission

2. The evaluations shall establish whether additional rules, including regarding the list of core platform services laid down in point 2 of Article 2, the obligations laid down in Articles 5 and 6 and their enforcement, may be required to ensure that digital markets across the Union are contestable and fair. Following the evaluations, the Commission shall take appropriate measures, which may include legislative proposals.

Amendment

2. The evaluations shall establish whether additional rules, including regarding the list of core platform services laid down in point 2 of Article 2, may be required to ensure that digital markets across the Union are contestable and fair. With respect to the obligations laid down in Article 5 and 6, the Commission shall carry out an evaluation by twelve months after the entry into force of this Regulation, and subsequently every twelve months. Following these evaluations, the Commission shall take appropriate measures, which may include legislative proposals.
# Procedure – Committee Asked for Opinion

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<thead>
<tr>
<th>Title</th>
<th>Contestable and fair markets in the digital sector (Digital Markets Act)</th>
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<tr>
<td>Committee responsible</td>
<td>IMCO 8.2.2021</td>
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<tr>
<td>Opinion by</td>
<td>TRAN 11.3.2021</td>
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<tr>
<td>Rapporteur for the opinion</td>
<td>Markus Ferber 29.3.2021</td>
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<td>Date adopted</td>
<td>27.9.2021</td>
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<td>Result of final vote</td>
<td>+: 46, -: 2, 0: 1</td>
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<tr>
<td>Substitutes present for the final vote</td>
<td>Ignazio Corrao, Josianne Cutajar, Tomasz Frankowski, Markus Pieper</td>
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## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

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Key to symbols:
+ : in favour
- : against
0 : abstention
04.10.2021

OPINION OF THE COMMITTEE ON CULTURE AND EDUCATION

for the Committee on the Internal Market and Consumer Protection


Rapporteur for opinion: Petra Kammerevert

SHORT JUSTIFICATION

Gatekeepers are freely exploiting independent media companies as well as entities in the cultural and creative sectors by making direct investment more difficult in the medium and long term. Within gatekeepers ecosystems, created from central platform services, such actions involve unilaterally dictating the terms of use, prices and behaviour as well as using data as exclusively as possible for their own benefit. Such actions are political unacceptable and need to be systematically and efficiently prevented.

The only way to achieve this is to take account of the dual character of these sectors, as economic as well as cultural assets, whilst ensuring that they remain as independent as possible from state control and influence. A complementary interplay of institutions at the regional, national, and European levels must be established to: (i) allow for strong European competition supervision and (ii) leave room for a diversity of opinions, cultures, and media within the Member States. In the case of a centralised treatment of cultural and media products and services based solely on competitive standards, the Regulation would lack the cultural compatibility required by Article 167 (4) TFEU, which is all the more important in the case of horizontal regulations, as is the case here. More specific and better functioning regulations for certain sectors at European level must also be established and prevail in the culture and media sectors. The mere inclusion of "without prejudice clauses" in the recitals does not resolve these conflicts. Instead they create legal uncertainty and ultimately undermine the purpose of the Regulation.

In order to properly adjust the balance of power with gatekeepers, web browsers and digital voice assistants should be explicitly included in the list of central platform services. At the same time, there are doubts about explicitly including multi-sided streaming platform services (e.g. for games, music or movies) or video-on-demand platforms. It is true that there is a risk that such services might also acquire gatekeeper characteristics in the near future, which could call into question the contestability of the market. However, this is not a case of any number of demanders being brought together with any number of providers via the open Internet and a concrete exchange relationship being created from such an open intermediary service.
Efficient law enforcement only seem possible if the additional obligations and prohibitions resulting from the qualification as a gatekeeper can be applied quickly. Therefore the proposed timeframes should be shortened. Data generated primarily through the offerings of others than the gatekeeper must not be monopolised exclusively in favour of the gatekeeper. In addition, it is necessary to ensure a minimum level of transparency in setting advertising prices in order to put business users in a fair negotiating position in relation to the gatekeeper. Accordingly, the pricing mechanism must not remain in the algorithm-driven black box of the gatekeepers. In order to properly assess fairness, commercial users or independent entities must be able to measure performance, especially with respect to online advertising services.

Finally, it is recalled that advertising is a major source of funding for professional content across a wide range of media. As such, new forms of advertising should not be banned across the board, but should be regulated in such a way that they handle data respectfully and transparently.

**AMENDMENTS**

The Committee on Culture and Education calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to take into account the following amendments:

**Amendment 1**

**Proposal for a regulation**

**Recital 1**

*Text proposed by the Commission*

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

*Amendment*

(1) Digital services in general and online platforms in particular play an increasingly important role in the economy *and society*. In the European internal market, *they provide* new business opportunities *and facilitate* cross-border trading.

**Amendment 2**

**Proposal for a regulation**

**Recital 6**

*Text proposed by the Commission*

(6) Gatekeepers have a significant impact on the internal market, providing

*Amendment*

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

Amendment 3
Proposal for a regulation
Recital 8

Text proposed by the Commission

(8) By approximating diverging national laws, obstacles to the freedom to provide and receive services, including retail services, within the internal market should be eliminated. A targeted set of harmonised mandatory rules should therefore be established at Union level to ensure contestable and fair digital markets featuring the presence of gatekeepers within the internal market.

Amendment

(8) By approximating diverging national laws, obstacles to the freedom to provide and receive services, including retail services, within the internal market should be eliminated. A targeted set of harmonised legal obligations should therefore be established at Union level to ensure contestable and fair digital markets featuring the presence of gatekeepers within the internal market.

Amendment 4
Proposal for a regulation
Recital 9

Text proposed by the Commission

(9) A fragmentation of the internal

Amendment

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

Amendment 5
Proposal for a regulation
Recital 10 a (new)

Text proposed by the Commission

(10a) Systematic mergers and acquisitions should have a clear and legal threshold to put an end to killer acquisitions where big companies buy start-ups and growing companies in order to suppress any possible competition. A

national competition laws or render them unlawful nor does it preclude Member States from imposing identical, similar, stricter or different obligations on undertakings, in order to pursue legitimate public interests, in compliance with Union law. Those legitimate public interests are inter alia consumer protection, the fight against acts of unfair competition and the protection and fostering of media freedom and pluralism of media or opinion as well as diversity in cultures or in languages. In particular the right of the Member States to impose obligations on the undertakings referred to as "gatekeepers" within the meaning of this Regulation, but also on other undertakings, which serve to enforce legitimate public interests, remains unaffected. Since this Regulation aims at complementing the enforcement of competition law, it should be specified that this Regulation is without prejudice to Articles 101 and 102 TFEU, the corresponding provisions at national level as well as other provisions at national level regarding unilateral behaviour, based on an individualised assessment of market positions and behaviour, including its likely effects and the precise scope of the prohibited behaviour, and which provide for the possibility of undertakings to make efficiency and objective justification arguments for the behaviour in question.
special attention should be given to takeovers in important sectors such as health, education, defence and financial services.

Amendment 6
Proposal for a regulation
Recital 13

Text proposed by the Commission

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

Amendment

(13) In particular, online intermediation services -including online market places, software app stores or online mediation services in sectors that serve the public interest-, online search engines and operating systems, -including smart TVs and IPTVs-, digital voice assistants, platforms using voice assistant integrated technologies, web-browsers, online social networking, video sharing platform services, number-independent interpersonal communication services, cloud computing services and online advertising services all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They therefore should be included in the definition of core platform services and fall into the scope of this Regulation. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council. In certain circumstances, the notion of end users should encompass users that are traditionally considered business users, but in a given situation do not use the core platform services to provide goods or services to other end users, such as for example businesses relying on cloud computing services for their own purposes.
Amendment 7
Proposal for a regulation
Recital 14 a (new)

Text proposed by the Commission

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

Amendment 8
Proposal for a regulation
Recital 14 b (new)

Text proposed by the Commission

(14b) The impact of gatekeepers on the market makes their business partners, whether business users or suppliers of
ancillary services, highly vulnerable to unfair terms and conditions of the gatekeepers they rely on. As such, gatekeeper should ensure that their terms and conditions are transparent and fair. While appropriate and proportionate sanctions in case of breach of such terms and conditions should be allowed, they should be formally justified and allow the sanctioned party to contest them. For this purpose, gatekeepers should provide for an internal system for handling swiftly the complaints of their business users and suppliers of ancillary services, including in their national language if the gatekeeper’s service actively targets the Member State concerned.

Amendment 9
Proposal for a regulation
Recital 15

_text proposed by the Commission_

(15) The fact that a digital service qualifies as a core platform service in light of its widespread and common use and its importance for connecting business users and end users does not as such give rise to sufficiently serious concerns of contestability and unfair practices. It is only when a core platform service constitutes an important gateway and is operated by a provider with a significant impact in the internal market and an entrenched and durable position, or by a provider that will foreseeably have such a position in the near future, that such concerns arise. Accordingly, the targeted set of harmonised rules laid down in this Regulation should apply only to undertakings designated on the basis of these three objective criteria, and they should only apply to those of their core platform services that individually constitute an important gateway for

 Amendement

(15) The fact that a digital service qualifies as a core platform service in light of its widespread and common use or its importance for connecting business users and end users, does not, as such, give rise to sufficiently serious concerns of contestability and unfair practices. It is only when a core platform service constitutes an important gateway, is operated by a provider with a significant impact in the internal market and an entrenched and durable position, or by a provider that will foreseeably have such a position in the near future, that such concerns arise. Accordingly, the targeted set of harmonised rules laid down in this Regulation should only apply to undertakings designated on the basis of these three objective criteria, and to those of their core platform services that individually constitute an important gateway for business users to reach end
business users to reach end users.

Amendment 10
Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) In order to ensure the effective application of this Regulation to providers of core platform services which are most likely to satisfy these objective requirements, and where unfair conduct weakening contestability is most prevalent and impactful, the Commission should be able to directly designate as gatekeepers those providers of core platform services which meet certain quantitative thresholds. Such undertakings should in any event be subject to a fast designation process which should start upon the entry into force of this Regulation.

Amendment

(16) Where unfair conduct weakening contestability is most prevalent and impactful, and in order to ensure the effective application of this Regulation to providers of core platform services which are most likely to satisfy these objective requirements, the Commission should be able to directly designate as gatekeepers those core platform service providers which meet certain quantitative thresholds. Such undertakings should, in any event, be subject to a fast designation process which should start upon the entry into force of this Regulation.

Amendment 11
Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) A very significant turnover in the Union and the provision of a core platform service in at least three Member States constitute compelling indications that the provider of a core platform service has a significant impact on the internal market. This is equally true where a provider of a core platform service in at least three Member States has a very significant market capitalisation or equivalent fair market value. Therefore, a provider of a core platform service should be presumed to have a significant impact on the internal market where it provides a core platform service in at least three Member States and where either its group turnover realised in
the EEA is equal to or exceeds a specific, high threshold or the market capitalisation of the group is equal to or exceeds a certain high absolute value. For providers of core platform services that belong to undertakings that are not publicly listed, the equivalent fair market value above a certain high absolute value should be referred to. The Commission should use its power to adopt delegated acts to develop an objective methodology to calculate that value. A high EEA group turnover in conjunction with the threshold of users in the Union of core platform services reflects a relatively strong ability to monetise these users. A high market capitalisation relative to the same threshold number of users in the Union reflects a relatively significant potential to monetise these users in the near future. This monetisation potential in turn reflects in principle the gateway position of the undertakings concerned. Both indicators are in addition reflective of their financial capacity, including their ability to leverage their access to financial markets to reinforce their position. This may for example happen where this superior access is used to acquire other undertakings, which ability has in turn been shown to have potential negative effects on innovation. Market capitalisation can also be reflective of the expected future position and effect on the internal market of the providers concerned, notwithstanding a potentially relatively low current turnover. The market capitalisation value can be based on a level that reflects the average market capitalisation of the largest publicly listed undertakings in the Union over an appropriate period.

Amendment 12
Proposal for a regulation
Recital 25
(25) Such an assessment can only be done in light of a market investigation, while taking into account the quantitative thresholds. In its assessment the Commission should pursue the objectives of preserving and fostering the level of innovation, the quality of digital products and services, the degree to which prices are fair and competitive, and the degree to which quality or choice for business users and for end users is or remains high. Elements that are specific to the providers of core platform services concerned, such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration, can be taken into account. In addition, a very high market capitalisation, a very high ratio of equity value over profit or a very high turnover derived from end users of a single core platform service can point to the tipping of the market or leveraging potential of such providers. Together with market capitalisation, high growth rates, or decelerating growth rates read together with profitability growth, are examples of dynamic parameters that are particularly relevant to identifying such providers of core platform services that are foreseen to become entrenched. The Commission should be able to take a decision by drawing adverse inferences from facts available where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.

Amendment 13

(25) Such an assessment can only be done in light of a market investigation, while taking into account the quantitative thresholds. In its assessment the Commission should pursue the objectives of preserving and fostering the level of innovation, access to public information entailing the making available of information non-discriminatory to a potentially unlimited number of persons or users in general, the quality of digital products and services, the degree to which prices are fair and competitive, and the degree to which quality or choice for business users and for end users is or remains high. Elements that are specific to the providers of core platform services concerned, such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration, can be taken into account. In addition, a very high market capitalisation, a very high ratio of equity value over profit or a very high turnover derived from end users of a single core platform service can point to the tipping of the market or leveraging potential of such providers. Together with market capitalisation, high growth rates, or decelerating growth rates read together with profitability growth, are examples of dynamic parameters that are particularly relevant to identifying such providers of core platform services that are foreseen to become entrenched. The Commission should be able to take a decision by drawing adverse inferences from facts available where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.
Proposal for a regulation
Recital 33

Text proposed by the Commission

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

Amendment 14
Proposal for a regulation
Recital 36 a (new)

Text proposed by the Commission

(36a) Article 5(a) of this Regulation should not be understood as suggesting that platforms that are not designated as gatekeepers may freely combine personal data across services without the

Amendment

(33) The obligations laid down in this Regulation are limited to what is necessary, proportionate and justified to address the unfairness of the identified practices by gatekeepers and to ensure contestability in relation to core platform services provided by gatekeepers. Therefore, the obligations should correspond to those practices that are considered unfair by taking into account the features of the digital sector and where experience gained, for example in the enforcement of the EU competition rules, shows that they have a particularly negative direct impact on the business users and end users. In addition, it is necessary to provide for the possibility of a regulatory dialogue with gatekeepers to tailor those obligations that are likely to require specific implementing measures in order to ensure their effectiveness and proportionality. The obligations should only be updated after a thorough investigation on the nature and impact of specific practices that may be newly identified, following an in-depth investigation, as unfair or limiting contestability in the same manner as the unfair practices laid down in this Regulation while potentially escaping the scope of the current set of obligations.
Amendment 15
Proposal for a regulation
Recital 37

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

Amendment 16
Proposal for a regulation

(37) Because of their position, gatekeepers might, in certain cases, through contractual terms and conditions, restrict the ability of business users of their online intermediation services to offer their goods or services to end users under more favourable conditions, including price, through other online intermediation services or the direct online sales channels they own. Such restrictions have a significant deterrent effect on the business users of gatekeepers in terms of their use of alternative online intermediation services or corresponding direct online distribution channels, limiting inter-platform contestability, which in turn limits choice of alternative online intermediation channels for end users. To ensure that business users of online intermediation services of gatekeepers can freely choose alternative online intermediation services or other direct online distribution channels and differentiate the conditions under which they offer their products or services to their end users, it should not be accepted that gatekeepers restrict business users from choosing to differentiate commercial conditions, including price. Such a restriction should apply to any measure with equivalent effect, such as for example increased commission rates or de-listing of the offers of business users or their less favourable display in the ranking.

individual’s consent.
Recital 38

*Text proposed by the Commission*

(38) To prevent further reinforcing their dependence on the core platform services of gatekeepers, the business users of these gatekeepers should be free in promoting and choosing the distribution channel they consider most appropriate to interact with any end users that these business users have already acquired through core platform services provided by the gatekeeper. Conversely, end users should also be free to choose offers of such business users and to enter into contracts with them either through core platform services of the gatekeeper, if applicable, or from a direct distribution channel of the business user or another indirect distribution channel such business user may use. This should apply to the promotion of offers and conclusion of contracts between business users and end users. Moreover, the ability of end users to freely acquire content, subscriptions, features or other items outside the core platform services of the gatekeeper should not be undermined or restricted. In particular, it should be avoided that gatekeepers restrict end users from access to and use of such services via a software application running on their core platform service. For example, subscribers to online content purchased outside a software application download or purchased from a software application store should not be prevented from accessing such online content on a software application on the gatekeeper’s core platform service simply because it was purchased outside such software application or software application store.

*Amendment*

(38) To prevent further reinforcing their dependence on the core platform services of gatekeepers, the business users of these gatekeepers should be free in promoting and choosing the distribution channel they consider most appropriate to interact with any end users that these business users have already acquired through core platform services provided by the gatekeeper. Conversely, end users should also be free to choose offers of such business users and to enter into contracts with them either through core platform services of the gatekeeper, if applicable, or from a direct distribution channel of the business user or another indirect distribution channel such business user may use. This should apply to the promotion of offers and conclusion of contracts between business users and end users. Moreover, the ability of end users to freely acquire digital content and services, subscriptions, features or other items outside the core platform services of the gatekeeper should not be undermined in any way or restricted, especially through the use of technical restrictions. In particular, it should be avoided that gatekeepers restrict end users from access to and use of such legally acquired digital content and services via hardware or software features that are used by that gatekeeper when providing a similar digital content or digital service, simply because it was purchased outside the gatekeeper’s core platform service.

Amendment 17

Proposal for a regulation

Recital 39
(39) To safeguard a fair commercial environment and protect the contestability of the digital sector it is important to safeguard the right of business users to raise concerns about unfair behaviour by gatekeepers with any relevant administrative or other public authorities. For example, business users may want to complain about different types of unfair practices, such as discriminatory access conditions, unjustified closing of business user accounts or unclear grounds for product de-listings. Any practice that would in any way inhibit such a possibility of raising concerns or seeking available redress, for instance by means of confidentiality clauses in agreements or other written terms, should therefore be prohibited. This should be without prejudice to the right of business users and gatekeepers to lay down in their agreements the terms of use including the use of lawful complaints-handling mechanisms, including any use of alternative dispute resolution mechanisms or of the jurisdiction of specific courts in compliance with respective Union and national law. This should therefore also be without prejudice to the role gatekeepers play in the fight against illegal content online.

Amendment 18
Proposal for a regulation Recital 42

(42) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-

Text proposed by the Commission

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

**Amendment 19**

**Proposal for a regulation**

**Recital 43**

_Text proposed by the Commission_

(43)  _A gatekeeper may in certain circumstances have a dual role as a provider of core platform services whereby it provides a core platform service to its business users, while also competing with those same business users in the provision of the same or similar services or products including both advertisers and publishers are often non-transparent and opaque. This opacity is partly linked to the practices of a few platforms, but is also due to the sheer complexity of modern day programmatic advertising. This often leads to a lack of information and knowledge for advertisers and publishers about the conditions of the advertising services they purchased therefore their ability and possibility to switch to alternative providers of online advertising services increased. Furthermore, the costs of online advertising are likely to be higher than they would be in a fairer, more transparent and contestable platform environment. These higher costs are likely to be reflected in the prices that end users pay for many daily products and services relying on the use of online advertising. Transparency obligations should therefore require gatekeepers to provide advertisers and publishers to whom they supply targeted online advertising services based on contextual information, when requested, to the extent possible and free of charge, with information that allows both sides to understand the price paid for each of the different advertising services provided as part of the relevant advertising value chain._

**Amendment**

(43)  _The gatekeeper may in certain circumstances have a dual role as a provider of core platform services whereby it provides a core platform service to its business users, while also competing with those same business users in the provision of the same or similar services or products_
to the same end users. In these circumstances, a gatekeeper may take advantage of its dual role to use data, generated from transactions by its business users on the core platform, for the purpose of its own services that offer similar services to that of its business users. This may be the case, for instance, where a gatekeeper provides an online marketplace or app store to business users, and at the same time offer services as an online retailer or provider of application software against those business users. To prevent gatekeepers from unfairly benefitting from their dual role, it should be ensured that they refrain from using any aggregated or non-aggregated data, which may include anonymised and personal data that is not publicly available to offer similar services to those of their business users. This obligation should apply to the gatekeeper as a whole, including but not limited to its business unit that competes with the business users of a core platform service.

to the same end users, including as part of an ancillary service. In these circumstances, a gatekeeper may take advantage of its dual role to use data, generated from transactions by its business users on the core platform or from transactions related to its ancillary service, for the purpose of its own services or goods that offer similar services to that of its business users or of its suppliers. This may be the case, for instance, where a gatekeeper provides an online marketplace or app store to business users, and at the same time offer services as an online retailer or provider of application software against those business users or against its suppliers. To prevent gatekeepers from unfairly benefitting from their dual role, it should be ensured that they refrain from using any aggregated or non-aggregated data, which may include anonymised and personal data exclusively in domain of core platform providers, to offer similar services to those of their business users. This obligation should apply to the gatekeeper as a whole, including but not limited to its business unit that competes with the business users of a core platform service or with the supplier of an ancillary service.

Amendment 20

Proposal for a regulation
Recital 46

Text proposed by the Commission

(46) A gatekeeper may use different means to favour its own services or products on its core platform service, to the detriment of the same or similar services that end users could obtain through third parties. This may for instance be the case where certain software applications or services are pre-installed by a gatekeeper.

Amendment

(46) A gatekeeper may use different means to favour its own services or products on its core platform service, to the detriment of the same or similar services that end users could obtain through third parties. This may for instance be the case where certain software applications or services are pre-installed by a gatekeeper.
To enable end user choice, gatekeepers should not prevent end users from uninstalling any pre-installed software applications on its core platform service and thereby favour their own software applications.

Amendment 21
Proposal for a regulation
Recital 47

Text proposed by the Commission

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

Amendment

(47) The rules that the gatekeepers set for the distribution of software applications may in certain circumstances restrict the ability of end users to install and effectively use third party software applications or software application stores on operating systems or hardware of the relevant gatekeeper and restrict the ability of end users to access these software applications or software application stores outside the core platform services of that gatekeeper. Such restrictions may limit the ability of developers of software applications to use alternative distribution channels and the ability of end users to choose between different software applications from different distribution channels and should be prohibited as unfair and liable to weaken the contestability of core platform services. In order to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper the gatekeeper concerned may implement proportionate technical or contractual measures to achieve that goal if the gatekeeper demonstrates that such
measures are necessary and justified and that there are no less restrictive means to safeguard the integrity of the hardware or operating system.

Amendment 22

Proposal for a regulation
Recital 48

_text proposed by the Commission_

(48) Gatekeepers are often vertically integrated and offer certain products or services to end users through their own core platform services, or through a business _user over_ which they _exercise control_ which frequently leads to conflicts of interest. This can include the situation whereby a gatekeeper offers its own online intermediation services through an online search engine. When offering those products or services on the core platform service, gatekeepers can reserve a better position to their own offering, in terms of ranking, as opposed to the products of third parties _also operating on that_ core platform service. This can occur for instance with products or services, including other core platform services, which are ranked _in the results_ _communicated by_ online search engines, or which are partly or entirely embedded in online search engines _results_, _groups of results specialised in a certain topic, displayed along with the results of an online search engine, which are considered or used by certain end users as a service distinct or additional to the online search engine_. _Other instances are those of_ software applications which are distributed

Amendment

(48) Gatekeepers are often vertically integrated and offer certain products or services to end users through their own core platform services, or through business _users with_ which they _cooperate or with whom they have special cooperation agreements or who they prefer for other reasons not related to the intrinsic relevance of their service_ which frequently leads to conflicts of interest. This can include the situation whereby a gatekeeper offers its own online intermediation services through an online search engine. When offering those products or services on the core platform service, gatekeepers can reserve a better position to their own offering, in terms of ranking, as opposed to the products of third parties _that are also mediated via this_ core platform service, _or it can use other settings to give itself preferential treatment over these third parties_. This can occur for instance with products or services, including other core platform services, which are ranked _within or along_ the results _of_ online search engines, or which are partly or entirely embedded in _the search results of_ online search engines, _groups of results specialised in a certain_
through software application stores, or products or services that are given prominence and display in the newsfeed of a social network, or products or services ranked in search results or displayed on an online marketplace. In those circumstances, the gatekeeper is in a dual-role position as intermediary for third party providers and as direct provider of products or services of the gatekeeper. Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper.

**Amendment 23**

**Proposal for a regulation**

**Recital 49**

*Text proposed by the Commission*

(49) In such situations, the gatekeeper should not engage in any form of differentiated or preferential treatment in ranking on the core platform service, whether through legal, commercial or topic, displayed along with the results of an online search engine, which can be considered or used by certain end users as a service distinct or additional to the online search engine. Such preferential or embedded displays by a separate online intermediation service shall constitute an inadmissible preference, irrespective of whether the information or results within the favoured groups of specified results could also have been provided by competing services and irrespective of whether such areas are ranked in a non-discriminatory way. Inadmissible preferencing is also taking place in software applications which are distributed through software application stores, or products or services that are given prominence and display in the newsfeed of a social network, or products or services ranked in search results or displayed on an online marketplace, or products or services to which users are directed following a voice request by an end user to a digital voice assistant. In those circumstances, the gatekeeper is in a dual-role position as intermediary for third party providers and as direct provider of products or services of the gatekeeper, which can lead to a conflict of interest. Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper.

*Amendment*

(49) In such situations of a conflict of interest, the gatekeeper should not partly or entirely embed such distinct products or services in online search engines results or groups of results. However, it
may rank its products or services, provided that it doesn't engage in any form of differentiated or preferential treatment in ranking, display or making embedded results on the core platform service, whether through legal, commercial or technical means, in favour of products or services it offers itself or through a business user which it either controls or cooperates with or prefers for any other reason. In particular, if the presentation of results by a core platform service includes the ranking of separate products or services, third parties should be afforded equal opportunity to rank their product or service in the same format and on the same terms and conditions. Should this take place in exchange for remuneration, to avoid any conflict of interest, the gatekeeper’s separate product or service should be treated as a separate commercial entity and should be commercially viable as a stand-alone service, offered outside of the gatekeeper’s core platform service. The gatekeeper should refrain from imposing mechanisms or conditions that make the gathering and the combination of relevant data from end users or the obtaining of consent for the use of such data by a business user for the purpose of serving interest-based advertising within a core platform service more burdensome or difficult where the business user complies with all statutory requirements for such advertising, in particular under Regulation (EU) 2016/679. It is necessary to provide for entire disclosure and transparency of the parameters and data used for decision making, execution and measurement of the performance measuring tools, in particular with regard to ad inventory and services owned by the gatekeeper in relation to ad inventory and intermediation services owned by other publishers or service providers connected with the gatekeeper’s platform. To ensure that this obligation is effective, it should also be ensured that the conditions that
apply to such ranking, display or making of embedded results are also generally fair, reasonable and non-discriminatory as well as that business users do have the same access as the gatekeeper to any information resulting from the ranking or any other competition-relevant aspects related to their respective products or services. Ranking should in this context cover all forms of relative prominence, including among others order, graphic display, rating, linking or voice results. In particular, and with regard to digital voice assistants, it should be ensured that the ranking of products and services and thus the, typically single, response to a user's voice request, should accurately and impartially reflect that request. To ensure that this obligation is effective and cannot be circumvented it should also apply to any measure that may have an equivalent effect to the differentiated or preferential treatment in ranking. Such an equivalent effect can for instance be achieved by ad formats that are used by users in a similar manner to the gatekeeper's or third parties' online intermediation services, or that benefit the gatekeeper in a similar manner to the preferential treatment in ranking itself (e.g., in terms of financial gains, user access / traffic or data access). The guidelines adopted pursuant to Article 5 of Regulation (EU) 2019/1150 should also facilitate the implementation and enforcement of this obligation.  


Amendment 24
Proposal for a regulation
Recital 50

(50) Gatekeepers should not restrict or prevent the free choice of end users by technically preventing switching between or subscription to different software applications and services. This would allow more providers to offer their services, thereby ultimately providing greater choice to the end user. Gatekeepers should ensure a free choice irrespective of whether they are the manufacturer of any hardware by means of which such software applications or services are accessed and shall not raise artificial technical barriers so as to make switching impossible or ineffective. The mere offering of a given product or service to consumers, including by means of pre-installation, as well as the improvement of the offering to end users, such as price reductions or increased quality, should not be construed as constituting a prohibited barrier to switching.

Amendment

Proposal for a regulation
Recital 51

Text proposed by the Commission

(51) Gatekeepers can hamper the ability of end users to access online content and services including software applications. Therefore, rules should be established to ensure that the rights of end users to access an open internet are not compromised by the conduct of gatekeepers. Gatekeepers can also technically limit the ability of end users to effectively switch between different Internet access service providers, in particular through their control over operating systems or hardware. This distorts the level playing field for Internet access services and ultimately harms end users. It should therefore be ensured that gatekeepers do not unduly restrict end

Amendment
users in choosing their Internet access service provider.

users in choosing their Internet access service provider or discriminate against using additional software by the end users, such as, for example, establishing virtual private network to hide or change their Internet Protocol.

Amendment 26

Proposal for a regulation
Recital 52 a (new)

Text proposed by the Commission

(52a) Interoperability needs to also be ensured for messaging and social media services, providing the users with the possibility to migrate from one platform to another without losing their data and contacts.

Amendment 27

Proposal for a regulation
Recital 53

Text proposed by the Commission

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

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

Based on contextual information and the information necessary, including criteria used by the ad-tech platform services such as pricing mechanisms, advertising auctions and their weighting, and fees charged by ad exchanges, for advertisers, advertising agencies acting on behalf of a company placing advertising, as well as for publishers to carry out their own independent verification of the provision of the relevant online advertising services. This should include data relating to all parameters used by gatekeepers or services belonging to the same undertaking in the context of an advertising intermediation services in order to determine the outcome of such intermediation and corresponding prices for advertisements or charges for any intermediation service provided on either the buy-side or the sell-side.

**Amendment 28**

**Proposal for a regulation**

**Recital 54**

**Text proposed by the Commission**

(54) Gatekeepers benefit from access to vast amounts of data that they collect while providing the core platform services as well as other digital services. To ensure that gatekeepers do not undermine the contestability of core platform services as well as the innovation potential of the dynamic digital sector by restricting the ability of business users to effectively port their data, business users and end users should be granted effective and immediate access to the data they provided or generated in the context of their use of the relevant core platform services of the gatekeeper, in a structured, commonly used and machine-readable format. This should apply also to any other data at different levels of aggregation that may be necessary to effectively enable such portability. It

**Amendment**

(54) Gatekeepers benefit from access to vast amounts of data that they collect while providing the core platform services as well as other digital services. To ensure that gatekeepers do not undermine the contestability of core platform services as well as the innovation potential of the dynamic digital sector by restricting the ability of business users to effectively port their data, business users and end users should be granted effective, free of charge, and immediate access to the data they provided or generated in the context of their use of the relevant core platform services of the gatekeeper, in a structured, commonly used and machine-readable format. This should apply also to any other data at different levels of aggregation that may be necessary to effectively enable
should also be ensured that business users and end users can port that data in real time effectively, such as for example through high quality application programming interfaces. Facilitating switching or multi-homing should lead, in turn, to an increased choice for business users and end users and an incentive for gatekeepers and business users to innovate.

Amendment 29
Proposal for a regulation
Recital 55

(55) Business users that use large core platform services provided by gatekeepers and end users of such business users provide and generate a vast amount of data, including data inferred from such use. In order to ensure that business users have access to the relevant data thus generated, the gatekeeper should, upon their request, allow unhindered access, free of charge, to such data. Such access should also be given to third parties contracted by the business user, who are acting as processors of this data for the business user. Data provided or generated by the same business users and the same end users of these business users in the context of other services provided by the same gatekeeper may be concerned where this is inextricably linked to the relevant request. To this end, a gatekeeper should not use any contractual or other restrictions to prevent business users from accessing relevant data and should enable business users to obtain consent of their end users for such data access and retrieval, where such consent is required under Regulation (EU) 2016/679 and Directive 2002/58/EC.

Amendment

(55) Business users that use large core platform services provided by gatekeepers and end users of such business users provide and generate a vast amount of data, including data inferred from such use. In order to ensure that business users have access to the relevant data thus generated, the gatekeeper should, upon their request, allow unhindered access, free of charge, to such data. Such access should also be given to third parties contracted by the business user, who are acting as processors of this data for the business user. Data provided or generated by the same business users and the same end users of these business users in the context of other services provided by the same gatekeeper may be concerned where this is inextricably linked to the relevant request. To this end, a gatekeeper should not use any contractual or other restrictions to prevent business users from accessing relevant data and should enable business users to obtain consent of their end users for such data access and retrieval, where such consent is required under Regulation (EU) 2016/679 and Directive 2002/58/EC.
Gatekeepers should also facilitate access to these data in real time by means of appropriate technical measures, such as for example putting in place high quality application programming interfaces.

The obtaining of such consent should be as user-friendly as possible and under the same conditions, such as the duration and renewal of consent, as those applied to the consent provided by the end user to the gatekeeper for the use of such data for its own services. Gatekeepers should also facilitate access to these data in real time by means of appropriate technical measures, such as for example putting in place high quality application programming interfaces.

Amendment 30
Proposal for a regulation
Recital 56

Text proposed by the Commission

(56) The value of online search engines to their respective business users and end users increases as the total number of such users increases. Providers of online search engines collect and store aggregated datasets containing information about what users searched for, and how they interacted with, the results that they were served. Providers of online search engine services collect these data from searches undertaken on their own online search engine service and, where applicable, searches undertaken on the platforms of their downstream commercial partners. Access by gatekeepers to such ranking, query, click and view data constitutes an important barrier to entry and expansion, which undermines the contestability of online search engine services. Gatekeepers should therefore be obliged to provide access, on fair, reasonable and non-discriminatory terms, to these ranking, query, click and view data in relation to free and paid search generated by consumers on online search engine services to other providers of such services, so that these third-party providers can optimise their services and contest the relevant core platform services.

Amendment

(56) The value of online search engines to their respective business users and end users increases as the total number of such users increases. Providers of online search engines collect and store aggregated datasets containing information about what users searched for, and how they interacted with, the results that they were served. Providers of online search engine services collect these data from searches undertaken on their own online search engine service and, where applicable, searches undertaken on the platforms of their downstream commercial partners. Access by gatekeepers to such ranking, query, click and view data constitutes an important barrier to entry and expansion, which undermines the contestability of online search engine services. Gatekeepers should therefore be obliged to provide access, on fair, reasonable and non-discriminatory terms, to these ranking, query, click and view data in relation to free and paid search generated by consumers on online search engine services to other providers of such services, so that these third-party providers can optimise their services and contest the relevant core platform services.
Such access should also be given to third parties contracted by a search engine provider, who are acting as processors of this data for that search engine. When providing access to its search data, a gatekeeper should ensure the protection of the personal data of end users by appropriate means, without substantially degrading the quality or usefulness of the data.

Amendment 31
Proposal for a regulation
Recital 57

Text proposed by the Commission

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

Amendment

(57) Core platform services offered by gatekeepers serve as an important gateway for business users that seek to reach end users. In view of the imbalance in bargaining power between those gatekeepers and their business users, those gatekeepers should not be allowed to impose general conditions, in particular pricing conditions, data usage conditions or conditions related to the licensing of rights held by the business user, that would be unfair or lead to unjustified differentiation. “Imposing” encompasses both explicit and implicit demands, by means of contract or fact, in particular if a search engine makes the ranking results dependent on the transfer of certain rights or data. Pricing or other general access conditions should be considered unfair if they lead to an imbalance of rights and obligations imposed on business users or confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users or lead to a disadvantage for business users in providing the same or similar services as the gatekeeper. The following
imposed by the provider of the software application store for different related or similar services or to different types of end users; prices charged or conditions imposed by the provider of the software application store for the same service in different geographic regions; prices charged or conditions imposed by the provider of the software application store for the same service the gatekeeper offers to itself. This obligation should not establish an access right and it should be without prejudice to the ability of providers of software application stores to take the required responsibility in the fight against illegal and unwanted content as set out in Regulation [Digital Services Act].

benchmarks can serve as a yardstick to determine the fairness of general access conditions: prices charged or conditions imposed for the same or similar services by other relevant core platform services providers; prices charged or conditions imposed by the gatekeeper for different related or similar services or to different types of end users; prices charged or conditions imposed by the core platform service provider for the same service in different geographic regions; prices charged or conditions imposed by the core platform service provider for the same service the gatekeeper offers to itself. Furthermore, conditions should be considered to be unfair if the gatekeeper charges prices or imposes conditions without entering into genuine negotiations with business users or collective management organisations representing these business users or without accepting a binding procedure of price fixing, such as an established mechanism under laws of collective rights management, or without accepting a reasonable offer of a binding arbitration by the business users. It should also be considered to be unfair if a gatekeeper demands a royalty-free license as a condition to access or enforces royalties that are significantly below prices fixed in accordance with laws of collective rights management. It should also be considered to be unfair if access to the service or the quality and other conditions of the service are made dependent on the transfer of data or the granting of rights by the business user which are unrelated to or not strictly necessary for providing the core platform service. While this Regulation should not establish an unconditional access right it should ensure that the conditions of access to the core platforms are fair, reasonable and non-discriminatory. In addition, gatekeepers should refrain from applying unfair, unreasonable or discriminatory conditions to the business users that make their services available through the core
platform service of the gatekeeper, including a digital voice assistant. Conditions should also be deemed unfair if those conditions or measures imposed hinder business users from monetising their services and allow the gatekeeper to monetise, to its own benefit, third-party content provided by its business users by inserting sponsorship or advertising around such content, without the consent of the content provider.

Amendment 32
Proposal for a regulation
Recital 60

Text proposed by the Commission

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

Amendment

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

Amendment 33
Proposal for a regulation
Recital 61

Text proposed by the Commission

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

Amendment

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

Amendment 34

Proposal for a regulation
Recital 62

Text proposed by the Commission

(62) In order to ensure the full and lasting achievement of the objectives of this Regulation, the Commission should be able to assess whether a provider of core platform services should be designated as a gatekeeper without meeting the quantitative thresholds laid down in this

Amendment

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

Member States as well as European organisations and associations that have a legitimate interest in representing business users or consumers should be given the right to formally request a market investigation where they can provide evidence supporting reasonable grounds to suspect that any of four abovementioned cases has occurred. The requirement for the presentation of evidence should not be unreasonable high. The Commission should be able to decide not to further investigate upon such request. In this case, it should give sufficient reason for its decision.

Amendment 35
Proposal for a regulation
Recital 75

Text proposed by the Commission

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

Amendment 36
Proposal for a regulation
Recital 79 – introductory part

Text proposed by the Commission

(79) The objective of this Regulation is to ensure a contestable and fair digital sector in general and core platform services in particular, with a view to promoting innovation, high quality of digital products and services, fair and competitive prices, as well as a high quality and choice for end users in the digital sector. This cannot be sufficiently achieved by the Member States, but can only, by reason of the business model and operations of the gatekeepers and the scale and effects of their operations, be fully 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

(79) The objective of this Regulation is to ensure a contestable and fair digital sector in general and core platform services in particular, with a view to promoting and ensuring innovation, high quality of digital products and services, fair and competitive prices, as well as a high quality and choice for end users in the digital sector. This cannot be sufficiently achieved by the Member States, but can only, by reason of the business model and operations of the gatekeepers and the scale and effects of their operations, be fully 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 37

Proposal for a regulation
Article 1 – paragraph 1

Text proposed by the Commission

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

Amendment

1. This Regulation lays down harmonised rules ensuring competitive and fair markets in the digital sector across the Union where gatekeepers are present to contribute to the proper functioning of the internal market.

Amendment 38

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

Text proposed by the Commission

1a. This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, in particular Articles 11, 13, 16, 47 and 50 thereof. Accordingly, this Regulation is interpreted and applied with respect to those rights and principles.

Amendment

Amendment 39

Proposal for a regulation
Article 1 – paragraph 5

Text proposed by the Commission

5. Member States shall not impose on gatekeepers further obligations by way of laws, regulations or administrative action for the purpose of ensuring contestable and fair markets. This is without prejudice to rules pursuing other legitimate public interests, in compliance with Union law. In particular, nothing in this Regulation precludes Member States from imposing

Amendment

5. Member States shall not impose on gatekeepers within the meaning of this Regulation further obligations by way of laws, regulations or administrative action for the purpose of ensuring contestable and fair markets. This shall not affect rules pursuing other legitimate public interests, in compliance with Union law. In particular, this Regulation shall not
obligations, which are compatible with Union law, on undertakings, including providers of core platform services where these obligations are unrelated to the relevant undertakings having a status of gatekeeper within the meaning of this Regulation in order to protect consumers or to fight against acts of unfair competition.

Amendment 40

Proposal for a regulation
Article 1 – paragraph 6

Text proposed by the Commission

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

Amendment

6. This Regulation is without prejudice to the application of Articles 101 and 102 TFEU. It shall also not affect the application of national rules prohibiting anticompetitive agreements, decisions by associations of undertakings, concerted practices and abuses of dominant positions, Council Regulation (EC) No 139/2004 and national rules concerning merger control; Regulation (EU) 2019/1150 and Regulation (EU) …/.. of the European Parliament and of the Council. In particular, this Regulation does not preclude Member States from imposing obligations on undertakings other than gatekeepers or additional obligations on gatekeepers.


39 Regulation (EU) …/.. of the European Parliament and of the Council – proposal on a Single Market For Digital Services (Digital Services Act) and amending


39 Regulation (EU) …/.. of the European Parliament and of the Council – proposal on a Single Market For Digital Services (Digital Services Act) and amending
Amendment 41

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

Text proposed by the Commission

2. Core platform service means any of the following:
   (a) online intermediation services;
   (b) online search engines;
   (c) online social networking services;
   (d) video-sharing platform services;
   (e) number-independent interpersonal communication services;
   (f) operating systems;
   (g) cloud computing services;
   (h) advertising services, including any advertising networks, advertising exchanges and any other advertising intermediation services, provided by a provider of any of the core platform services listed in points (a) to (g);

Amendment

2. Core platform service means any of the following:
   (a) online intermediation services;
   (b) online search engines;
   (ba) web browsers;
   (c) online social networking services;
   (d) video-sharing platform services;
   (e) number-independent interpersonal communication services;
   (f) operating systems;
   (fa) virtual assistants;
   (g) cloud computing services;
   (h) advertising services, including any advertising networks, advertising exchanges and any other advertising intermediation services, provided by a provider of any of the core platform services listed in points (a) to (g);

Non-commercial, not-for-profit projects shall not be considered as core platform service;

Amendment 42

Proposal for a regulation
Article 2 – paragraph 1 – point 6 a (new)

Text proposed by the Commission

(6a) ‘Web browser’ means an independent or embedded client software application that runs against a web server or other Internet server and enables a

Amendment

(6a) ‘Web browser’ means an independent or embedded client software application that runs against a web server or other Internet server and enables a
user to navigate in the World Wide Web to access or display data or to interact with content hosted on servers that are connected to this network;

Amendment 43
Proposal for a regulation
Article 2 – paragraph 1 – point 10

Text proposed by the Commission

(10) ‘Operating system’ means a system software which controls the basic functions of the hardware or software and enables software applications to run on it;

Amendment

(10) ‘Operating system’ means a system software which controls the basic functions of the hardware or software and enables software applications to run on it, including systems that provide or control access to audiences;

Amendment 44
Proposal for a regulation
Article 2 – paragraph 1 – point 10 a (new)

Text proposed by the Commission

(10a) ‘virtual assistant’ means a software application that provides capabilities for a dialogue with a user in natural language and which intermediates between end users and business users offering command-based apps;

Amendment

(10a) ‘virtual assistant’ means a software application that provides capabilities for a dialogue with a user in natural language and which intermediates between end users and business users offering command-based apps;

Amendment 45
Proposal for a regulation
Article 2 – paragraph 1 – point 14

Text proposed by the Commission

(14) ‘Ancillary service’ means services provided in the context of or together with core platform services, including payment services as defined in point 3 of Article 4 and technical services which support the

Amendment

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

Amendment 46
Proposal for a regulation
Article 2 – paragraph 1 – point 16

Text proposed by the Commission

(16) ‘End user’ means any natural or legal person using core platform services other than as a business user;

Amendment

(16) ‘end-user’ means a natural or legal person who uses core platform services and whose personal data in the form of a user profile or in a similar form are stored by the providers of the core platform services for more than one month;

Amendment 47
Proposal for a regulation
Article 2 – paragraph 1 – point 18

Text proposed by the Commission

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

Amendment

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

Amendment 48
Proposal for a regulation
Article 2 – paragraph 1 – point 18 a (new)
(18a) ‘Search results’ means any information in any format, including texts, graphics, voice or other output, returned by core platform services provider in response and related to a written or oral search query, irrespective of whether the information is an organic result, a paid result, a direct answer or any product, service or information offered in connection with, or displayed along with, or partly or entirely embedded in, the organic results;

Amendment 49

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

(23a) Interoperability’ means the ability of two or more digital services or digital content, systems, products or respective components thereof, including software or hardware, originally provided in two or more different digital environments to directly:

(a) exchange information or access content without error and use the exchanged information or content for the correct execution of a specific function without changing or converting the content of the data; and/or

(b) communicate with each other; and/or

(c) work together as intended without needing technologies for conversion.

Amendment 50

Proposal for a regulation
Article 3 – paragraph 1 – point b
(b) it operates a core platform service which serves as an important gateway for business users to reach end users; and

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

Amendment 51
Proposal for a regulation
Article 3 – paragraph 2 – point b

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

(b) the requirement in paragraph 1 point (b) where it provides core platform services which, in the previous calendar year, had more than 45 million monthly end users established or located in the EEA and more than 10 000 yearly business users established in the EEA;

Amendment 52
Proposal for a regulation
Article 3 – paragraph 3

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

3. Where a provider of core platform services meets all the thresholds in paragraph 2, it shall notify the Commission without undue delay and at the latest 30 days thereof after those thresholds are satisfied and provide it with the relevant information identified in paragraph 2. That notification shall include the relevant information identified in paragraph 2 for each of the core platform services of the provider that meets the thresholds in paragraph 2 point (b). The notification shall be updated whenever other core platform services individually meet the thresholds in paragraph 2 point (b).
**Amendment 53**  
**Proposal for a regulation**  
**Article 3 – paragraph 8**  

*Text proposed by the Commission*  

8. The gatekeeper shall comply with the obligations laid down in Articles 5 and 6 *within six* months after a core platform service has been included in the list pursuant to paragraph 7 of this Article.

*Amendment*  

8. The gatekeeper shall comply with the obligations laid down in Articles 5 and 6 *as soon as possible, and in any case no later than two* months after a core platform service has been included in the list pursuant to paragraph 7 of this Article.

**Amendment 54**  
**Proposal for a regulation**  
**Article 4 – paragraph 3**  

*Text proposed by the Commission*  

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

*Amendment*  

3. The Commission shall publish and update the list of gatekeepers and the list of the core platform services for which they need to comply with the obligations laid down in Articles 5 and 6 on an on-going basis. *The Commission shall publish an annual report setting out the findings of its monitoring activities and present it to the European Parliament and the Council.*

**Amendment 55**  
**Proposal for a regulation**  
**Article 5 – paragraph 1 – introductory part**  

*Text proposed by the Commission*  

In respect of each of its core platform services identified pursuant to Article 3(7), a gatekeeper shall:

*Amendment*  

In respect of each of its core platform services identified pursuant to Article 3(7) *and its ancillary services*, a gatekeeper shall:

**Amendment 56**
Proposal for a regulation
Article 5 – paragraph 1 – point b

Text proposed by the Commission

(b) allow business users to offer the same products or services to end users through third party online intermediation services at prices or conditions that are different from those offered through the online intermediation services of the gatekeeper;

Amendment

(b) allow business users and supplier to the gatekeeper’s ancillary service to offer the same products or services to end users through third party online intermediation services or through direct business channels at prices or conditions that are different from those offered through the online intermediation services of the gatekeeper;

Amendment 57

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

Text proposed by the Commission

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

Amendment

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

Amendment 58

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

Text proposed by the Commission

(d) refrain from preventing or restricting business users from raising

Amendment

(d) refrain from directly or indirectly preventing or restricting business users,
issues with any relevant public authority relating to any practice of gatekeepers; end user or supplier to the gatekeeper’s ancillary service from raising issues with any relevant public authority or in front of national judicial authority relating to any practice of gatekeepers;

Amendment 59

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

Text proposed by the Commission

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

Amendment

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

Amendment 60

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

Text proposed by the Commission

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

Amendment

(f) refrain from requiring business users or end users in order to make use of or allow access to any of its core platform services to accept supplementary conditions or services that, by their nature or according to trade practice, have no connection with and are not necessary for the provision of the relevant core platform service to its users, and in particular from making access to, or subscription and registration to, any of its core platform services referred to in Article 3 conditional on subscribing to or registering with other core platform services or any ancillary services of the gatekeeper;

Amendment 61

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

Text proposed by the Commission

Amendment

(fa) refrain from requiring to use only one specific payment method or payment processor as a condition in order to make use of or allow access to any of its core platform services for business users;

Amendment 62

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

Text proposed by the Commission

Amendment

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

Amendment 63

Proposal for a regulation
Article 5 – paragraph 1 – point g – point i (new)

Text proposed by the Commission

Amendment

(i) the price and fees, including any deductions or surcharges, paid by the advertiser and publisher, as well as the amount or remuneration paid to the publisher, for the publishing of a given advertisement and for each of the relevant advertising services provided by the gatekeeper; and
Amendment 64
Proposal for a regulation
Article 5 – paragraph 1 – point g – point ii (new)

Text proposed by the Commission  
(ii) the scheme for the calculation of the fees, and its application in relation to the respective bids submitted by the advertiser and publisher for each of the advertising services used.

Amendment 65
Proposal for a regulation
Article 5 – paragraph 1 – point g a (new)

Text proposed by the Commission  
(ga) allow end users to un-install any pre-installed software applications on its operating system;

Amendment 66
Proposal for a regulation
Article 5 – paragraph 1 – point g b (new)

Text proposed by the Commission  
(gb) allow end users, and business users of number independent interpersonal communication services and social network services to access to and interoperate with the gatekeepers services by providing open standards, open protocols including application programming interface.

Amendment 67
Proposal for a regulation
Article 6 – paragraph 1 – introductory part
1. In respect of each of its core platform services identified pursuant to Article 3(7), a gatekeeper shall:

Amendment 68
Proposal for a regulation
Article 6 – paragraph 1 – point a

Text proposed by the Commission

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

Amendment

(a) refrain from using, in competition with business users and ancillary service suppliers, any data exclusively in domain of a core platform service provider or the provider or the respective ancillary service, which is generated through activities by those business users or suppliers, including the end users of these business users, of its core platform services or provided by those business users or suppliers of its core platform services or by the end users of these business users;

Amendment 69
Proposal for a regulation
Article 6 – paragraph 1 – point b

Text proposed by the Commission

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

Amendment

(b) allow end users to un-install any pre-installed software applications on its core platform service;
Amendment 70

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

Text proposed by the Commission

(c) allow the installation and effective use of third party software applications or software application stores using, or interoperating with, operating systems of that gatekeeper and allow these software applications or software application stores to be accessed by means other than the core platform services of that gatekeeper. The gatekeeper shall not be prevented from taking proportionate measures to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper;

Amendment

(c) allow the installation and effective use of third party software applications or software application stores using, or interoperating with, operating systems of that gatekeeper and allow these software applications or software application stores to be accessed by means other than the core platform services of that gatekeeper, and the ability of end users to choose between different software applications from different distribution channels. The gatekeeper shall be allowed to take proportionate measures to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper or the security or user-experience of the end-users. This shall be without prejudice to the role gatekeepers play in the fight against illegal content online;

Amendment 71

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

Text proposed by the Commission

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

Amendment

(d) refrain from embedding or treating more favourably in ranking and other settings, as well as in access to and conditions for the use of services, functionalities or technical interfaces, services and products offered by the gatekeeper itself or by any third party, compared to similar services or products of other parties and apply fair, reasonable and non-discriminatory conditions to such practices or settings;
Amendment 72

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

Text proposed by the Commission

(da) ensure that algorithms that determine the ranking of products and services are transparent, fair and reasonable, and that the ranking of any content in core platform services must accurately and impartially reflect users’ requests, and that that ranking-related interfaces are designed transparently and that display personalisation requires the consent of the end user, who must be informed in a comprehensible manner;

Amendment 73

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

Text proposed by the Commission

(db) refrain from imposing mechanisms or conditions that make the gathering and the combination of relevant data from end users or the obtaining of consent for the use of such data by a business user for the purpose of serving interest-based advertising within a core platform service more burdensome or difficult where the business user complies with all statutory requirements for such advertising, in particular under Regulation (EU) 2016/679;

Amendment 74

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

Text proposed by the Commission

(e) refrain from technically restricting

Amendment

(e) refrain from technically restricting
the ability of end users to switch between and subscribe to different software applications and services to be accessed using the operating system of the gatekeeper, including as regards the choice of Internet access provider for end users;

Amendment 75

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

Text proposed by the Commission

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

Amendment

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

Amendment 76

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

Text proposed by the Commission

(fa) allow end users of technologically protected digital content or digital service, legally acquired through third party services, access to and interoperability with the hardware or software features that are used by that gatekeeper when providing a similar technologically protected digital content or digital service; and allow end users of technologically protected digital content or digital service acquired through that gatekeeper access to and interoperability with the hardware or software features that are used by third party when providing a similar technologically protected digital content or digital service. Gatekeepers’ suppliers, as well as third-party hardware providers
shall have the possibility to require gatekeepers to provide the necessary interoperability information to comply with the purpose of this Regulation;

Amendment 77

Proposal for a regulation
Article 6 – paragraph 1 – point g

_text proposed by the Commission_

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

_text proposed by the Commission_

(g) provide advertisers and publishers, upon their request and free of charge, with access to _any intermediation_ measuring tools of the gatekeeper and provide for complete disclosure of and transparency in respect of the parameters and data used for decision making, execution and measurement of the intermediation services, in particular with regard to the ad inventory and services owned by the gatekeeper in relation to the ad inventory and intermediation services owned by other publishers or service providers connected with the gatekeeper’s platform either on the buy-side or the sell-side. A gatekeeper shall further provide, free of charge, complete information, data and technical interfaces necessary for advertisers and publishers or third parties with a legitimate interest, including authorised organisations by advertisers or publishers, to carry out their own independent, effective, high-quality, continuous and real-time evaluation of intermediation services provided by the gatekeeper, including but not limited to verification of the ad inventory, attribution and performance measurement;

Amendment 78

Proposal for a regulation
Article 6 – paragraph 1 – point h
(h) provide effective portability of data generated through the activity of a business user or end user and shall, in particular, provide tools for end users to facilitate the exercise of data portability, in line with Regulation EU 2016/679, including by the provision of continuous and real-time access;

(h) provide effective portability of data generated through the activity of a business user or generated by goods and services provided by a supplier of ancillary services notably distribution or an end user and shall, in particular, provide user-friendly tools for end users to facilitate the exercise of data portability, including personal data generated by his or her activity, in line with Regulation EU 2016/679, including by the provision of continuous and real-time access;

Amendment 79

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

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

(i) provide business users, or third parties authorised by a business user, free of charge, with effective, high-quality, continuous and real-time access and use of aggregated or non-aggregated data, that is provided for or generated in the context of the use of the relevant core and ancillary platform services by those business users and the end users engaging with the products and services provided by those business users, to user businesses and supplier of ancillary and notably distribution services, for personal data, provide access and use only where directly connected with the use effectuated by the end user in respect of the products or services offered by the relevant business user through the relevant core platform service, and when the end user opts in to such sharing with a consent provided to the gatekeeper or directly to the business user as prescribed in Article 11(2) or where the business user may rely on Article 6(1), point (c), or Article 6(1), point (e), of Regulation (EU) 2016/679 and presented in an explicit, user-friendly, clear and
Amendment 80
Proposal for a regulation
Article 6 – paragraph 1 – point j

Text proposed by the Commission
(j) provide to any third party providers of online search engines, upon their request, with access on fair, reasonable and non-discriminatory terms to ranking, query, click and view data in relation to free and paid search generated by end users on online search engines of the gatekeeper, subject to anonymisation for the query, click and view data that constitutes personal data;

Amendment
(j) provide to any third party who does not own or control an online search engine but provides access to and/or use of such service, upon their request, with access on fair, reasonable and non-discriminatory terms to ranking, query, click and view data in relation to free and paid search generated by end users on online search engines of the gatekeeper, subject to effective anonymisation with every reasonable means and techniques available to prevent re-identification for the query, click and view data that constitutes personal data and the steps taken to enable end users to be aware of the relevant use of personal data, as well as to seek their consent;

Amendment 81
Proposal for a regulation
Article 6 – paragraph 1 – point k

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

Amendment
(k) apply fair, reasonable and non-discriminatory general conditions of access and treatment for business users to any of its core platform services, designated pursuant to Article 3 of this Regulation. The insertion of sponsorship or advertising in relation to third party content provided through its core platform service may be considered to be unfair, inappropriate or discriminatory without
the express consent of the respective content provider;

Amendment 82
Proposal for a regulation
Article 6 – paragraph 1 – point k a (new)

*Text proposed by the Commission*

(ka) ensure their services, including user interfaces, are accessible to persons with disabilities in accordance with Article 13 of Directive (EU) 2019/882 of the European Parliament and of the Council. They shall also ensure that business users, which rely on their core platform service to reach consumers for offering services and products in the scope of Directive (EU) 2019/882, comply with the requirements of Directive (EU) 2019/882;


Amendment 83
Proposal for a regulation
Article 6 – paragraph 1 – point k b (new)

*Text proposed by the Commission*

(kb) participate in the event of a dispute about the fairness of a price or remuneration as condition for business users to access or to use any of its core platform services identified pursuant to Article 3, in a binding procedure for fixing a fair price or remuneration and adhere the outcome of it, regardless of whether such a procedure is established by law or proposed by the business users
or by organisations or rights management organisations representing such business users. The procedure regarding the issue of remuneration and price shall start if the parties have not reached an agreement about terms for resolving the issue of remuneration and pricing within 3 months after one party has asked to start a negotiation or about one party’s refusal to negotiate. This procedure shall apply in particular in the case of a dispute about the remuneration laid down in Directive (EU) 2019/790;

Amendment 84
Proposal for a regulation
Article 6 – paragraph 1 – point k c (new)

Text proposed by the Commission  
Amendment

(kc) refrain from limiting end-users’ ability to directly access business users or other end-users services or websites outside of the gatekeepers’ ecosystem from the gatekeeper platform service;

Amendment 85
Proposal for a regulation
Article 6 – paragraph 1 – point k d (new)

Text proposed by the Commission  
Amendment

(kd) refrain from blanket de-listing without an appropriate and effective complaint procedure;

Amendment 86
Proposal for a regulation
Article 6 – paragraph 1 – point k e (new)
(ke) refrain from terms, conditions or technical measures that hinder business users in their business activities on procurement or sales markets, if the gatekeeper's service constitutes an access to these markets, in particular if it thereby: (i) prevents or impedes business users from advertising their services or providing advertising services for third parties or from reaching end users via other access points and marketing their services, (ii) prevents or impedes the processing of data relevant to competition, and (iii) treats its own services and products or the services and products of third parties more preferentially than those of competitors.

Amendment 87

Proposal for a regulation
Article 6 – paragraph 2

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

2. The Commission is required to publish the behavioural requirements that it specifies for individual gatekeepers. This shall not extend to business secrets or confidential information inherent to the business model of the respective gatekeeper.

For the purposes of point (a) of paragraph 1, data exclusively in domain of the core platform provider shall include any aggregated and non-aggregated data generated by business users or generated by goods and services provided by a supplier to the gatekeeper’s ancillary services notably distribution, that can be inferred from, or collected through, the commercial activities of business users or their customers on the core platform,
**Amendment 88**

**Proposal for a regulation**
**Article 7 – paragraph 5**

*Text proposed by the Commission*

5. In specifying the measures under paragraph 2, the Commission shall ensure that the measures are effective in achieving the objectives of the relevant obligation and proportionate in the specific circumstances of the gatekeeper and the relevant service.

*Amendment*

5. In specifying the measures under paragraph 2, the Commission shall ensure that the measures are effective in achieving the objectives of the relevant obligation and proportionate in the specific circumstances of the gatekeeper and the relevant service. **Parties with a legitimate interest shall be able to submit their observations as to the effectiveness of such measures.**

**Amendment 89**

**Proposal for a regulation**
**Article 7 – paragraph 6 a (new)**

*Text proposed by the Commission*

6a. **For the purposes of specifying the obligations under Article 6(1), point (f), the Commission shall in cooperation with the Gatekeeper, business users and end user representatives define the open technologies, open standards and open protocols, including the technical interface (application programming interface), that allows end users of competing software and services and business users to dock on to the gatekeepers core service and to interoperate with it. Any processing of personal data by gatekeepers should comply with Regulation (EU) 2016/679, in particular Article 6(1), point (a), and Article 5(1), point (c). Interoperability obligations shall not limit, hinder or delay the ability of intermediaries to address vulnerabilities**
in order to comply with an obligation under Article 18 of COM(2020) 823 or Article 32(1), point (c), of Regulation(EU) 2016/679.

Amendment 90

Proposal for a regulation
Article 11 – paragraph 2

Text proposed by the Commission

2. Where consent for collecting and processing of personal data is required to ensure compliance with this Regulation, a gatekeeper shall take the necessary steps to either enable business users to directly obtain the required consent to their processing, where required under Regulation (EU) 2016/679 and Directive 2002/58/EC, or to comply with Union data protection and privacy rules and principles in other ways including by providing business users with duly anonymised data where appropriate. The gatekeeper shall not make the obtaining of this consent by the business user more burdensome than for its own services.

Amendment

2. Where consent for collecting, processing and sharing of personal data is required to ensure compliance with this Regulation, a gatekeeper shall take the necessary steps to either enable business users to directly obtain at the level of their own services or products the required consent to their processing, where required under Regulation (EU) 2016/679 and Directive 2002/58/EC. In particular, the gatekeeper shall use all reasonable means and techniques available to effectively anonymise data and prevent re-identification. The gatekeeper shall not make the obtaining of this consent by the business user more burdensome than for its own services, including product design, structure, function or manner of operation capable of influencing user choice and autonomy. Where consent is directly expressed by the end-user at the level of the services or products offered by the business user through the relevant core platform service, it shall prevail over any consent provided at the gatekeeper level.

Amendment 91

Proposal for a regulation
Article 11 – paragraph 3

Text proposed by the Commission

3. A gatekeeper shall not degrade the

Amendment

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

Amendment 92
Proposal for a regulation
Article 15 – paragraph 1

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

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

Amendment 93
Proposal for a regulation
Article 15 – paragraph 2

Text proposed by the Commission
2. In the course of a market investigation pursuant to paragraph 1, the Commission shall endeavour to

Amendment
2. In the course of a market investigation pursuant to paragraph 1, the Commission shall endeavour to
communicate its preliminary findings to the provider of core platform services concerned within six months from the opening of the investigation. In the preliminary findings, the Commission shall explain whether it considers, on a provisional basis, that the provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6).

Amendment 94

Proposal for a regulation
Article 15 – paragraph 4

Text proposed by the Commission

4. When the Commission pursuant to Article 3(6) designates as a gatekeeper a provider of core platform services that does not yet enjoy an entrenched and durable position in its operations, but it is foreseeable that it will enjoy such a position in the near future, it shall declare applicable to that gatekeeper only obligations laid down in Article 5(b) and Article 6(1) points (e), (f), (h) and (i) as specified in the designation decision. The Commission shall only declare applicable those obligations that are appropriate and necessary to prevent that the gatekeeper concerned achieves by unfair means an entrenched and durable position in its operations. The Commission shall review such a designation in accordance with the procedure laid down in Article 4.

Amendment

4. When the Commission pursuant to Article 3(6) designates as a gatekeeper a provider of core platform services that does not yet enjoy an entrenched and durable position in its operations, but it is foreseeable that it will enjoy such a position in the near future, it shall declare applicable to that gatekeeper relevant obligations laid down in Article 5 and Article 6(1) as specified in the designation decision. The Commission shall only declare applicable those obligations that are appropriate and necessary to prevent that the gatekeeper concerned achieves by unfair means an entrenched and durable position in its operations. The Commission shall review such a designation in accordance with the procedure laid down in Article 4.

Amendment 95

Proposal for a regulation
Article 16 – paragraph 1

Text proposed by the Commission

1. Where the market investigation shows that a gatekeeper has systematically infringed the obligations laid down in

Amendment

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

Amendment 96

Proposal for a regulation
Article 17 – paragraph 1

*Text proposed by the Commission*

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

*Amendment*

The Commission, acting on a complaint or on its own initiative, may conduct a market investigation with the purpose of examining whether one or more services within the digital sector should be added to the list of core platform services or to detect types of practices that may limit the contestability of core platform services or may be unfair and which are not effectively addressed by this Regulation. It shall issue a public report at the latest within 12 months from the opening of the market investigation.

Amendment 97

Proposal for a regulation
Article 30 – paragraph 1 a (new)
1a. If the Commission considers it necessary, it may also hear other natural or legal persons before taking the decisions as provided for in paragraph 1. Applications to be heard on the part of such persons shall, where they show a sufficient interest, be granted.

Amendment 98
Proposal for a regulation
Article 30 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 99
Proposal for a regulation
Article 30 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 100
Proposal for a regulation
Article 33 – paragraph 1

Text proposed by the Commission

1. When three or more Member States request the Commission to open an

Amendment

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

Amendment 101

Proposal for a regulation
Article 33 – paragraph 2

Text proposed by the Commission

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

Amendment

2. **Any party submitting a request for a market investigation** shall submit evidence in support of their request.

Amendment 102

Proposal for a regulation
Article 33 – paragraph 2 a (new)

Text proposed by the Commission

2a. **Third parties with a legitimate interest in representing business users or end users may provide the Commission with evidence with respect to any of the investigations triggered by paragraphs 1 to 3 of this Article. On that basis, the Commission shall within four months examine whether there are reasonable grounds to open such an investigation pursuant to Articles 15, 16 and 17.**

Amendment 103
Proposal for a regulation
Article 33 a (new)

Text proposed by the Commission

Amendment

Article 33 a

Right to lodge complaints

1. Third parties representing business users or end users shall be entitled to lodge complaints with regard to the non-designation of gatekeepers, non-compliance and systematic non-compliance by gatekeepers with their obligations in accordance with Articles 3, 5 and 6 and request the opening of a market investigation. They shall submit evidence in support of their request.

2. The Commission shall examine whether there are reasonable grounds to open such an investigation and inform the interested third parties of its decision within three months.

Amendment 104

Proposal for a regulation
Article 38 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States shall provide any relevant information they have that the Commission may require for the purposes of drawing up the report referred to in paragraph 1. Among such information, data allowing to determine the fairness of general access conditions to platform services should be examined, including as regards revenue streams deriving from advertisement, and the distribution of appropriate shares of revenues to third party right holders.
## Title
Contestable and fair markets in the digital sector (Digital Markets Act)

## References

## Committee responsible
**Date announced in plenary**: IMCO
8.2.2021

## Opinion by
**Date announced in plenary**: CULT
20.5.2021

## Rapporteur for the opinion
**Date appointed**: Petra Kammerevert
9.2.2021

## Discussed in committee
21.6.2021

## Date adopted
27.9.2021

## Result of final vote
- **+**: 28
- **-**: 0
- **0**: 1

## Members present for the final vote
Asim Ademov, Ilana Cicurel, Gilbert Collard, Gianantonio Da Re, Laurence Farreng, Tomasz Frankowski, Romeo Franz, Chiara Gemma, Alexis Georgoulis, Irena Joveva, Petra Kammerevert, Predrag Fred Matić, Dace Melbārde, Victor Negrescu, Niklas Nienaß, Peter Pollák, Marcos Ros Sempere, Domèneq Ruiz Devesa, Monica Semedo, Andrey Slabakov, Massimiliano Smeriglio, Michaela Šojdrová, Sabine Verheyen, Maria Walsh, Theodoros Zagorakis, Milan Zver

## Substitutes present for the final vote
Marcel Kolaja, Elżbieta Kruk

## Substitutes under Rule 209(7) present for the final vote
Evelyne Gebhardt
## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

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Key to symbols:
+ : in favour
- : against
0 : abstention
12.10.2021

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS

for the Committee on the Internal Market and Consumer Protection


Rapporteur for opinion: Tiemo Wölken

SHORT JUSTIFICATION

Introduction

The Rapporteur of the Opinion welcomes the Commission’s proposal for a Regulation on contestable and fair markets in the digital sector (“Digital Markets Act”). The Digital Markets Act (DMA) is a crucial addition to the regulatory framework by providing the regulator with a toolbox to intervene against unfair and self-serving business practices employed by the largest companies in the digital sphere.

The scope, gatekeeper designation process, and obligations set out by the European Commission are a first important step to tackle this issue. However, The Rapporteur of the Opinion believes that these provisions are not ambitious enough to remedy the issues of unfair market practices and stifling innovation.

The scope

The Commission proposes a set of eight Core Platform Services (CPS) as the target of this Regulation. The exhaustive nature of this list limits the flexibility of the Regulation in addressing new and emerging categories of CPS. Digital markets move fast, and the regulatory framework should reflect this aspect of the digital economy. The Rapporteur therefore proposes to make the list non-exhaustive, in order to render the DMA more future-proof.

Gatekeepers do not only exist in markets with a large amount of end users and business users, nor are gatekeepers only the largest of companies. The Commission therefore should be able to include smaller companies that do not fulfil the quantitative criteria of the gatekeeper designation, but act as a gatekeeper position in their market nonetheless.

The designation process
The current designation process involves a high degree of self-reporting by potential gatekeepers. The Rapporteur believes that this process can be streamlined in order to ensure that all potential gatekeepers are captured by the legislation, unless they can prove that in their specific market condition they are not a gatekeeper in the sense of the Regulation. All who qualify as a gatekeeper should have to comply with the obligations of the Regulation, whether they self-report or not. Furthermore, the Rapporteur would like to stress the importance of the ability of the Commission to designate emerging gatekeepers irrespective of the quantitative threshold as a central instrument to guarantee the flexibility of the Regulation in its practical application.

The obligations

Many of the obligations set out in Articles 5 and 6 in the Commission proposal address the right issues. However, the provisions often fall short of their full potential.

The Rapporteur proposes to include both business users and end users in each provision where applicable. This is in line with the objective of the DMA to allow both business users and end users to benefit fully from the platform economy.

Furthermore, the objective of ensuring fairness is referenced in the recitals. However, the actual obligations do not include such a fairness principle. The Rapporteur therefore proposes to add this vital principle to Article 5.

More specifically, the Rapporteur proposes that the prohibition of data combination in Art. 5a is amended to remove the option of consent. Experience with the GDPR has shown that well-intended consent options are often abused by dominant platforms, and that informed consent on part of the end user is virtually unachievable. To avoid potential abuse of personal data, an outright prohibition of personal data combination is therefore the only option.

Another important addition is increased transparency requirements for advertising services for publishers, advertisers and other third parties in order to verify the effectiveness and provision of advertising services by CPS.

Furthermore, self-preferencing of gatekeepers is a common practice to ensure the use of their own services as opposed to third-party software. The rapporteur proposes several amendments to mitigate this issue, and strengthens the interoperability provision in Art. 6f.

Other provisions

The Rapporteur includes a range of amendments in other provisions. Notably, in Article 11 on anti-circumvention, he proposes amendments in order to ban so-called ‘dark patterns’, which are intended to subconsciously influence the choices an end user or business user.

Furthermore, the Rapporteur calls for more rights for end users and business users in flagging non-compliance of gatekeepers as well as invoking a notification procedure with assessment through the Commission.

AMENDMENTS
The Committee on Legal Affairs calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to take into account the following amendments:

Amendment 1

**Proposal for a regulation**

**Recital 1**

*Text proposed by the Commission*

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

*Amendment*

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

Amendment 2

**Proposal for a regulation**

**Recital 2**

*Text proposed by the Commission*

(2) Core platform services, at the same time, feature a number of characteristics that can be exploited by their providers. These characteristics of core platform services include among others extreme scale economies, which often result from nearly zero marginal costs to add business users or end users. Other characteristics of core platform services are very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, a significant degree of dependence of both business users and end users, lock-in effects, a lack of multi-homing for the same purpose by end users, vertical integration, and data driven-advantages. All these characteristics combined with unfair conduct by providers of these services can have the effect of substantially undermining the

*Amendment*

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

Amendment 3
Proposal for a regulation
Recital 2

Text proposed by the Commission

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

undermining the contestability of the core platform services, and discouraging investment in innovation for potential new operators on the market, as well as impacting the fairness of the commercial relationship between providers of such services and their business users and end users, leading to rapid and potentially far-reaching decreases in business users’ and end users’ choice in practice, and therefore can confer to the provider of those services the position of a so-called gatekeeper.
practice, and therefore can confer to the provider of those services the position of a so-called gatekeeper.

Amendment 4
Proposal for a regulation
Recital 5

Text proposed by the Commission

(5) It follows that the market processes are often incapable of ensuring fair economic outcomes with regard to core platform services. Whereas Articles 101 and 102 TFEU remain applicable to the conduct of gatekeepers, their scope is limited to certain instances of market power (e.g. dominance on specific markets) and of anti-competitive behaviour, while enforcement occurs ex post and requires an extensive investigation of often very complex facts on a case by case basis. Moreover, existing Union law does not address, or does not address effectively, the identified challenges to the well-functioning of the internal market posed by the conduct of gatekeepers, which are not necessarily dominant in competition-law terms.

Amendment

(5) It follows that the market processes and ex-post competition law are often incapable of ensuring fair economic outcomes with regard to core platform services. Whereas Articles 101 and 102 TFEU remain applicable to the conduct of gatekeepers, their scope is limited to certain instances of market power (e.g. dominance on specific markets) and of anti-competitive behaviour, while enforcement occurs ex post and requires an extensive investigation of often very complex facts on a case by case basis. Moreover, existing Union law does not address, or does not address effectively, the identified challenges to the well-functioning of the internal market posed by the conduct of gatekeepers, which are not necessarily dominant in competition-law terms.

Amendment 5
Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) Gatekeepers have a significant impact on the internal market, providing gateways for a large number of business users, to reach end users, everywhere in the Union and on different markets. The adverse impact of unfair practices on the internal market and particularly weak

Amendment

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

Amendment 6
Proposal for a regulation
Recital 7

Text proposed by the Commission

(7) Therefore, business users and end-users of core platform services provided by gatekeepers should be afforded appropriate regulatory safeguards throughout the Union against the unfair behaviour of gatekeepers in order to facilitate cross-border business within the Union and thereby improve the proper functioning of the internal market and to address existing or likely emerging fragmentation in the specific areas covered by this Regulation. Moreover, while gatekeepers tend to adopt global or at least pan-European business models and algorithmic structures, they can adopt, and in some cases have adopted, different business conditions and practices in different Member States, which is liable to create disparities between the competitive conditions for the users of core platform services provided by gatekeepers, to the detriment of integration within the internal market.

Amendment

(7) Therefore, business users and end-users of core platform services provided by gatekeepers should be afforded harmonised and appropriate regulatory safeguards throughout the Union against the unfair behaviour of gatekeepers in order to facilitate cross-border business within the Union and thereby improve the proper functioning of the internal market and legal certainty, and to address existing or likely emerging fragmentation in the specific areas covered by this Regulation. Moreover, while gatekeepers tend to adopt global or at least pan-European business models and algorithmic structures, they can adopt, and in some cases have adopted, different business conditions and practices in different Member States, which is liable to create disparities between the competitive conditions for the users of core platform services provided by gatekeepers, to the detriment of integration within the internal market.
Amendment 7

Proposal for a regulation
Recital 8

Text proposed by the Commission

(8) By approximating diverging national laws, obstacles to the freedom to provide and receive services, including retail services, within the internal market should be eliminated. A targeted set of harmonised mandatory rules should therefore be established at Union level to ensure contestable and fair digital markets featuring the presence of gatekeepers within the internal market.

Amendment

(8) By approximating diverging national laws, obstacles to the freedom to provide and receive services, including retail services, within the internal market should be eliminated. A targeted set of harmonised, effective, mandatory rules befitting the digital age should therefore be established at Union level to ensure contestable and fair digital markets featuring the presence of gatekeepers within the internal market.

Amendment 8

Proposal for a regulation
Recital 11

Text proposed by the Commission


Amendment

implementing that Union legislation.

Where gatekeepers are holders of the right provided for in Article 7(1) of Directive 96/9/EC of the European Parliament and of the Council\textsuperscript{31a} they should not exercise that right in such a way that prevents the re-use of data or restrict its re-use beyond the limits set by this Regulation.


\textsuperscript{27} Regulation (EU) …/.. of the European Parliament and of the Council – proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC.


Amendment 9

Proposal for a regulation
Recital 12

Text proposed by the Commission

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

Amendment

(12) Weak contestability and unfair practices in the digital sector are more frequent and pronounced for certain digital services than for others. This is the case in particular for widespread and commonly used digital services that mostly directly intermediate between business users and end users and where features such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration are the most prevalent. Often, there is only one or very few large providers of those digital services. These providers of core platform services have emerged most frequently as gatekeepers for business users and end users with far-reaching impacts, gaining the ability to easily set commercial
conditions and terms in a unilateral and detrimental manner for their business users and end users. Accordingly, it is necessary to focus only on those digital services that are most broadly used by business users and end users and where, based on current market conditions, concerns about weak contestability and unfair practices by gatekeepers are more apparent and pressing from an internal market perspective.

Amendment 10

Proposal for a regulation
Recital 13

Text proposed by the Commission

(13) In particular, online intermediation services, online search engines, operating systems, online social networking, video sharing platform services, number-independent interpersonal communication services, cloud computing services and online advertising services, all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They therefore should be included in the definition of core platform services and fall into the scope of this Regulation. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council\(^2\). In certain circumstances, the notion of end users should encompass users that are traditionally considered business users, but in a given situation do not use the core platform services to provide goods or services to other end users, such as for example businesses relying on cloud computing services for their own purposes.

Amendment

(13) In particular, online intermediation services, online search engines, operating systems, online social networking, video sharing platform services, number-independent interpersonal communication services, cloud computing services and online advertising services, web browsers, and virtual assistants all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They should be included in the definition of core platform services and fall into the scope of this Regulation. The fact that weak contestability and unfair practices in the digital sector are more frequent and pronounced in certain digital services than in others does not imply that other categories of services are exempt from it. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council\(^2\). Online intermediation services should be covered irrespective of the technology used to provide such services. In this regard, virtual or voice
activated assistants and other connected devices should fall within the scope of this Regulation irrespective of the software used as an operating system, an online intermediation service or a search engine. In certain circumstances, the notion of end users should encompass users that are traditionally considered business users, but in a given situation do not use the core platform services to provide goods or services to other end users, such as for example businesses relying on cloud computing services for their own purposes.

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Amendment 11
Proposal for a regulation
Recital 14

Text proposed by the Commission

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

Amendment

(14) A number of other ancillary services, such as identification or payment services and technical services which support the provision of payment services, may be provided by gatekeepers together with their core platform services. As gatekeepers frequently provide the portfolio of their services as part of an integrated ecosystem to which third-party providers of such ancillary services do not have access, at least not subject to equal conditions, and can link the access to the core platform service to take-up of one or more ancillary services, the gatekeepers are likely to have an increased ability and incentive to leverage their gatekeeper
power from their core platform services to these ancillary services, to the detriment of choice and contestability of these services. **Gatekeepers that provide ancillary services such as retailing or distribution activities that are targeted at end users alongside their core platform services and in a manner that is indistinguishable for the average user should also be subject to the obligations applicable to core platform services.**

Amendment 12

Proposal for a regulation
Recital 18

**Text proposed by the Commission**

(18) A sustained market capitalisation of the provider of core platform services at or above the threshold level over three or more years should be considered as strengthening the presumption that the provider of core platform services has a significant impact on the internal market.

**Amendment**

(18) A sustained market capitalisation of the provider of core platform services at or above the threshold level over three or more years should be considered as strengthening the presumption that the provider of core platform services has a significant impact on the internal market, generating at least a potential effect as regards influencing end user options.

Amendment 13

Proposal for a regulation
Recital 23

**Text proposed by the Commission**

(23) Providers of core platform services which meet the quantitative thresholds but are able to present sufficiently substantiated arguments to demonstrate that, in the circumstances in which the relevant core platform service operates, they do not fulfil the objective requirements for a gatekeeper, should **not be designated directly, but only** subject to a further investigation. The burden of adducing evidence that the presumption deriving from the fulfilment of quantitative

**Amendment**

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

Amendment 14

Proposal for a regulation
Recital 25

Text proposed by the Commission

(25) Such an assessment can only be done in light of a market investigation, while taking into account the quantitative thresholds. In its assessment the Commission should pursue the objectives of preserving and fostering the level of innovation, the quality of digital products and services, the degree to which prices are fair and competitive, and the degree to which quality or choice for business users and for end users is or remains high. Elements that are specific to the providers of core platform services concerned, such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-
homing or vertical integration, can be taken into account. In addition, a very high market capitalisation, a very high ratio of equity value over profit or a very high turnover derived from end users of a single core platform service can point to the tipping of the market or leveraging potential of such providers. Together with market capitalisation, high growth rates, or decelerating growth rates read together with profitability growth, are examples of dynamic parameters that are particularly relevant to identifying such providers of core platform services that are foreseen to become entrenched. The Commission should be able to take a decision by drawing adverse inferences from facts available where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.

Amendment 15
Proposal for a regulation
Recital 26

Text proposed by the Commission

(26) A particular subset of rules should apply to those providers of core platform services that are foreseen to enjoy an entrenched and durable position in the near future. The same specific features of core platform services make them prone to tipping: once a service provider has obtained a certain advantage over rivals or potential challengers in terms of scale or intermediation power, its position may become unassailable and the situation may evolve to the point that it is likely to become durable and entrenched in the near future. Undertakings can try to induce this tipping and emerge as gatekeeper by using some of the unfair conditions and practices regulated in this Regulation. In such a

Amendment

(26) A particular subset of rules should apply to those providers of core platform services that are foreseen to enjoy an entrenched and durable position in the near future. The same specific features of core platform services make them prone to tipping, both from the perspective of market conditions and from that of user behaviour: once a service provider has obtained a certain advantage over rivals or potential challengers in terms of scale or intermediation power, its position may become unassailable and the situation may evolve to the point that it is likely to become durable and entrenched in the near future. Undertakings can try to induce this tipping and emerge as gatekeeper by using
situation, it appears appropriate to intervene before the market tips irreversibly.

Amendment 16
Proposal for a regulation
Recital 27

Text proposed by the Commission

(27) However, such an early intervention should be limited to imposing only those obligations that are necessary and appropriate to ensure that the services in question remain contestable and allow to avoid the qualified risk of unfair conditions and practices. Obligations that prevent the provider of core platform services concerned from achieving an entrenched and durable position in its operations, such as those preventing unfair leveraging, and those that facilitate switching and multi-homing are more directly geared towards this purpose. To ensure proportionality, the Commission should moreover apply from that subset of obligations only those that are necessary and proportionate to achieve the objectives of this Regulation and should regularly review whether such obligations should be maintained, suppressed or adapted.

Amendment

(27) However, such an early intervention should be limited to imposing only those obligations that are necessary and appropriate to ensure that the services in question remain contestable and allow to avoid the qualified risk of unfair conditions and practices. Obligations that prevent the provider of core platform services concerned from achieving an entrenched and durable position in its operations, such as those preventing unfair leveraging, and those that facilitate switching and multi-homing are more directly geared towards this purpose. To ensure proportionality, the Commission should moreover apply from that subset of obligations only those that are necessary and proportionate to achieve the objectives of this Regulation and should regularly review whether such obligations should be maintained, suppressed or adapted, bearing in mind the basic objective of guaranteeing a framework for developing and encouraging innovation.

Amendment 17
Proposal for a regulation
Recital 29

Text proposed by the Commission

Designated gatekeepers should comply with the obligations laid down in this

Amendment

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

Amendment 18

Proposal for a regulation
Recital 30

*Text proposed by the Commission*

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

*Amendment*

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

Amendment 19

Proposal for a regulation
Recital 31
(31) To ensure the effectiveness of the review of gatekeeper status as well as the possibility to adjust the list of core platform services provided by a gatekeeper, the gatekeepers should inform the Commission of all of their intended and concluded acquisitions of other providers of core platform services or any other services provided within the digital sector. Such information should not only serve the review process mentioned above, regarding the status of individual gatekeepers, but will also provide information that is crucial to monitoring broader contestability trends in the digital sector and can therefore be a useful factor for consideration in the context of the market investigations foreseen by this Regulation.

Amendment 20
Proposal for a regulation
Recital 33

(33) The obligations laid down in this Regulation are limited to what is necessary and justified to address the unfairness of the identified practices by gatekeepers and to ensure contestability in relation to core platform services provided by gatekeepers. Therefore, the obligations should correspond to those practices that are considered unfair by taking into account the features of the digital sector and where experience gained, for example in the enforcement of the EU competition rules, shows that they have a particularly negative direct impact on the business users and end users. In addition, it is necessary to provide for the possibility of a regulatory dialogue with gatekeepers to tailor those obligations that are likely to

Amendment

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

is necessary to provide for the possibility of a regulatory dialogue with gatekeepers to tailor those obligations that are likely to require specific implementing measures in order to ensure their effectiveness and proportionality. The obligations should only be updated after a thorough investigation on the nature and impact of specific practices that may be newly identified, following an in-depth investigation, as unfair or limiting contestability in the same manner as the unfair practices laid down in this Regulation while potentially escaping the scope of the current set of obligations. In order to enhance the effectiveness of the updating process, the Commission should also use the reporting mechanism involving competitors, business users, end-users and competent national authorities, that would inform the Commission in the event of any of those detected practices.

Amendment 21

Proposal for a regulation
Recital 36

Text proposed by the Commission

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

Amendment

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

**Amendment 22**

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

**Text proposed by the Commission**

(36a) Article 5(a) of this Regulation should not be understood as suggesting that platforms that are not designated as gatekeepers may freely combine personal data across services without the individual’s consent.

**Amendment 23**

**Proposal for a regulation**
**Recital 37**

**Text proposed by the Commission**

(37) Because of their position, gatekeepers might in certain cases restrict the ability of business users of their online intermediation services to offer their goods or services to end users under more favourable conditions, including price, through other online intermediation services. Such restrictions have a significant deterrent effect on the business users of gatekeepers in terms of their use of alternative online intermediation services, limiting inter-platform contestability, which in turn limits choice of alternative online intermediation channels for end users. To ensure that business users of online intermediation services of gatekeepers can freely choose alternative online intermediation services and differentiate the conditions under which they offer their products or services to their end users, it should not be accepted that gatekeepers limit business users from choosing to differentiate commercial conditions, including price. Such a
(38) To prevent further reinforcing their dependence on the core platform services of gatekeepers, the business users of these gatekeepers should be free in promoting and choosing the distribution channel they consider most appropriate to interact with any end users that these business users have already acquired through core platform services provided by the gatekeeper. Conversely, end users should also be free to choose offers of such business users and to enter into contracts with them either through core platform services of the gatekeeper, if applicable, or from a direct distribution channel of the business user or another indirect distribution channel such business user may use. This should apply to the promotion of offers and conclusion of contracts between business users and end users. Moreover, the ability of end users to freely acquire content, subscriptions, features or other items outside the core platform services of the gatekeeper should not be undermined or restricted. In particular, it should be avoided that gatekeepers restrict end users from access to and use of such services via a software application running on their core platform service. For example, subscribers to online content purchased outside a software application download or purchased from a gatekeepers limit business users from choosing to differentiate commercial conditions, including price. Such a restriction should apply to any measure with equivalent effect, such as for example increased commission rates or de-listing or less favourable ranking of the offers of business users.

Amendment 24
Proposal for a regulation
Recital 38

_text proposed by the Commission_

(38) To prevent further reinforcing their dependence on the core platform services of gatekeepers, the business users of these gatekeepers should be free in promoting and choosing the distribution channel they consider most appropriate to interact with any end users that these business users have already acquired through core platform services provided by the gatekeeper. Conversely, end users should also be free to choose offers of such business users and to enter into contracts with them either through core platform services of the gatekeeper, if applicable, or from a direct distribution channel of the business user or another indirect distribution channel such business user may use. This should apply to the promotion of offers and conclusion of contracts between business users and end users. Moreover, the ability of end users to freely acquire content, subscriptions, features or other services or items outside the core platform services of the gatekeeper should not be undermined or restricted notably through the use of technical restrictions. In particular, it should be avoided that gatekeepers restrict end users from access to and use of such legally acquired digital content and services via hardware or a software application running on their core platform.
software application store should not be prevented from accessing such online content on a software application on the gatekeeper’s core platform service simply because it was purchased outside such software application or software application store.

Amendment 25

Proposal for a regulation
Recital 39

Text proposed by the Commission

(39) To safeguard a fair commercial environment and protect the contestability of the digital sector it is important to safeguard the right of business users to raise concerns about unfair behaviour by gatekeepers with any relevant administrative or other public authorities. For example, business users may want to complain about different types of unfair practices, such as discriminatory access conditions, unjustified closing of business user accounts or unclear grounds for product de-listings. Any practice that would in any way inhibit such a possibility of raising concerns or seeking available redress, for instance by means of confidentiality clauses in agreements or other written terms, should therefore be prohibited. This should be without prejudice to the right of business users and gatekeepers to lay down in their agreements the terms of use including the use of lawful complaints-handling mechanisms, including any use of alternative dispute resolution mechanisms or of the jurisdiction of specific courts in compliance with respective Union and national law. This should therefore also be without prejudice to the role gatekeepers play in the fight against illegal content service. For example, subscribers to online content purchased outside a software application download or purchased from a software application store should not be prevented from accessing such online content on a software application on the gatekeeper’s core platform service simply because it was purchased outside such software application or software application store.

Amendment

(39) To safeguard a fair commercial environment and protect the contestability of the digital sector it is important to safeguard the right of business users and end users, as well as third parties with a legitimate interest in representing them, to raise concerns about unfair behaviour by gatekeepers with any relevant administrative, judicial or other public authorities. For example, business users, end users, or third parties with a legitimate interest, may want to complain about different types of unfair practices, such as discriminatory access conditions, unjustified closing of business user accounts or unclear grounds for product de-listings. Any practice that would in any way inhibit or impede such a possibility of raising concerns or seeking available redress, for instance by means of confidentiality clauses in agreements or other written terms, should therefore be prohibited. This should be without prejudice to the right of business users and gatekeepers to lay down in their agreements the terms of use in clear and intelligible language, including the use of lawful complaints-handling mechanisms, including any use of alternative dispute resolution mechanisms or of the
online.

jurisdiction of specific courts in compliance with respective Union and national law. This should therefore also be without prejudice to the role gatekeepers play in the fight against illegal content online. All rights available to business users should also be available to end users.

Amendment 26

Proposal for a regulation

Recital 40

Text proposed by the Commission

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

Amendment

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

Amendment 27

Proposal for a regulation
Recital 41

Text proposed by the Commission

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

Amendment

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

Amendment 28

Proposal for a regulation
Recital 42

Text proposed by the Commission

(42) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This opacity is partly linked to the practices of a few platforms, but is also due to the sheer complexity of modern day programmatic advertising. The sector is considered to have become more non-transparent after the introduction of new privacy legislation, and is expected to become even more opaque with the announced removal of third-party cookies. This often leads to a lack of information and knowledge for

Amendment

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

Amendment 29
Proposal for a regulation
Recital 43

Text proposed by the Commission

(43) A gatekeeper may in certain circumstances have a dual role as a provider of core platform services whereby it provides a core platform service to its business users, while also competing with those same business users in the provision of the same or similar services or products to the same end users. In these circumstances, a gatekeeper may take advantage of its dual role to use data, generated from transactions by its business users on the core platform, for the purpose of its own services that offer similar services to that of its business users. This may be the case, for instance, where a gatekeeper provides an online marketplace or app store to business users, and at the

Amendment

(43) A gatekeeper may in certain circumstances have a dual role as a provider of core platform services whereby it provides a core platform service to its business users, while also competing with those same business users in the provision of the same or similar services or products to the same end users, including as part of an ancillary service. In these circumstances, a gatekeeper may take advantage of its dual role to use data, generated from transactions by its business users on the core platform or from transactions on its ancillary service, for the purpose of its own services or goods that offer similar services to that of its business users or of its suppliers. This may
same time offer services as an online retailer or provider of application software against those business users. To prevent gatekeepers from unfairly benefitting from their dual role, it should be ensured that they refrain from using any aggregated or non-aggregated data, which may include anonymised and personal data that is not publicly available to offer similar services to those of their business users. This obligation should apply to the gatekeeper as a whole, including but not limited to its business unit that competes with the business users of a core platform service.

Amendment 30
Proposal for a regulation
Recital 46

Text proposed by the Commission

(46) A gatekeeper may use different means to favour its own services or products on its core platform service, to the detriment of the same or similar services that end users could obtain through third parties. This may for instance be the case where certain software applications or services are pre-installed by a gatekeeper. To enable end user choice, gatekeepers should not prevent end users from un-installing any pre-installed software applications on its core platform service and thereby favour their own software applications.

Amendment

(46) A gatekeeper may use different means to favour its own services or products on its core platform service, to the detriment of the same or similar services that end users could obtain through third parties. This may for instance be the case where certain software applications or ancillary services are pre-installed by a gatekeeper, or where a service or application is provided as a default without a prompt to choose between of alternative services. To enable end user choice, gatekeepers should not prevent end users from un-installing any pre-installed software applications on its core platform service or inhibit user choice by setting default services and thereby favour their own software applications or services.
Proposal for a regulation
Recital 47

Text proposed by the Commission

(47) The rules that the gatekeepers set for the distribution of software applications may in certain circumstances restrict the ability of end users to install and effectively use third party software applications or software application stores on operating systems or hardware of the relevant gatekeeper and restrict the ability of end users to access these software applications or software application stores outside the core platform services of that gatekeeper. Such restrictions may limit the ability of developers of software applications to use alternative distribution channels and the ability of end users to choose between different software applications from different distribution channels and should be prohibited as unfair and liable to weaken the contestability of core platform services. In order to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper the gatekeeper concerned may implement proportionate technical or contractual measures to achieve that goal if the gatekeeper demonstrates that such measures are necessary and justified and that there are no less restrictive means to safeguard the integrity of the hardware or operating system.

Amendment

(47) The rules that the gatekeepers set for the distribution of software applications may in certain circumstances restrict the ability of end users to install and effectively use third party software applications or software application stores on operating systems or hardware of the relevant gatekeeper and restrict the ability of end users to access these software applications or software application stores outside the core platform services of that gatekeeper. Such restrictions may limit the ability of developers of software applications to use alternative distribution channels and the ability of end users to choose between different software applications from different distribution channels and should be prohibited as unfair and liable to weaken the contestability of core platform services. In order to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper the gatekeeper concerned may implement proportionate technical or contractual measures to achieve that goal if the gatekeeper demonstrates that such measures are necessary and justified and that there are no less restrictive means to safeguard the integrity of the hardware or operating system. This prohibition on restricting the ability of end users to install and use, or access third-party software applications or application stores should not prevent gatekeepers to take the required responsibility in the fight against illegal content online.

Amendment 32

Proposal for a regulation
Recital 47 a (new)
Gatekeepers should be able to implement proportionate technical or contractual measures to restrict end users’ ability to access any content that is illegal or does not respect intellectual property in the software applications or software application stores of third parties.

Proposal for a regulation
Recital 48

Gatekeepers are often vertically integrated and offer certain products or services to end users through their own core platform services, or through a business user over which they exercise control which frequently leads to conflicts of interest. This can include the situation whereby a gatekeeper offers its own online intermediation services through an online search engine. When offering those products or services on the core platform service, gatekeepers can reserve a better position to their own offering, in terms of ranking, as opposed to the products of third parties also operating on that core platform service. This can occur for instance with products or services, including other core platform services, which are ranked in the results communicated by online search engines, or which are partly or entirely embedded in online search engines results, groups of results specialised in a certain topic, displayed along with the results of an online search engine, which are considered or used by certain end users as a service distinct or additional to the online search engine. Other instances are those of software applications which are distributed through software application stores, or
products or services that are given prominence and display in the newsfeed of a social network, or products or services ranked in search results or displayed on an online marketplace. In those circumstances, the gatekeeper is in a dual-role position as intermediary for third party providers and as direct provider of products or services of the gatekeeper. Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper.

**Amendment 34**

**Proposal for a regulation**

**Recital 49**

**Text proposed by the Commission**

(49) In such situations, the gatekeeper should not engage in any form of differentiated or preferential treatment in ranking on the core platform service, whether through legal, commercial or technical means, in favour of products or services it offers itself or through a business user which it controls. To ensure that this obligation is effective, it should also be ensured that the conditions that apply to such ranking are also generally fair. Ranking should in this context cover separate online intermediation service shall be regarded as a favouring irrespective of whether the information or results within the favoured groups of specialised results may also be provided by competing services and are as such ranked in a non-discriminatory way.

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

**Amendment**

(49) In such situations, the gatekeeper should not engage in any form of differentiated or preferential treatment in ranking on the core platform service, whether through legal, commercial or technical means, in favour of products or services it offers itself or through a business user which it cooperates with. To ensure that this obligation is effective, it should also be ensured that the conditions that apply to such ranking are also generally fair and do not allow the
all forms of relative prominence, including display, rating, linking or voice results. To ensure that this obligation is effective and cannot be circumvented it should also apply to any measure that may have an equivalent effect to the differentiated or preferential treatment in ranking. The guidelines adopted pursuant to Article 5 of Regulation (EU) 2019/1150 should also facilitate the implementation and enforcement of this obligation.\textsuperscript{34}


Amendment 35

Proposal for a regulation
Recital 50

\textit{Text proposed by the Commission}

(50) Gatekeepers should not restrict or prevent the free choice of end users by technically preventing switching between or subscription to different software applications and services. This would allow more providers to offer their services, thereby ultimately providing greater choice to the end user. Gatekeepers should ensure a free choice irrespective of whether they are the manufacturer of any hardware by means of which such software applications or services are accessed and shall not raise \textit{artificial} technical barriers so as to make switching impossible or ineffective. The mere offering of a given product or service to consumers, including by means of pre-installation, as well as the gatekeeper’s own services or products to benefit from competition-relevant information about competing products or services. Ranking should in this context cover all forms of relative prominence, including \textit{among others} display, rating, order, linking or voice results. To ensure that this obligation is effective and cannot be circumvented it should also apply to any measure that may have an equivalent effect to the differentiated or preferential treatment in ranking. The guidelines adopted pursuant to Article 5 of Regulation (EU) 2019/1150 should also facilitate the implementation and enforcement of this obligation.\textsuperscript{34}

improvement of the offering to end users, such as price reductions or increased quality, should not be construed as constituting a prohibited barrier to switching.

Amendment 36

Proposal for a regulation
Recital 52

Text proposed by the Commission

(52) Gatekeepers may also have a dual role as developers of operating systems and device manufacturers, including any technical functionality that such a device may have. For example, a gatekeeper that is a manufacturer of a device may restrict access to some of the functionalities in this device, such as near-field-communication technology and the software used to operate that technology, which may be required for the effective provision of an ancillary service by the gatekeeper as well as by any potential third party provider of such an ancillary service. Such access may equally be required by software applications related to the relevant ancillary services in order to effectively provide similar functionalities as those offered by gatekeepers. If such a dual role is used in a manner that prevents alternative providers of ancillary services or of software applications to have access under equal conditions to the same operating system, hardware or software features that are available or used in the provision by the gatekeeper of any ancillary services, this could significantly undermine innovation by providers of such ancillary services as well as choice for end users of such ancillary services. The gatekeepers should therefore be obliged to ensure access under equal conditions to, and interoperability with, the same operating system, hardware or software features that are available or used in the

Amendment

(52) Gatekeepers may also have a dual role as developers of operating systems and device manufacturers, including any technical functionality that such a device may have. For example, a gatekeeper that is a manufacturer of a device may restrict access to some of the functionalities in this device, such as near-field-communication technology and the software used to operate that technology, which may be required for the effective provision of an ancillary service by the gatekeeper as well as by any potential third party provider of such an ancillary service. Such access may equally be required by software applications related to the relevant ancillary services in order to effectively provide similar functionalities as those offered by gatekeepers. If such a dual role is used in a manner that prevents end users or alternative providers of ancillary services or of software applications to have access under equal conditions to the same operating system, hardware or software features that are available or used in the provision by the gatekeeper of any ancillary services, this could significantly undermine innovation by providers of such ancillary services as well as choice for end users of such ancillary services. The gatekeepers should therefore be obliged to ensure access under equal conditions to, and interoperability with, the same operating system, hardware or software features that are available or used in the
provision of any ancillary services by the gatekeeper.

Amendment 37
Proposal for a regulation
Recital 53

Text proposed by the Commission

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

Amendment

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

Amendment 38
Proposal for a regulation
Recital 54

Text proposed by the Commission

(54) Gatekeepers benefit from access to

Amendment

(54) Gatekeepers benefit from access to
vast amounts of data that they collect while providing the core platform services as well as other digital services. To ensure that gatekeepers do not undermine the contestability of core platform services as well as the innovation potential of the dynamic digital sector by restricting the ability of business users to effectively port their data, business users and end users should be granted effective and immediate access to the data they provided or generated in the context of their use of the relevant core platform services of the gatekeeper, in a structured, commonly used and machine-readable format. This should apply also to any other data at different levels of aggregation that may be necessary to effectively enable such portability. It should also be ensured that business users and end users can port that data in real time effectively, such as for example through high quality application programming interfaces. Facilitating switching or multi-homing should lead, in turn, to an increased choice for business users and end users and an incentive for gatekeepers and business users to innovate.

Amendment 39

Proposal for a regulation
Recital 55

Text proposed by the Commission

(55) Business users that use large core platform services provided by gatekeepers and end users of such business users provide and generate a vast amount of data, including data inferred from such use. In order to ensure that business users have access to the relevant data thus generated, the gatekeeper should, upon their request, allow unhindered access, free of charge, to such data. Such access should also be given to third parties contracted by the business user, who are acting as processors of end users’ data. It should also be ensured that business users and end users can port that data in real time effectively, such as for example through high quality application programming interfaces. Facilitating switching or multi-homing should lead, in turn, to an increased choice for business users and end users and an incentive for gatekeepers and business users to innovate.

Amendment

(55) Business users that use large core platform services provided by gatekeepers and end users of such business users provide and generate a vast amount of data. In order to ensure that business users have access to the relevant data thus generated, the gatekeeper should, upon their request, allow unhindered access, free of charge, to aggregated, non-personal data. Such access should also be given to third parties contracted by the business user, who are acting as processors of this data for the
of this data for the business user. Data provided or generated by the same business users and the same end users of these business users in the context of other services provided by the same gatekeeper may be concerned where this is inextricably linked to the relevant request. To this end, a gatekeeper should not use any contractual or other restrictions to prevent business users from accessing relevant data and should enable business users to obtain consent of their end users for such data access and retrieval, where such consent is required under Regulation (EU) 2016/679 and Directive 2002/58/EC. Gatekeepers should also facilitate access to these data in real time by means of appropriate technical measures, such as for example putting in place high quality application programming interfaces.

Amendment 40
Proposal for a regulation
Recital 56

Text proposed by the Commission

(56) The value of online search engines to their respective business users and end users increases as the total number of such users increases. Providers of online search engines collect and store aggregated datasets containing information about what users searched for, and how they interacted with, the results that they were served. Providers of online search engine services collect these data from searches undertaken on their own online search engine service and, where applicable, searches undertaken on the platforms of their downstream commercial partners. Access by gatekeepers to such ranking, query, click and view data constitutes an important barrier to entry and expansion, which undermines the contestability of online business user. Gatekeepers should also facilitate access to these data in real time by means of appropriate technical measures, such as for example putting in place high quality application programming interfaces.

deleted
search engine services. Gatekeepers should therefore be obliged to provide access, on fair, reasonable and non-discriminatory terms, to these ranking, query, click and view data in relation to free and paid search generated by consumers on online search engine services to other providers of such services, so that these third-party providers can optimise their services and contest the relevant core platform services. Such access should also be given to third parties contracted by a search engine provider, who are acting as processors of this data for that search engine. When providing access to its search data, a gatekeeper should ensure the protection of the personal data of end users by appropriate means, without substantially degrading the quality or usefulness of the data.

Amendment 41

Proposal for a regulation
Recital 57

Text proposed by the Commission

(57) In particular gatekeepers which provide access to software application stores serve as an important gateway for business users that seek to reach end users. In view of the imbalance in bargaining power between those gatekeepers and business users of their software application stores, those gatekeepers should not be allowed to impose general conditions, including pricing conditions, that would be unfair or lead to unjustified differentiation. Pricing or other general access conditions should be considered unfair if they lead to an imbalance of rights and obligations imposed on business users or confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users or lead to a disadvantage for business users.

Amendment

(57) In particular gatekeepers which provide access to core platform services such as software application stores, online search engine and online social networking service serve as an important gateway for business users that seek to reach end users, which can have an adverse effect on the end users' right to receive and impart information and ideas, and ultimately adversely affect media pluralism, diversity of opinion as well as competition. In view of the imbalance in bargaining power between those gatekeepers on the one hand, and business users of core platform services, especially those being in a minority position on a given sectorial market, such as small press publishers, particularly when accessing their online search engine and
users in providing the same or similar services as the gatekeeper. The following benchmarks can serve as a yardstick to determine the fairness of general access conditions: prices charged or conditions imposed for the same or similar services by other providers of software application stores; prices charged or conditions imposed by the provider of the software application store for different related or similar services or to different types of end users; prices charged or conditions imposed by the provider of the software application store for the same service in different geographic regions; prices charged or conditions imposed by the provider of the software application store for the same service the gatekeeper offers to itself. This obligation should not establish an access right and it should be without prejudice to the ability of providers of software application stores to take the required responsibility in the fight against illegal and unwanted content as set out in Regulation [Digital Services Act].

**online social networks, on the other hand,** those gatekeepers should not be allowed to impose general conditions, including pricing conditions, **data usage conditions or conditions related to the licensing of rights held by the business user** that would be unfair or lead to unjustified differentiation. Pricing or other general access or treatment conditions should be considered unfair if they lead to an imbalance of rights and obligations imposed on business users or confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users or lead to a disadvantage for business users in providing the same or similar services as the gatekeeper. The following benchmarks can serve as a yardstick to determine the fairness of general access or treatment conditions: prices charged or conditions imposed for the same or similar services by other providers of software application stores; prices charged or conditions imposed by the provider of core platform services for different related or similar services or to different types of end users; prices charged or conditions imposed by the provider of core platform services for the same service in different geographic regions; prices charged or conditions imposed by the provider of core platform services for the same service the gatekeeper offers to itself. **Determining the fairness of general access conditions should lead to the opportunity to make the revenue stream of digital content providers, such as press publishers being in a dominant position on their market, more transparent, notably in terms of revenues deriving from advertisement, and in terms of distribution of appropriate shares of revenues to the authors of works incorporated in press publications.** This obligation should not establish an access right and it should be without prejudice to the ability of providers of software application stores to take the required responsibility in the fight against illegal
and unwanted content as set out in Regulation [Digital Services Act]. It should also be without prejudice to the ability of business users being in a minority position on a given sectorial market, such as small press publishers, to offer royalty-free licenses in order to ensure access to their content, visibility on online search engines and online social networking services, and it should be without prejudice to the ability of end-users to perform acts of hyperlinking according to article 15(1) of Directive (EU) 2019/790.

Amendment 42
Proposal for a regulation
Recital 58 a (new)

Text proposed by the Commission

(58a) During the implementation period of three months, designated gatekeepers should inform the Commission about what they intend to implement and how, in order to ensure effective compliance with their obligations. Such information should be made available to concerned third parties of undertakings, taking into account the protection of trade secrets of designated gatekeepers.

Amendment 43
Proposal for a regulation
Recital 60

Text proposed by the Commission

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

Where such an exemption is granted, the Commission should review its decision every two years.

Amendment 44

Proposal for a regulation
Recital 64

(64) The Commission should investigate and assess whether additional behavioural, or, where appropriate, structural remedies are justified, in order to ensure that the gatekeeper cannot frustrate the objectives of this Regulation by systematic non-compliance with one or several of the obligations laid down in this Regulation, which has further strengthened its gatekeeper position. This would be the case if the gatekeeper’s size in the internal market has further increased, economic dependency of business users and end users on the gatekeeper’s core platform services has further strengthened as their number has further increased and the gatekeeper benefits from increased entrenchment of its position. The Commission should therefore in such cases have the power to impose any remedy, whether behavioural or structural, having due regard to the principle of proportionality. Structural remedies, such as legal, functional or structural separation, including the divestiture of a business, or parts of it, should only be imposed either where there is no equally effective behavioural remedy or where any equally effective behavioural remedy would be more burdensome for the undertaking concerned than the structural remedy. Changes to the structure of an undertaking as it existed before the systematic non-compliance was established would only be proportionate where there is a substantial risk that this systematic non-compliance results from the very structure of the
behavioural remedy or where any equally
effective behavioural remedy would be
more burdensome for the undertaking
concerned than the structural remedy.
Changes to the structure of an undertaking
as it existed before the systematic non-
compliance was established would only be
proportionate where there is a substantial
risk that this systematic non-compliance
results from the very structure of the
undertaking concerned.

Amendment 45
Proposal for a regulation
Recital 65 a (new)

Text proposed by the Commission

Amendment

(65a) In case of urgency where a risk of serious and immediate damage for business users or end-users of gatekeepers could result from new practices that may undermine contestability of core platform services or may be unfair, it is also important to ensure that the Commission can implement interim measures and thus temporarily impose obligations to the gatekeeper concerned. These interim measures should be proportionate and limited to what is necessary and justified. They should apply pending the conclusion of the market investigation and the corresponding final decision of the Commission.

Amendment 46
Proposal for a regulation
Recital 67

Text proposed by the Commission

Amendment

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

Amendment 47

Proposal for a regulation
Recital 70

*Text proposed by the Commission*  

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

*Amendment*

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

Amendment 48
Proposal for a regulation
Recital 75

**Text proposed by the Commission**

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

**Amendment**

(75) In the context of proceedings carried out under this Regulation, the undertakings concerned should be accorded the right to be heard by the Commission and the decisions taken should be widely publicised. While ensuring the rights to good administration and the rights of defence of the undertakings concerned, in particular, the right of access to the file and the right to be heard, it is essential that confidential information be protected. Furthermore, while respecting the confidentiality of the information, the Commission should ensure that any information relied on for the purpose of the decision is disclosed to an extent that allows the addressee of the decision to understand the facts and considerations that led up to the decision. Finally, under certain conditions certain business records, such as communication between lawyers and their clients, may be considered confidential if the relevant conditions are met. **Parties directly concerned by the obligations laid down in Articles 5 and 6 should be considered to have an interest and should therefore be able to be heard. Where a procedure concerns products or services used by end consumers, the consumer associations should be considered to have a sufficient interest.**

Amendment 49

Proposal for a regulation
Recital 77

**Text proposed by the Commission**

(77) The advisory committee established in accordance with Regulation (EU) No 182/2011 should also deliver opinions on

**Amendment**

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

Recital 78 a (new)

Text proposed by the Commission

(78a) Gatekeepers often highlight sponsored search results, or elements promoting their own products and services, and limit the display of organic results.

Amendment 51

Proposal for a regulation
Recital 79 – paragraph 1

Text proposed by the Commission

(79) The objective of this Regulation is to ensure a contestable and fair digital sector in general and core platform services in particular, with a view to promoting innovation, high quality of digital products and services, fair and competitive prices, as well as a high quality and choice for end users in the digital sector. This cannot be sufficiently achieved by the Member States, but can only, by reason of the business model and operations of the gatekeepers and the scale and effects of their operations, be fully 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

(79) The objective of this Regulation is to ensure a contestable and fair digital sector in general and accessible core platform services in particular, with a view to promoting and stimulating innovation, high quality of digital products and services, fair and competitive prices, as well as a high quality and choice for end users in the digital sector, within a harmonised digital market. This cannot be sufficiently achieved by the Member States, but can only, by reason of the business model and operations of the gatekeepers and the scale and effects of their operations, as well as the need to maintain the right balance on the digital market while pursuing the objective of stimulating innovation, be fully 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 52

Proposal for a regulation
Recital 79 – paragraph 1

_text proposed by the Commission_

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

Amendment

Proposal for a regulation

Article 1 – paragraph 1 a (new)

_text proposed by the Commission_

1a. This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, in particular Articles 11, 16, 47 and 50 thereof. Accordingly, this Regulation is interpreted and applied with respect to those rights and principles.

Amendment 54

Proposal for a regulation

Article 1 – paragraph 5

_text proposed by the Commission_

5. Member States shall not impose on gatekeepers further obligations by way of laws, regulations or administrative action for the purpose of ensuring contestable and fair markets. This is without prejudice to rules pursuing other legitimate public interests, in compliance with Union law. In particular, nothing in this Regulation precludes Member States from imposing obligations, which are compatible with Union law, on undertakings, including providers of core platform services where

Amendment

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

**Amendment 55**

**Proposal for a regulation**

**Article 1 – paragraph 6**

*Text proposed by the Commission*

6. This Regulation is without prejudice to the application of Articles 101 and 102 TFEU. It is also without prejudice to the application of: national rules prohibiting anticompetitive agreements, decisions by associations of undertakings, concerted practices and abuses of dominant positions; national competition rules prohibiting other forms of unilateral conduct insofar as they are applied to undertakings other than gatekeepers or amount to imposing additional obligations on gatekeepers; Council Regulation (EC) No 139/2004 and national rules concerning merger control; Regulation (EU) 2019/1150 and Regulation (EU) …/.. of the European Parliament and of the Council.

*Amendment*

6. This Regulation *complements and* is without prejudice to the application of Articles 101 and 102 TFEU. It is also without prejudice to the application of: national rules prohibiting anticompetitive agreements, decisions by associations of undertakings, concerted practices and abuses of dominant positions; national competition rules prohibiting other forms of unilateral conduct insofar as they are applied to undertakings other than gatekeepers or amount to imposing additional obligations on gatekeepers; Council Regulation (EC) No 139/2004 and national rules concerning merger control; Regulation (EU) 2019/1150; Regulation (EU) 2016/679; Directive 2002/58; and Regulation (EU) …/... of the European Parliament and of the Council, Directive 2005/29/EC on unfair commercial practices, Council Directive 93/13/EEC on unfair terms in consumer contracts and Directive 2010/13/EU on the provision of audiovisual media services.

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Amendment 56

Proposal for a regulation
Article 1 – paragraph 7

Text proposed by the Commission

7. National authorities shall not take decisions which would run counter to a decision adopted by the Commission under this Regulation. The Commission and Member States shall work in close cooperation and coordination in their enforcement actions.

Amendment

7. National authorities shall not take decisions which would run counter to a decision adopted by the Commission under this Regulation. The Commission and Member States shall work in close cooperation and coordination in their enforcement actions, providing close assistance to Member States who request this.

Amendment 57

Proposal for a regulation
Article 2 – paragraph 1 – point 2 – point a

Text proposed by the Commission

(a) online intermediation services;

Amendment

(a) online intermediation services, including online, marketplaces and software application stores;

Amendment 58

Proposal for a regulation
Article 2 – paragraph 1 – point 2 – point h

Text proposed by the Commission

(h) advertising services, including any advertising networks, advertising

Amendment

(h) online advertising services, including any advertising networks,
exchanges and any other advertising intermediation services, provided by a provider of any of the core platform services listed in points (a) to (g);

Amendment 59

Proposal for a regulation
Article 2 – paragraph 1 – point 2 – point h a (new)

Text proposed by the Commission

Amendment

(ha) payment aggregation services;

Amendment 60

Proposal for a regulation
Article 2 – paragraph 1 – point 2 – point h b (new)

Text proposed by the Commission

Amendment

(hb) embedded digital services in vehicles;

Amendment 61

Proposal for a regulation
Article 2 – paragraph 1 – point 2 – point h c (new)

Text proposed by the Commission

Amendment

(hc) connected TV services;

Amendment 62

Proposal for a regulation
Article 2 – paragraph 1 – point 2 –point i a(new)

Text proposed by the Commission

Amendment

(ia) web browsers;
Amendment 63
Proposal for a regulation
Article 2 – paragraph 1 – point 2 – point k a (new)

Text proposed by the Commission

Amendment

(ka) virtual assistants;

Amendment 64
Proposal for a regulation
Article 2 – paragraph 1 – point 18

Text proposed by the Commission

Amendment

(18) ‘Ranking’ means the relative prominence given to goods or services, offered through online intermediation services or online social networking services, or the relevance given to search results by online search engines, as presented, organised or communicated by the providers of online intermediation services or of online social networking services or by providers of online search engines, respectively, whatever the technological means used for such presentation, organisation or communication;

Amendment 65
Proposal for a regulation
Article 2 – paragraph 1 – point 23 a (new)

Text proposed by the Commission

Amendment

(23a) ‘Virtual Assistant’ means software that responds to oral or written commands expressed in a non-technical language by end-users and perform tasks or services by itself or mediates with IT systems on behalf of the end user, such as executing search queries, accessing and interacting with other digital services on behalf of the
end user;

Amendment 66
Proposal for a regulation
Article 2 – paragraph 1 – point 23 b (new)

Text proposed by the Commission

(23b) ‘Web browsers’ means independent or embedded software applications to access and interact with information hosted on web servers and networks such as the internet;

Amendment 67
Proposal for a regulation
Article 2 – paragraph 1 – point 23 c (new)

Text proposed by the Commission

(23c) ‘Search results’ means any information in any format, including texts, graphics, voice or other output, returned by core platform services provider in response and related to a written or oral search query, irrespective of whether the information is an organic result, a paid result, a direct answer or any product, service or information offered in connection with, or displayed along with, or partly or entirely embedded in, the organic results;

Amendment 68
Proposal for a regulation
Article 2 – paragraph 1 – point 23 d (new)

Text proposed by the Commission

(23d) ‘National competent authority’ means any national authority that has been designated by a Member State as such within the meaning and for the
purpose of this Regulation, notably in respect of Article 17;

Amendment 69
Proposal for a regulation
Article 2 – paragraph 1 – point 23 e (new)

Text proposed by the Commission

Amendment

(23e) ‘Consent’ of the data subject means any freely given, specific, informed and unambiguous indication of the data subject’s wishes as defined in point 11 of Article 4 of Regulation (EU) 2016/679;

Amendment 70
Proposal for a regulation
Article 2 – paragraph 1 – point 23 f (new)

Text proposed by the Commission

Amendment


Amendment 71
Proposal for a regulation
Article 2 – paragraph 1 – point 23 g (new)

Text proposed by the Commission

Amendment

(23g) ‘Embedded digital services in vehicles’ means software embedded in vehicles including for the purpose of gaining insights into vehicle performance
and driver behaviour, or for the purpose of accessing audiovisual media content;

Amendment 72
Proposal for a regulation
Article 2 – paragraph 1 – point 23 h (new)

Text proposed by the Commission

Amendment

(23h) ‘Connected TV’ means a television set connected to the internet that allows user to perform online activities including music and video streaming, or viewing of pictures;

Amendment 73
Proposal for a regulation
Article 3 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) it operates a core platform service which serves as an important gateway for business users or end users to reach other end users or business users; and

Amendment 74
Proposal for a regulation
Article 3 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) it enjoys an entrenched and durable position in its operations or it is foreseeable that it will enjoy such a position in the near future.
Amendment 75

Proposal for a regulation
Article 3 – paragraph 2 – introductory part

Text proposed by the Commission

2. A provider of core platform services shall be presumed to satisfy:

Amendment

2. A provider of core platform services shall be presumed to satisfy either of the following criteria:

Amendment 76

Proposal for a regulation
Article 3 – paragraph 2 – point b

Text proposed by the Commission

(b) the requirement in paragraph 1 point (b) where it provides a core platform service that has more than 45 million monthly active end users established and located in the Union and more than 10 000 yearly active business users established in the Union in the last financial year;

Amendment

(b) the requirement in paragraph 1 point (b) where it provides one or multiple core platform services that each have more than 45 million monthly end users established or located in the Union or more than 10 000 yearly business users established in the Union in the last financial year;

for the purpose of the first subparagraph, monthly active end users shall refer to the average number of monthly active end users throughout the largest part of the last financial year;

Amendment

for the purpose of the first subparagraph, end users shall refer to the average number of end users throughout the last financial year;

Amendment 77

Proposal for a regulation
Article 3 – paragraph 3 – introductory part

Text proposed by the Commission

3. Where a provider of core platform services meets all the thresholds in paragraph 2, it shall notify the Commission thereof within three months after those thresholds are satisfied and provide it with the relevant information identified in paragraph 2. That notification shall

Amendment

3. Where a provider of core platform services meets all the thresholds in paragraph 2, it shall notify the Commission thereof within one month after those thresholds are satisfied and provide it with the relevant information identified in paragraph 2. That notification shall include
include the relevant information identified in paragraph 2 for each of the core platform services of the provider that meets the thresholds in paragraph 2 point (b). The notification shall be updated whenever other core platform services individually meet the thresholds in paragraph 2 point (b).

Amendment 78

Proposal for a regulation
Article 3 – paragraph 4

Text proposed by the Commission

4. The Commission shall, without undue delay and at the latest 60 days after receiving the complete information referred to in paragraph 3, designate the provider of core platform services that meets all the thresholds of paragraph 2 as a gatekeeper, unless that provider, with its notification, presents sufficiently substantiated arguments to demonstrate that, in the circumstances in which the relevant core platform service operates, and taking into account the elements listed in paragraph 6, the provider does not satisfy the requirements of paragraph 1.

Where the gatekeeper presents such sufficiently substantiated arguments to demonstrate that it does not satisfy the requirements of paragraph 1, the Commission shall apply paragraph 6 to assess whether the criteria in paragraph 1 are met.

Amendment

4. The Commission shall, without undue delay and at the latest 60 days after receiving the complete information referred to in paragraph 3, designate the provider of core platform services that meets all the thresholds of paragraph 2 as a gatekeeper, unless that provider, with its notification, presents sufficiently substantiated arguments to demonstrate that, in the circumstances in which the relevant core platform service operates, and taking into account the elements listed in paragraph 6, the provider does not satisfy the requirements of paragraph 1.

Where the gatekeeper presents such sufficiently substantiated arguments to demonstrate that it does not satisfy the requirements of paragraph 1, the Commission shall apply paragraph 6 to assess whether the criteria in paragraph 1 are met.

Where the provider of the core platform service fails to provide within the deadline set by the Commission all the relevant information that is required to assess its designation as gatekeeper pursuant to Article 3 (2), the Commission shall be entitled to designate that provider as a
Amendment 79

Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 1 – point f

Text proposed by the Commission
(f) other structural market characteristics.

Amendment
(f) other structural market characteristics such as the degree of multi-homing among business and end-users of the core platform services provided.

Amendment 80

Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 2

Text proposed by the Commission
In conducting its assessment, the Commission shall take into account foreseeable developments of these elements.

Amendment
In conducting its assessment, the Commission shall take into account foreseeable developments, of these elements in the short term.

Amendment 81

Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 3

Text proposed by the Commission
Where the provider of a core platform service that satisfies the quantitative thresholds of paragraph 2 fails to comply with the investigative measures ordered by the Commission in a significant manner and the failure persists after the provider has been invited to comply within a reasonable time-limit and to submit observations, the Commission shall be entitled to designate that provider as a gatekeeper.

Amendment
Where the provider of a core platform service that satisfies the quantitative thresholds of paragraph 2 fails to comply with the investigative measures ordered by the Commission pursuant to Chapter V of this Regulation in a significant manner and the failure persists after the provider has been invited to comply within a reasonable time-limit and to submit observations, the Commission shall be entitled to designate that provider as a gatekeeper.
Amendment 82

Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 4

**Text proposed by the Commission**

Where the provider of a core platform service that does not satisfy the quantitative thresholds of paragraph 2 fails to comply with the investigative measures ordered by the Commission in a significant manner and the failure persists after the provider has been invited to comply within a reasonable time-limit and to submit observations, the Commission shall be entitled to designate that provider as a gatekeeper based on facts available.

**Amendment**

Where the provider of a core platform service that does not satisfy the quantitative thresholds of paragraph 2 fails to comply with the investigative measures ordered by the Commission pursuant to Chapter V of this Regulation in a significant manner and the failure persists after the provider has been invited to comply within a reasonable time-limit and to submit observations, the Commission shall be entitled to designate that provider as a gatekeeper based on facts available.

Amendment 83

Proposal for a regulation
Article 3 – paragraph 7

**Text proposed by the Commission**

7. For each gatekeeper identified pursuant to paragraph 4 or paragraph 6, the Commission shall identify the relevant undertaking to which it belongs and list the relevant core platform services that are provided within that same undertaking and which individually serve as an important gateway for business users to reach end users as referred to in paragraph 1(b).

**Amendment**

7. For each gatekeeper identified pursuant to paragraph 4 or paragraph 6, the Commission shall identify the relevant undertaking to which it belongs and list the relevant core platform services that are provided within that same undertaking and which individually serve as an important gateway for business users or end users to reach end users or business users as referred to in paragraph 1(b).

Amendment 84

Proposal for a regulation
Article 3 – paragraph 8
8. The gatekeeper shall comply with the obligations laid down in Articles 5 and 6 within six months after a core platform service has been included in the list pursuant to paragraph 7 of this Article.

Amendment 85

Proposal for a regulation
Article 4 – paragraph 1 – point b a (new)

Text proposed by the Commission

(ba) there is new relevant information that was not examined before the adoption of the decision;

Amendment 86

Proposal for a regulation
Article 4 – paragraph 2 – introductory part

Text proposed by the Commission

2. The Commission shall regularly, and at least every 2 years, review whether the designated gatekeepers continue to satisfy the requirements laid down in Article 3(1), or whether new providers of core platform services satisfy those requirements. The regular review shall also examine whether the list of affected core platform services of the gatekeeper needs to be adjusted.

Amendment

2. The Commission shall regularly, and at least every 3 years, review whether the designated gatekeepers continue to satisfy the requirements laid down in Article 3(1), or whether new providers of core platform services satisfy those requirements. The regular review shall also examine whether the list of affected core platform services of the gatekeeper needs to be adjusted.
Amendment 87

Proposal for a regulation
Article 4 – paragraph 3

Text proposed by the Commission

3. The Commission shall publish and update the list of gatekeepers and the list of the core platform services for which they need to comply with the obligations laid down in Articles 5 and 6 on an on-going basis.

Amendment

3. The Commission shall make publicly available and update the list of gatekeepers and the list of the core platform services for which they need to comply with the obligations laid down in Articles 5 and 6 with the support of the competent national authorities on an on-going basis and whenever the Council of the European Union or the European Parliament requests.

Amendment 88

Proposal for a regulation
Article 5 – paragraph - 1 (new)

Text proposed by the Commission

-1. A gatekeeper shall behave in a fair manner vis-à-vis business users and end users and refrain from using practices that would prevent business users from effectively competing with their core platform services or any other services provided by the gatekeeper or third parties, such as preferential treatment, pricing advantages, de-listing of the offers of business users or increased commission rates or measures with equivalent effect.

Justification

In order to align the obligations for gatekeepers with recitals 32, 33 and 34, it is necessary to include a general fairness principle in Article 5. This principle shall ensure the fair conduct of core platform services wherever they directly compete with business users through their own services.
Amendment 89

Proposal for a regulation
Article 5 – paragraph 1 – point a

Text proposed by the Commission

(a) refrain from combining personal data sourced from these core platform services with personal data from any other services offered by the gatekeeper or with personal data from third-party services, and from signing in end users to other services of the gatekeeper in order to combine personal data, unless the end user has been presented with the specific choice and provided consent in the sense of Regulation (EU) 2016/679.

Amendment

(a) refrain from combining personal data sourced from these core platform services with personal data from any other services offered by the gatekeeper or with personal data from third-party services, and from signing in business users or end users to other services of the gatekeeper in order to combine personal data, unless the end user has been presented with the specific choice and provided consent in the sense of Regulation (EU) 2016/679 and the gatekeeper can prove that combining personal data is technically necessary to provide the business user or end user with the core platform service or ancillary service. Users shall be presented with a clear and easy-to-understand consent prompt for each new instance of combination of personal data between services they have signed up for. In the event that the end user has been presented with the specific choice and has not provided consent, or has withdrawn consent, the gatekeeper shall refrain from offering different or degraded services compared to the services offered to an end user that provided consent, unless such consent is indispensable to ensure the same quality of service;

Amendment 90

Proposal for a regulation
Article 5 – paragraph 1 – point b

Text proposed by the Commission

(b) allow business users to offer the same products or services to end users through third party online intermediation services at prices or conditions that are

Amendment

(b) refrain from applying contractual obligations that prevent business from offering the same products or services to end users or other business users through
different from those offered through the online intermediation services of the gatekeeper;

third party online intermediation services, by themselves, or by any other means, at prices or conditions that are different from those offered through the online intermediation services of the gatekeeper;

Amendment 91

Proposal for a regulation
Article 5 – paragraph 1 – point b a (new)

Text proposed by the Commission

(ba) refrain from requiring business users to inform the gatekeeper of the differentiated prices or conditions they choose to apply on their own channel of distribution or through any other means;

Amendment 92

Proposal for a regulation
Article 5 – paragraph 1 – point c

Text proposed by the Commission

(c) allow business users to promote offers to end users acquired via the core platform service, and to conclude contracts with these end users regardless of whether for that purpose they use the core platform services of the gatekeeper or not, and allow end users to access and use, through the core platform services of the gatekeeper, content, subscriptions, features or other items by using the software application of a business user, where these items have been acquired by the end users from the relevant business user without using the core platform services of the gatekeeper;

(c) allow business users to promote different offers to end users acquired via the core platform service, and to conclude contracts with these end users or receive payments for services provided regardless of whether for that purpose they use the core platform services of the gatekeeper or not, and allow end users to access and use, through the core platform services of the gatekeeper, content, subscriptions, features or other items by using the software application of a business user, where these items have been acquired by the end users from the relevant business user without using the core platform services of the gatekeeper;
Amendment 93

Proposal for a regulation
Article 5 – paragraph 1 – point d

Text proposed by the Commission

(d) refrain from preventing or restricting business users from raising issues with any relevant public authority relating to any practice of gatekeepers;

Amendment

(d) refrain from directly or indirectly preventing or restricting business users, end-users, or third-party suppliers of ancillary services from raising issues with any relevant public or judicial authority relating to any practice of gatekeepers;

Amendment 94

Proposal for a regulation
Article 5 – paragraph 1 – point e

Text proposed by the Commission

(e) refrain from requiring business users to use, offer or interoperate with an identification service of the gatekeeper in the context of services offered by the business users using the core platform services of that gatekeeper;

Amendment

(e) refrain from requiring business users or end users to use, offer or interoperate with any service of the gatekeeper in the context of services offered by the business users using the core platform services of that gatekeeper;

Amendment 95

Proposal for a regulation
Article 5 – paragraph 1 – point f

Text proposed by the Commission

(f) refrain from requiring business users or end users to subscribe to or register with any other core platform services identified pursuant to Article 3 or which meets the thresholds in Article 3(2)(b) as a condition to access, sign up or register to any of their core platform services identified pursuant to that Article;

Amendment

(f) refrain from requiring business users or end users to use, subscribe to, or register with, any other core platform services as defined in Article 2 and ancillary services as a condition to use, access, sign up or register to any of their core platform services identified pursuant to that Article;
Amendment 96
Proposal for a regulation
Article 5 – paragraph 1 – point g

Text proposed by the Commission
(g) provide advertisers and publishers to which it supplies advertising services, upon their request, with information concerning the price paid by the advertiser and publisher, as well as the amount or remuneration paid to the publisher, for the publishing of a given ad and for each of the relevant advertising services provided by the gatekeeper.

Amendment
(g) provide individual advertisers and publishers to which it supplies advertising services, or third parties authorised by advertisers and publishers, upon their request and free of charge, with relevant, continuous, detailed, comprehensive, real-time and easy-to-access information concerning the bids placed by advertisers and advertising intermediaries, the price paid by the advertiser and publisher, as well as the amount and remuneration paid to the publisher, for the publishing of a given ad and for each of the relevant advertising services provided by the gatekeeper, including aggregated data and performance data in a manner that would allow advertisers and publishers to run their own verification and measurement tools to assess performance of the core services provided for by the gatekeepers, without prejudice to requirements of Regulation (EU) 2016/679;

Amendment 97
Proposal for a regulation
Article 5 – paragraph 1 – point g a (new)

Text proposed by the Commission
(ga) refrain from imposing on business users or end users software applications or services, which are used in the context of or together with core platform services, or contractual licensing agreements, which would limit end users’ ability or economic incentive to use third party software applications or service and/or give preferential treatment to the gatekeeper’s own products or services;

Amendment
(ga) refrain from imposing on business users or end users software applications or services, which are used in the context of or together with core platform services, or contractual licensing agreements, which would limit end users’ ability or economic incentive to use third party software applications or service and/or give preferential treatment to the gatekeeper’s own products or services;
Amendment 98

Proposal for a regulation
Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) refrain from using, in competition with business users, any any data not publicly available, which is generated through activities by those business users and end users, including by the end users of these business users, of its core platform services or provided by those business users of its core platform services or by the end users of these business users;

Amendment

(a) refrain from using, in competition with business users, any data not publicly available, which is provided or generated through or in connection with activities by those business users and end users, including by the end users of these business users, of its core platform services or ancillary services or provided by those business users of its core platform services its ancillary services or by the end users of these business users;

Amendment 99

Proposal for a regulation
Article 6 – paragraph 1 – point b

Text proposed by the Commission

(b) allow end users to un-install any pre-installed software applications on its core platform service without prejudice to the possibility for a gatekeeper to restrict such un-installation in relation to software applications that are essential for the functioning of the operating system or of the device and which cannot technically be offered on a standalone basis by third-parties;

Amendment

(b) allow end users to un-install any pre-installed software applications and change any default setting on its core platform service without prejudice to the possibility for a gatekeeper to restrict such un-installation in relation to software applications that the gatekeeper must prove are essential for the functioning of the operating system or of the device and which cannot technically be offered on a standalone basis by third-parties;
Amendment 100

Proposal for a regulation
Article 6 – paragraph 1 – point c

Text proposed by the Commission

(c) allow the installation and effective use of third party software applications or software application stores using, or interoperating with, operating systems of that gatekeeper and allow these software applications or software application stores to be accessed by means other than the core platform services of that gatekeeper. The gatekeeper shall not be prevented from taking proportionate measures to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper;

Amendment

(c) allow and technically enable installation, default-setting, interoperability and effective use of third party software applications or software application stores or repositories using, or interoperating with, operating systems of that gatekeeper and allow and enable these software applications or software application stores or repositories to be accessed by means other than the core platform services of that gatekeeper in a non-discriminatory manner. After installation of a third-party software application or software application store, the gatekeeper shall provide the business user or end user with a clear prompt to decide upon the new default. The gatekeeper shall not be prevented from taking proportionate measures to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper provided that such proportionate measures are duly justified;

Amendment 101

Proposal for a regulation
Article 6 – paragraph 1 – point d

Text proposed by the Commission

(d) refrain from treating more favourably in ranking, services and products offered by the gatekeeper itself or by any third party belonging to the same undertaking compared to similar services or products of third party and apply fair and non-discriminatory conditions to such

Amendment

(d) refrain from treating differently or more favourably in ranking, services, display, installation, activation, settings and products offered by the gatekeeper itself or by any third party belonging to the same undertaking compared to similar services or products of third party or other parties third party and apply transparent,
ranking;

Amendment 102

Proposal for a regulation
Article 6 – paragraph 1 – point e

Text proposed by the Commission

(e) refrain from technically restricting the ability of end users to switch between and subscribe to different software applications and services to be accessed using the operating system of the gatekeeper, including as regards the choice of Internet access provider for end users;

Amendment

(e) refrain from technically restricting the ability of end users to switch between and subscribe to different software applications and services to be accessed using the operating system or the cloud computing services of the gatekeeper, including as regards the choice of Internet access provider for end users or using its virtual assistant;

Amendment 103

Proposal for a regulation
Article 6 – paragraph 1 – point f

Text proposed by the Commission

(f) allow business users and providers of ancillary services access to and interoperability with the same operating system, hardware or software features that are available or used in the provision by the gatekeeper of any ancillary services;

Amendment

(f) allow business users, end users, providers of ancillary services and other providers of core platform services access to and interoperability with the same operating system, hardware or software features, such as near-field communication antennas or related technology, number independent interpersonal communications services, or social networking services, that are available or used in the provision by the gatekeeper of any ancillary services or industry-standard features of its core platform services, where access and interoperability conditions shall be fair, reasonable and non-discriminatory. The gatekeeper may temporarily limit access to interoperability features in case of provable abuse by a third-party provider or when justified by an immediate
requirement to address a technical issue such as a serious security vulnerability. In accordance with Union legislation on standardisation, the Commission shall request European standardisation bodies to develop the necessary technical standards for interoperability such as protocol interoperability and data interoperability and portability, without prejudice to any limitations and restrictions set out in Regulation (EU) 2016/679;

Amendment 104
Proposal for a regulation
Article 6 – paragraph 1 – point g

*Text proposed by the Commission*

(g) provide advertisers and publishers, upon their request and free of charge, with access to the performance measuring tools of the gatekeeper and the information necessary for advertisers and publishers to carry out their own independent verification of the ad inventory;

*Amendment*

(g) provide *advertisers and publishers, or third parties authorised by* advertisers and publishers, upon their request and free of charge, with *continuous, detailed, comprehensive, accessible and real-time access information* access to the performance measuring tools of the gatekeeper and the information necessary for advertisers and publishers to carry out their own independent verification of the ad inventory, *including aggregated data and performance data in a manner that would allow advertisers and publishers to run their own verification and measurement tools to assess performance of the core services provided for by the gatekeepers*;

Amendment 105
Proposal for a regulation
Article 6 – paragraph 1 – point h

*Text proposed by the Commission*

(h) provide effective portability of data generated through the activity of a business

*Amendment*

(h) provide effective portability of data *provided for or* generated through *or in the*
user or end user and shall, in particular, provide tools for end users to facilitate the exercise of data portability, in line with Regulation EU 2016/679, including by the provision of continuous and real-time access;

context of the activity of a business user or end user and shall, in particular, provide free of charge and technically accessible tools for business users, or third parties authorised by business users or end users to facilitate the exercise of data portability, in line with Regulation EU 2016/679, including by the provision of continuous and real-time access;

Amendment 106
Proposal for a regulation
Article 6 – paragraph 1 – point i

Text proposed by the Commission

(i) provide business users, or third parties authorised by a business user, free of charge, with effective, high-quality, continuous and real-time access and use of aggregated or non-aggregated data, that is provided for or generated in the context of the use of the relevant core platform services or ancillary services offered by the gatekeeper by those business users and the end users engaging with the products or services provided by those business users; for personal data, provide access and use only where directly connected with the use effectuated by the end user in respect of the products or services offered by the relevant business user through the relevant core platform service, and when the end user opts in to such sharing with a consent in the sense of the Regulation (EU) 2016/679;

Amendment

(i) provide business users, or third parties authorised by a business user, free of charge, with effective, high-quality, continuous and real-time access and use of aggregated or non-aggregated, non-personal data, that is provided for or generated in the context of the use of the relevant core platform services or of ancillary services offered by the gatekeeper by those business users and the end users engaging with the products or services provided by those business users; for personal data, provide, with the consent of the data subject, access to and use of those data only where directly connected with the use effectuated by the end user in respect of the products or services offered by the relevant business user through the relevant core platform service, and when the end user opts in to such sharing with a consent in the sense of the Regulation (EU) 2016/679;
Amendment 107
Proposal for a regulation
Article 6 – paragraph 1 – point j

Text proposed by the Commission

(j) provide to any third party providers of online search engines, upon their request, with access on fair, reasonable and non-discriminatory terms to ranking, query, click and view data in relation to free and paid search generated by end users on online search engines of the gatekeeper, subject to anonymisation for the query, click and view data that constitutes personal data;

Amendment

deleted

Justification

The EDPS raises the issue that the data concerned is most likely personal data or easily identifiable. It should therefore not be shared.

Amendment 108
Proposal for a regulation
Article 6 – paragraph 1 – point k

Text proposed by the Commission

(k) apply fair and non-discriminatory general conditions of access for business users to its software application store designated pursuant to Article 3 of this Regulation.

Amendment

(k) apply fair and non-discriminatory general conditions of access and treatment for business users to its core platform services, such as software application stores, online search engines and online social networking services or ancillary services offered by the gatekeeper designated pursuant to Article 3 of this Regulation.

Amendment 109
Proposal for a regulation
Article 6 – paragraph 1 – point k a (new)
Text proposed by the Commission

(ka) provide business users of online intermediation services with access to communication channels without supervision, interference or access by the gatekeeper for the purpose of sharing concerns among business users about discriminatory or unfair business practices by the gatekeeper within the meaning of this Regulation and in view of taking action in accordance with Article 33 paragraph 2a, notwithstanding their obligations under national or Union legislation;

Amendment 110

Proposal for a regulation
Article 6 – paragraph 1 – point k b (new)

Text proposed by the Commission

(kb) provide its business users and end users with clear, fair and non-discriminatory licensing conditions, including in terms of charges and fees, preventing material changes limiting the use of software applications or services in conjunction with a core platform service, and safeguarding the reasonably expected use of the software application or service, including after its transfer to another end user, where applicable.

Amendment 111

Proposal for a regulation
Article 6 – paragraph 1 – point k c (new)

Text proposed by the Commission

(kc) refrain from displaying a preferential ranking following a search. Preference should be given to displaying
organic results;

Amendment 112
Proposal for a regulation
Article 6 – paragraph 1 – point k d (new)

Text proposed by the Commission

Amendment
(kd) provide business users of online intermediation services and third parties with legitimate interest in representing business users or end users with information regarding the function of its algorithms, ratings and interactions, pricing and fees, changes of terms and algorithms, tracking of business or end users, and deactivation procedures in a clear, comprehensive and easily accessible way;

Amendment 113
Proposal for a regulation
Article 6 – paragraph 1 – point k f (new)

Text proposed by the Commission

Amendment
(kf) treat organic search results with preference over sponsored content or advertising;

Amendment 114
Proposal for a regulation
Article 6 – paragraph 2

Text proposed by the Commission

Amendment
2. For the purposes of point (a) of paragraph 1 data that is not publicly available shall include any aggregated and non-aggregated data generated by business users that can be inferred from, or collected through, the commercial activities of business users or their customers on the core platform service of the gatekeeper.

2. For the purposes of point (a) of paragraph 1 data that is not publicly available shall include any aggregated and non-aggregated data generated by business users or generated by goods and services provided by a supplier to the gatekeeper’s ancillary services notably distribution, that can be inferred from, or collected
through, the commercial activities of business users or their customers on the core platform, *distribution or other ancillary* service of the gatekeeper.

**Amendment 115**

Proposal for a regulation  
Article 6 – paragraph 2 a (new)

*Text proposed by the Commission*  
2a. Before implementing any change to fees or fee structures charged to business users and which follow from the gatekeeper’s obligations pursuant to paragraph 1, the gatekeeper shall notify the Commission and the affected business users at least one month in advance of such changes;

**Amendment 116**

Proposal for a regulation  
Article 7 – paragraph 1

*Text proposed by the Commission*  
1. The measures implemented by the gatekeeper to ensure compliance with the obligations laid down in Articles 5 and 6 shall be effective in achieving the objective of the relevant obligation. The gatekeeper shall ensure that these measures are implemented in compliance with Regulation (EU) 2016/679 and Directive 2002/58/EC, and with legislation on cyber security, consumer protection and product safety.

*Amendment*  
1. The measures implemented by the gatekeeper to ensure *full* compliance with the obligations laid down in Articles 5 and 6 shall be *fully* effective in achieving the objective of the relevant obligation and lead towards this. The gatekeeper shall *demonstrate compliance with the obligations laid down in Articles 5 and 6 and* ensure that these measures are implemented in compliance with Regulation (EU) 2016/679 and Directive 2002/58/EC, and with legislation on cyber security, consumer protection and product safety.

*Justification*  

*This echoes the wording of art. 11 on “anti-circumvention”.*
Amendment 117

Proposal for a regulation
Article 7 – paragraph 1 a (new)

Text proposed by the Commission

1a. Within six months after its designation pursuant to paragraph 8 of Article 3, the gatekeeper shall provide the Commission with detailed information on the measures to be taken in order to ensure compliance with its obligations laid down in Articles 5 and 6. This information shall be provided in the form of a report and shall be updated on an annual basis, whereby a summary of this report shall be published on the Commission’s website without undue delay.

Amendment 118

Proposal for a regulation
Article 7 – paragraph 2

Text proposed by the Commission

2. Where the Commission finds that the measures that the gatekeeper intends to implement pursuant to paragraph 1, or has implemented, do not ensure effective compliance with the relevant obligations laid down in Article 6, it may by decision specify the measures that the gatekeeper concerned shall implement. The Commission shall adopt such a decision within six months from the opening of proceedings pursuant to Article 18.

Amendment

2. Where the Commission finds that the measures that the gatekeeper intends to implement pursuant to paragraph 1, or has implemented, do not ensure effective compliance with the relevant obligations laid down in Article 6, it may by decision specify the measures that the gatekeeper concerned shall implement in order to comply with the obligations laid down in Article 6. In view of adopting the decision, the Commission shall take into account the information provided by all relevant stakeholders, such as interested third parties, governments or national authorities. The Commission shall adopt such a decision within six months from the opening of proceedings pursuant to Article 18.
Amendment 119
Proposal for a regulation
Article 7 – paragraph 4

Text proposed by the Commission

4. In view of adopting the decision under paragraph 2, the Commission shall communicate its preliminary findings within three months from the opening of the proceedings. In the preliminary findings, the Commission shall explain the measures it considers to take or it considers that the provider of core platform services concerned should take in order to effectively address the preliminary findings.

Amendment

4. In view of adopting the decision under paragraph 2, the Commission shall communicate its preliminary findings within three months from the opening of the proceedings. In the preliminary findings, the Commission shall explain the measures it considers to take or it considers that the provider of core platform services concerned should take in order to effectively address the preliminary findings. Legitimate third parties with direct implication shall be able to provide comments to the national competent authorities with regard to the preliminary findings. Member States shall define the rules to exercise such consultation procedure.

Amendment 120
Proposal for a regulation
Article 7 – paragraph 7

Text proposed by the Commission

7. A gatekeeper may request the opening of proceedings pursuant to Article 18 for the Commission to determine whether the measures that the gatekeeper intends to implement or has implemented under Article 6 are effective in achieving the objective of the relevant obligation in the specific circumstances. A gatekeeper may, with its request, provide a reasoned submission to explain in particular why the measures that it intends to implement or has implemented are effective in achieving the objective of the relevant obligation in the specific circumstances.

Amendment

7. A gatekeeper may request the opening of proceedings pursuant to Article 18 for the Commission to determine whether the measures that the gatekeeper intends to implement or has implemented under Article 6 are effective in achieving the objective of the relevant obligation in the specific circumstances. In its request, the gatekeeper shall provide a reasoned submission to explain in particular why the measures that it intends to implement or has implemented are effective in achieving the objective of the relevant obligation in the specific circumstances.
Amendment 121

Proposal for a regulation
Article 8 – paragraph 2

*Text proposed by the Commission*

2. Where the suspension is granted pursuant to paragraph 1, the Commission shall review its suspension decision every year. Following such a review the Commission shall either lift the suspension or decide that the conditions of paragraph 1 continue to be met.

*Amendment*

2. Where the suspension is granted pursuant to paragraph 1, the Commission shall review its suspension decision every year. Following such a review the Commission shall either wholly or partly lift the suspension or decide that the conditions of paragraph 1 continue to be met.

Amendment 122

Proposal for a regulation
Article 9 – paragraph 2 – point a

*Text proposed by the Commission*

(a) public morality;

*Amendment*

deleted

Amendment 123

Proposal for a regulation
Article 9 – paragraph 3 – subparagraph 1

*Text proposed by the Commission*

In assessing the request, the Commission shall take into account, in particular, the impact of the compliance with the specific obligation on the grounds in paragraph 2 as well as the effects on the gatekeeper concerned and on third parties. The suspension may be made subject to conditions and obligations to be defined by the Commission in order to ensure a fair balance between the goals pursued by the grounds in paragraph 2 and the objectives of this Regulation. Such a request may be made and granted at any time pending the

*Amendment*

In assessing the request, the Commission shall take into account, in particular, the impact of the compliance with the specific obligation on the grounds in paragraph 2 as well as the effects on the gatekeeper concerned and on third parties. The suspension may be made subject to conditions and obligations to be defined by the Commission in order to ensure a fair balance between the goals pursued by the grounds in paragraph 2 and the objectives of this Regulation. Such a request may be made and granted at any time pending the
assessment of the Commission pursuant to paragraph 1. The Commission shall review any exemption decision adopted according to paragraph 1 on an annual basis and may amend its decision in accordance with its findings.

Amendment 124

Proposal for a regulation
Article 10 – paragraph 1

Text proposed by the Commission

1. The Commission is empowered to adopt delegated acts in accordance with Article 34 to update the obligations laid down in Articles 5 and 6 where, based on a market investigation pursuant to Article 17, it has identified the need for new obligations addressing practices that limit the contestability of core platform services or are unfair in the same way as the practices addressed by the obligations laid down in Articles 5 and 6.

Amendment

1. The Commission is empowered to adopt delegated acts in accordance with Article 37 to update the obligations laid down in Articles 5 and 6 where, based on a market investigation pursuant to Article 17, it has identified the need for new obligations addressing practices that limit the contestability of core platform services or are unfair in the same way as the practices addressed by the obligations laid down in Articles 5 and 6.

Amendment 125

Proposal for a regulation
Article 10 – paragraph 2 – point a

Text proposed by the Commission

(a) there is an imbalance of rights and obligations on business users and the gatekeeper is obtaining an advantage from business users that is disproportionate to the service provided by the gatekeeper to business users; or

Amendment

(a) there is an imbalance of rights and obligations on business users or end users and the gatekeeper is obtaining an advantage from business users that is disproportionate to the service provided by the gatekeeper to business users or end users; or

Justification

It is the DMA’s objective to “allow end users and business users alike” to benefit from the platform economy. This should be better represented by also acknowledging the adverse effects of gatekeeper actions on end users.
Amendment 126

Proposal for a regulation
Article 11 – paragraph 1

Text proposed by the Commission

1. A gatekeeper shall ensure that the obligations of Articles 5 and 6 are fully and effectively complied with. While the obligations of Articles 5 and 6 apply in respect of core platform services designated pursuant to Article 3, their implementation shall not be undermined by any behaviour of the undertaking to which the gatekeeper belongs, regardless of whether this behaviour is of a contractual, commercial, technical or any other nature.

Amendment

1. A gatekeeper shall ensure that the obligations of Articles 5 and 6 are fully and effectively complied with. While the obligations of Articles 5 and 6 apply in respect of core platform services designated pursuant to Article 3, their implementation shall not be undermined by any behaviour of the undertaking to which the gatekeeper belongs, regardless of whether this behaviour is of a contractual, commercial, technical or any other nature, including by offering users a choice in a non-neutral way, or by subverting the autonomous decision-making of business users or end users via form, function or operation of the user interface or its components.

Justification

It is vital to address the common practice of dark patterns, employed to subconsciously nudge users in a certain direction, since it robs users of their autonomy and independent choice.

Amendment 127

Proposal for a regulation
Article 11 – paragraph 2

Text proposed by the Commission

2. Where consent for collecting and processing of personal data is required to ensure compliance with this Regulation, a gatekeeper shall take the necessary steps to either enable business users to directly obtain the required consent to their processing, where required under Regulation (EU) 2016/679 and Directive

Amendment

2. Where consent for collecting and processing of personal data is required to ensure compliance with this Regulation, a gatekeeper shall take the necessary steps to either enable business users to directly obtain the required consent to their processing, where required under Regulation (EU) 2016/679 and Directive
2002/58/EC, or to comply with Union data protection and privacy rules and principles in other ways including by providing business users with duly anonymised data where appropriate. The gatekeeper shall not make the obtaining of this consent by the business user more burdensome than for its own services.

Justification

*It is vital to address the common practice of dark patterns, employed to subconsciously nudge users in a certain direction, since it robs users of their autonomy and independent choice.*

Amendment 128

Proposal for a regulation
Article 11 – paragraph 3

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. A gatekeeper shall not degrade the conditions or quality of any of the core platform services provided to business users or end users who avail themselves of the rights or choices laid down in Articles 5 and 6, or <em>make the</em> exercise of those rights or choices <em>unduly difficult.</em></td>
<td>3. A gatekeeper shall not degrade the conditions or quality of any of the core platform services provided to business users or end users who avail themselves of the rights or choices laid down in Articles 5 and 6, or <em>undermine the effective</em> exercise of those rights or choices.</td>
</tr>
</tbody>
</table>

Justification

*Business and end users should be able to fully exercise their rights in an effective manner.*
Amendment 129
Proposal for a regulation
Article 11 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The right for the maker of a database provided for in Article 7(1) of Directive 96/9/EC shall not be exercised by a gatekeeper in such a way that prevents the re-use of data or restricts its re-use beyond the limits set by this Regulation.

Justification

A gatekeeper may rely on the sui generis database right as provided for in Article (7) of Directive 96/9/EC to escape from some of the obligations under the DMA. For this not to happen, it should be clearly stated that this right shall not be exercised in such a way that prevents the re-use of data or restricts its re-use beyond the limits of the DMA.

Amendment 130
Proposal for a regulation
Article 12 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. A gatekeeper shall inform the Commission of any intended concentration within the meaning of Article 3 of Regulation (EC) No 139/2004 involving another provider of core platform services or of any other services provided in the digital sector irrespective of whether it is notifiable to a Union competition authority under Regulation (EC) No 139/2004 or to a competent national competition authority under national merger rules.

1. A gatekeeper shall inform the Commission and competent national authorities of any intended concentration within the meaning of Article 3 of Regulation (EC) No 139/2004 irrespective of whether it is notifiable to a Union competition authority under Regulation (EC) No 139/2004 or to a competent national competition authority under national merger rules.

Amendment 131
Proposal for a regulation
Article 12 – paragraph 1 – subparagraph 1

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A gatekeeper shall **inform** the Commission of such a concentration prior to its implementation and following the conclusion of the agreement, the announcement of the public bid, or the acquisition of a controlling interest.

A gatekeeper shall **notify** the Commission and the competent national authorities of such a concentration **at least 2 months** prior to its implementation and following the conclusion of the agreement, the announcement of the public bid, or the acquisition of a controlling interest.

**Amendment 132**

Proposal for a regulation
Article 12 – paragraph 3

**Text proposed by the Commission**

3. If, following any concentration as provided in paragraph 1, additional core platform services individually satisfy the thresholds in point (b) of Article 3(2), the gatekeeper concerned shall inform the Commission thereof within three months from the implementation of the concentration and provide the Commission with the information referred to in Article 3(2).

**Amendment**

3. If, following any concentration as provided in paragraph 1, additional core platform services individually satisfy the thresholds in point (b) of Article 3(2), the gatekeeper concerned shall inform the Commission and competent national authorities thereof within three months from the implementation of the concentration and provide the Commission with the information referred to in Article 3(2).

**Amendment 133**

Proposal for a regulation
Article 12 – paragraph 3 a (new)

**Text proposed by the Commission**

3a. The Commission shall publish annually the list of notified acquisitions of gatekeepers which have fallen below the notification thresholds of Council Regulation No 139/2004. The Commission shall take account of the legitimate interest of undertakings in the protection of their business secrets.

**Amendment**

3a. The Commission shall publish annually the list of notified acquisitions of gatekeepers which have fallen below the notification thresholds of Council Regulation No 139/2004. The Commission shall take account of the legitimate interest of undertakings in the protection of their business secrets.
Proposal for a regulation
Article 13 – paragraph 1

Text proposed by the Commission

Within six months after its designation pursuant to Article 3, a gatekeeper shall submit to the Commission an independently audited description of any techniques for profiling of consumers that the gatekeeper applies to or across its core platform services identified pursuant to Article 3. This description shall be updated at least annually.

Amendment

1. Within six months after its designation pursuant to Article 3, a gatekeeper shall submit to the Commission an independently audited description of any techniques for profiling of business users and end users and the personalisation of their service that the gatekeeper applies to or across its core platform services identified pursuant to Article 3.

Proposal for a regulation
Article 13 – paragraph 1 a (new)

Text proposed by the Commission

1a. Without prejudice to trade secrets protection, the audited description shall be shared by the Commission with any competent national authority as well as with any competent supervisory authority represented in the European Data Protection Board upon their request.

Proposal for a regulation
Article 13 – paragraph 1 b (new)

Text proposed by the Commission

1b. Without prejudice to trade secrets protection, the gatekeeper shall make publicly available an overview of the audited description of applied profiling techniques referred to in paragraph 1.
Amendment 137

Proposal for a regulation
Article 13 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1c. The Commission shall develop, in consultation with competent national authorities, the EU Data Protection Supervisor, the European Data Protection Board, civil society and relevant experts, the standards and process of the audit.

Amendment 138

Proposal for a regulation
Article 13 – paragraph 1 d (new)

Text proposed by the Commission

Amendment

1d. The description of profiling techniques and its publicly available overview shall be updated at least annually.

Amendment 139

Proposal for a regulation
Article 14 – paragraph 3 – point b a (new)

Text proposed by the Commission

Amendment

(ba) A significant number of unfair practices alerts have been reported by national authorities or third parties with legitimate interest pursuant the reporting mechanism in Article 33;

Amendment 140

Proposal for a regulation
Article 14 – paragraph 3 – point b b (new)
Text proposed by the Commission

Amendment

(bb) there is new relevant information that could not be examined before the adoption of the decision.

Amendment 141

Proposal for a regulation

Article 15 – paragraph 1

Text proposed by the Commission

1. The Commission may, on its own initiative or on the grounds laid down in Article 33, conduct a market investigation for the purpose of examining whether a provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6), or in order to identify core platform services for a gatekeeper pursuant to Article 3(7). It shall endeavour to conclude its investigation by adopting a decision in accordance with the advisory procedure referred to in Article 32(4) within twelve months from the opening of the market investigation.

Amendment

1. The Commission may, conduct a market investigation for the purpose of examining whether a provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6), or in order to identify core platform services for a gatekeeper pursuant to Article 3(7). It shall endeavour to conclude its investigation by adopting a decision in accordance with the advisory procedure referred to in Article 32(4) within twelve months from the opening of the market investigation.

Competent national authorities may contribute their expertise to the market investigation.

Amendment 142

Proposal for a regulation

Article 15 – paragraph 2

Text proposed by the Commission

2. In the course of a market investigation pursuant to paragraph 1, the Commission shall endeavour to communicate its preliminary findings to the provider of core platform services concerned within six months from the opening of the investigation. In the preliminary findings, the Commission shall

Amendment

2. In the course of a market investigation pursuant to paragraph 1, the Commission shall endeavour to communicate its preliminary findings to the provider of core platform services concerned within three months from the opening of the investigation. In the preliminary findings, the Commission shall
explain whether it considers, on a provisional basis, that the provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6).

Amendment 143

Proposal for a regulation
Article 15 – paragraph 3

Text proposed by the Commission

3. Where the provider of core platform services satisfies the thresholds set out in Article 3(2), but has presented significantly substantiated arguments in accordance with Article 3(4), the Commission shall endeavour to conclude the market investigation within five months from the opening of the market investigation by a decision pursuant to paragraph 1. In that case the Commission shall endeavour to communicate its preliminary findings pursuant to paragraph 2 to the provider of core platform services within three months from the opening of the investigation.

Amendment

3. Where the provider of core platform services satisfies the thresholds set out in Article 3(2), but has presented significantly substantiated arguments in accordance with Article 3(4), the Commission shall endeavour to conclude the market investigation within five months from the opening of the market investigation by a decision pursuant to paragraph 1. In that case the Commission shall communicate its preliminary findings pursuant to paragraph 2 to the provider of core platform services within three months from the opening of the investigation.

Amendment 144

Proposal for a regulation
Article 15 – paragraph 4

Text proposed by the Commission

4. When the Commission pursuant to Article 3(6) designates as a gatekeeper a provider of core platform services that does not yet enjoy an entrenched and durable position in its operations, but it is foreseeable that it will enjoy such a position in the near future, it shall declare applicable to that gatekeeper only obligations laid down in Article 5 and Article 6(1) points (e), (f), (h) and (i) as specified in the designation decision. The Commission shall only declare applicable obligations that are appropriate and necessary to prevent
those obligations that are appropriate and necessary to prevent that the gatekeeper concerned achieves by unfair means an entrenched and durable position in its operations. The Commission shall review such a designation in accordance with the procedure laid down in Article 4.

Amendment 145

Proposal for a regulation
Article 16 – paragraph 1

**Text proposed by the Commission**

1. Where the market investigation shows that a gatekeeper has systematically infringed the obligations laid down in Articles 5 and 6 and has further strengthened or extended its gatekeeper position in relation to the characteristics under Article 3(1), the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) impose on such gatekeeper any behavioural or structural remedies which are proportionate to the infringement committed and necessary to ensure compliance with this Regulation. The Commission shall conclude its investigation by adopting a decision within twelve months from the opening of the market investigation.

**Amendment**

1. Where the market investigation shows that a gatekeeper has systematically infringed any obligations laid down in Articles 5 and 6, the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) impose on such gatekeeper any behavioural or structural remedies which are proportionate to the infringement committed and necessary to ensure full compliance with this Regulation. The Commission shall where appropriate, be entitled to require the remedies to be tested to optimise their effectiveness. The Commission shall conclude its investigation by adopting a decision within six months from the opening of the market investigation.

Amendment 146

Proposal for a regulation
Article 16 – paragraph 3

**Text proposed by the Commission**

3. A gatekeeper shall be deemed to have engaged in a systematic non-compliance with the obligations laid down in Articles 5 and 6, where the Commission has issued at least three non-compliance or fining decisions pursuant to Articles 25 and

**Amendment**

3. A gatekeeper shall be deemed to have engaged in a systematic non-compliance with the obligations laid down in Articles 5 and 6, where the Commission has issued at least two non-compliance or fining decisions pursuant to Articles 25 and
26 respectively against a gatekeeper in relation to any of its core platform services within a period of five years prior to the adoption of the decision opening a market investigation in view of the possible adoption of a decision pursuant to this Article.

Amendment 147

Proposal for a regulation
Article 16 – paragraph 5

Text proposed by the Commission

5. The Commission shall communicate its objections to the gatekeeper concerned within six months from the opening of the investigation. In its objections, the Commission shall explain whether it preliminarily considers that the conditions of paragraph 1 are met and which remedy or remedies it preliminarily considers necessary and proportionate.

Amendment

5. The Commission shall communicate its objections to the gatekeeper concerned within four months from the opening of the investigation. In its objections, the Commission shall explain whether it preliminarily considers that the conditions of paragraph 1 are met and which remedy or remedies it preliminarily considers effective, necessary and proportionate.

Amendment 148

Proposal for a regulation
Article 17 – paragraph 1

Text proposed by the Commission

The Commission may conduct a market investigation with the purpose of examining whether one or more services within the digital sector should be added to the list of core platform services or to detect types of practices that may limit the contestability of core platform services or may be unfair and which are not effectively addressed by this Regulation. It shall issue a public report at the latest within 24 months from the opening of the market investigation.

Amendment

The Commission may conduct a market investigation with the purpose of examining whether one or more services within the digital sector should be added to the list of core platform services or to detect types of practices that may limit the contestability of core platform services or may be unfair and which are not effectively addressed by this Regulation. National competent authorities may recommend such market investigations and contribute their expertise. The Commission shall issue a public report at the latest within 12 months from the opening of the market.
investigation. The report shall be circulated prior to publication among the competent national authorities with a view of including specific modifications and recommendations based on their expertise.

Amendment 149

Proposal for a regulation
Article 19 – paragraph 3

Text proposed by the Commission

3. When sending a simple request for information to an undertaking or association of undertakings, the Commission shall state the purpose of the request, specify what information is required and fix the time-limit within which the information is to be provided, and the penalties provided for in Article 26 for supplying incomplete, incorrect or misleading information or explanations.

Amendment

3. When sending a simple request for information to an undertaking or association of undertakings, the Commission shall state the legal basis, the purpose of the request, specify what information is required and fix a reasonable time-limit within which the information is to be provided, and the penalties provided for in Article 26 for supplying incomplete, incorrect or misleading information or explanations.

Amendment 150

Proposal for a regulation
Article 19 – paragraph 4

Text proposed by the Commission

4. Where the Commission requires undertakings and associations of undertakings to supply information by decision, it shall state the purpose of the request, specify what information is required and fix the time-limit within which it is to be provided. Where the Commission requires undertakings to provide access to its data-bases and algorithms, it shall state the legal basis and the purpose of the request, and fix the time-limit within which it is to be provided. It shall also indicate the penalties provided for in Article 26 and indicate or impose the

Amendment

4. Where the Commission requires undertakings and associations of undertakings to supply information by decision, it shall state the purpose of the request, specify what information is required and fix the time-limit within which it is to be provided. Where the Commission requires undertakings to provide access to its data-bases and algorithms, it shall state the legal basis and the purpose of the request, and fix the time-limit within which it is to be provided. The decision shall also indicate the penalties provided for in Article 26 and indicate or
periodic penalty payments provided for in Article 27. It shall further indicate the right to have the decision reviewed by the Court of Justice.

Amendment 151
Proposal for a regulation
Article 19 – paragraph 6

Text proposed by the Commission

6. At the request of the Commission, the governments and authorities of the Member States shall provide the Commission with all necessary information to carry out the duties assigned to it by this Regulation.

Amendment

6. At the request of the Commission or on their own initiative, relevant public authorities, bodies or agencies within of the Member States shall provide the Commission with all the necessary information to carry out the duties assigned to it by this Regulation.

Amendment 152
Proposal for a regulation
Article 20 – paragraph 1

Text proposed by the Commission

The Commission may interview any natural or legal person which consents to being interviewed for the purpose of collecting information, relating to the subject-matter of an investigation, including in relation to the monitoring, implementing and enforcing of the rules laid down in this Regulation.

Amendment

The Commission, and competent national authorities, may interview any natural or legal person which consents to being interviewed for the purpose of collecting information, relating to the subject-matter of an investigation, pursuant to Articles 7, 16, 17, 25 and 26, including in relation to the monitoring, implementing and enforcing of the rules laid down in this Regulation.

Amendment 153
Proposal for a regulation
Article 21 – paragraph 2

Text proposed by the Commission

2. On-site inspections may also be

Amendment

2. On-site inspections may also be
carried out with the assistance of auditors or experts appointed by the Commission pursuant to Article 24(2).

carried out with the assistance of auditors or experts appointed by the Commission pursuant to Article 24(2) as well as competent national authorities in the territory of that Member State, where the gatekeeper has its premises.

Amendment 154
Proposal for a regulation
Article 21 a (new)

Text proposed by the Commission

Amendment

Article 21a

Reporting mechanism for business users, end-users and relevant stakeholders

1. Business users, competitors and end-users of the core platform services as defined in Article 2(2) may notify to the Commission as well as to the competent national authority any malpractice or behaviour by gatekeepers, which could possibly undermine the contestability of a core platform service, may be unfair pursuant to Article 10 (2), or give rise to concerns with regard to non-compliance pursuant to Article 25.

2. The Commission shall share the information received pursuant to paragraph 1 with the competent national authorities through the European Competition Network.

3. The Commission may be able to prioritise investigations and may decide to not undertake investigations at all.

4. Without prejudice to Article 33, the competent national authority may request the Digital Markets Advisory Committee to adopt a reasoned opinion in this regard within one month after having received the request.

5. If the reasoned opinion states that the circumstances would justify an enforcement priority, the Commission
shall within a further delay of four months examine whether there are reasonable grounds to open such investigation. Where the Commission does not follow the reasoned opinion of the Advisory Committee, it shall give its reasons.

Amendment 155
Proposal for a regulation
Article 22 – paragraph 2 a (new)

Text proposed by the Commission

2a. In case of urgency due to the risk of serious and immediate damage for business users or end-users of gatekeepers, resulting from new practices implemented by one or several gatekeepers that may undermine contestability of core platform services or may be unfair pursuant to Article 10 (2), the Commission may, by decision adopted in accordance with the advisory procedure referred to in Article 32(4), order interim measures on the concerned gatekeepers in order to avoid the materialization of the said risk.

Amendment 156
Proposal for a regulation
Article 22 – paragraph 2 b (new)

Text proposed by the Commission

2b. A decision pursuant to paragraph 3 may only be adopted in the context of a market investigation pursuant to Article 17 and within 6 months of the opening of such an investigation. The interim measures shall apply for a specified period of time and, in any case, shall be replaced by the new obligations that may arise under the final decision resulting from the market investigation pursuant to
Article 17.

Amendment 157
Proposal for a regulation
Article 23 – paragraph 1

Text proposed by the Commission

1. If during proceedings under Articles 16 or 25 the gatekeeper concerned offers commitments for the relevant core platform services to ensure compliance with the obligations laid down in Articles 5 and 6, the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) make those commitments binding on that gatekeeper and declare that there are no further grounds for action.

Amendment

1. If during proceedings under Articles 16 or 25 the gatekeeper concerned offers commitments for the relevant core platform services to ensure compliance with the obligations laid down in Articles 5 and 6, the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) make those commitments binding on that gatekeeper and declare that there are no further grounds for action. The Commission shall, where appropriate, be entitled to require the commitments to be tested to optimise their effectiveness.

Amendment 158

Proposal for a regulation
Article 23 – paragraph 1 a (new)

Text proposed by the Commission

1a. The Commission shall regularly review the commitments with regard to their purpose and where, following investigation, it finds that they are not effective, shall be entitled to require amendments to the commitments or revoke them where appropriate.

Amendment

1a. The Commission shall regularly review the commitments with regard to their purpose and where, following investigation, it finds that they are not effective, shall be entitled to require amendments to the commitments or revoke them where appropriate.

Amendment 159

Proposal for a regulation
Article 23 – paragraph 2 – point c a (new)
Text proposed by the Commission

Amendment

1. (ca) there is new relevant information that was not examined before the adoption of the decision.

Amendment 160

Proposal for a regulation
Article 24 – paragraph 1

Text proposed by the Commission

1. The Commission may take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in Articles 5 and 6 and the decisions taken pursuant to Articles 7, 16, 22 and 23.

Amendment

1. The Commission shall monitor the effective implementation and compliance with the obligations laid down in Articles 5 and 6 and the decisions taken pursuant to Articles 7, 16, 22 and 23.

Amendment 161

Proposal for a regulation
Article 24 – paragraph 2

Text proposed by the Commission

2. The actions pursuant to paragraph 1 may include the appointment of independent external experts and auditors to assist the Commission to monitor the obligations and measures and to provide specific expertise or knowledge to the Commission.

Amendment

2. The actions pursuant to paragraph 1 may include the appointment of independent external experts and auditors to assist the Commission, including ones from competent national authorities, to monitor the obligations and measures and to provide specific expertise or knowledge to the Commission.

Amendment 162

Proposal for a regulation
Article 25 – paragraph 2

Text proposed by the Commission

2. Before adopting the decision pursuant to paragraph 1, the Commission

Amendment

2. Before adopting the decision pursuant to paragraph 1, the Commission
shall communicate its preliminary findings to the gatekeeper concerned. In the preliminary findings, the Commission shall explain the measures it considers to take or it considers that the gatekeeper should take in order to effectively address the preliminary findings.

The Commission shall take into account the views of relevant third parties such as end-users or business users before adopting a decision.

Amendment 163
Proposal for a regulation
Article 25 – paragraph 3

Text proposed by the Commission

3. In the non-compliance decision adopted pursuant to paragraph 1, the Commission shall order the gatekeeper to cease and desist with the non-compliance within an appropriate deadline and to provide explanations on how it plans to comply with the decision.

Amendment

3. In the non-compliance decision adopted pursuant to paragraph 1, the Commission shall order the gatekeeper to cease and desist with the non-compliance within an appropriate deadline and impose behavioural or structural remedies as necessary and proportionate to the infringement.

Justification

The Commission should impose the right remedies if necessary. Experience from competition law has shown that gatekeeper-chosen remedies often fall short of the necessary measures to address the core issue.

Amendment 164
Proposal for a regulation
Article 26 – paragraph 1 – point e a (new)

Text proposed by the Commission

(ea) the obligation to provide within the time-limit information that is required for assessing their designation as gatekeepers pursuant to Article 3(2) or supply incorrect, or misleading information.

Amendment

(ea) the obligation to provide within the time-limit information that is required for assessing their designation as gatekeepers pursuant to Article 3(2) or supply incorrect, or misleading information.
Amendment 165
Proposal for a regulation
Article 26 – paragraph 2 – introductory part

**Text proposed by the Commission**

2. The Commission may by decision impose on undertakings and associations of undertakings fines not exceeding 1% of the total turnover in the preceding financial year where they intentionally or negligently:

**Amendment**

2. The Commission may by decision impose on undertakings and associations of undertakings fines not exceeding 1% of the total turnover of the undertakings or association of undertakings concerned in the preceding financial year where they intentionally or negligently:

Amendment 166
Proposal for a regulation
Article 28 – paragraph 1

**Text proposed by the Commission**

1. The powers conferred on the Commission by Articles 26 and 27 shall be subject to a **three** year limitation period.

**Amendment**

1. The powers conferred on the Commission by Articles 26 and 27 shall be subject to a **five** year limitation period.

Amendment 167
Proposal for a regulation
Article 30 – paragraph 1 – introductory part

**Text proposed by the Commission**

1. Before adopting a decision pursuant to Article 7, Article 8(1), Article 9(1), Articles 15, 16, 22, 23, 25 and 26 and Article 27(2), the Commission shall give the gatekeeper or undertaking or association of undertakings concerned the opportunity of being heard on:

**Amendment**

1. Before adopting a decision pursuant to Article 7, Article 8(1), Article 9(1), Articles 15, 16, 22, 23, 25 and 26 and Article 27(2), the Commission shall give the gatekeeper or undertaking or association of undertakings concerned **and third parties with a legitimate interest** the opportunity of being heard on:

**Justification**

*These amendments bring Article 30 in line with changes to Article 33.*
Amendment 168
Proposal for a regulation
Article 30 – paragraph 1 a (new)

Text proposed by the Commission

1a. If the Commission considers it necessary, it may also hear other natural or legal persons before taking the decisions as provided for in paragraph 1. Applications to be heard on the part of such persons shall, where they show a sufficient interest, be granted. The national competent authorities designated under Article 21(a) may also ask the Commission to hear other natural or legal persons with sufficient interest.

Amendment 169
Proposal for a regulation
Article 30 – paragraph 2

Text proposed by the Commission

2. Gatekeepers, undertakings and associations of undertakings concerned may submit their observations to the Commission’s preliminary findings within a time limit which shall be fixed by the Commission in its preliminary findings and which may not be less than 14 days.

Amendment

2. Gatekeepers, undertakings and associations of undertakings concerned and third parties with a legitimate interest may submit their observations to the Commission’s preliminary findings within a time limit which shall be fixed by the Commission in its preliminary findings and which may not be less than 14 days.

Justification

These amendments bring Article 30 in line with changes to Article 33.

Amendment 170
Proposal for a regulation
Article 31 a (new)
Article 31a

Commission cooperation with competent national authorities

1. The Commission may be assisted by the competent national authorities, designated for this purpose by the Member States, with regard to human, financial and organisational resources.

2. The Commission may, in particular, develop a close cooperation with national competent authorities with regard to the enforcement of this Regulation. Competent national authorities shall, at the request of the Commission, be entitled to exercise the powers of Articles 12, 15, 16 and 17.

3. Where requested by the Commission to assist in any investigation pursuant to paragraph 2 of this Article, the competent national authorities shall have the power to enforce the obligations deriving from Articles 19, 20, 21 and 24.

4. Competent national authorities shall also be empowered to receive complaints and information on possible cases of non-compliance by gatekeepers from end users and business users in their territory for transmission to the Commission.

Amendment 171

Proposal for a regulation
Article 33 – paragraph 1

1. When three or more Member States request the Commission to open an investigation pursuant to Article 15 because they consider that there are reasonable grounds to suspect that a
provider of core platform services should be designated as a gatekeeper, the Commission shall within four months examine whether there are reasonable grounds to open such an investigation.

Amendment 172

Proposal for a regulation
Article 33 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Third parties with a legitimate interest in representing business users or end users may provide the Commission or national competent authorities with evidence that a provider of core platform services should be designated as a gatekeeper or that a gatekeeper is violating their obligations under Articles 5 and 6, or with any information according to which there are reasonable grounds to add new services and new practices. On that basis, national competent authorities shall examine whether there are reasonable grounds to request the Commission to open an investigation pursuant to Articles 15, 16 and 17. In the event the evidence is submitted directly to the Commission, it shall take due account of the information received and inform the interested third parties of its decision within four months.

Amendment 173

Proposal for a regulation
Article 36 – paragraph 1 – introductory part
1. The Commission may adopt implementing acts concerning Articles 3, 6, 12, 13, 15, 16, 17, 20, 22, 23, 25 and 30 with respect to:

**Amendment 174**

Proposal for a regulation

Article 36 – paragraph 1 – point b

_text proposed by the Commission_

(b) the form, content and other details of the technical measures that gatekeepers shall implement in order to ensure compliance with *points (h), (i) and (j) of Article 6(1).*

_text proposed by the Commission_

(b) the form, content and other details of the technical measures that gatekeepers shall implement in order to ensure compliance with Article 6(1);

**Amendment 175**

Proposal for a regulation

Article 36 – paragraph 1 – point b a (new)

_text proposed by the Commission_

(ba) the form, content and other details of the regulatory reports delivered pursuant to Article 7.1 a;

_text proposed by the Commission_

(ba) the form, content and other details of the regulatory reports delivered pursuant to Article 7.1 a;

**Amendment 176**

Proposal for a regulation

Article 36 – paragraph 1 – point c a (new)

_text proposed by the Commission_

(ca) the practical arrangements for the cooperation and coordination between the Commission and competent national authorities, provided for in Article 1(7);

_text proposed by the Commission_

(ca) the practical arrangements for the cooperation and coordination between the Commission and competent national authorities, provided for in Article 1(7);
Amendment 177

Proposal for a regulation
Article 36 – paragraph 2

Text proposed by the Commission

2. the practical arrangements for the cooperation and coordination between the Commission and Member States provided for in Article 1(7). Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 32(4). Before the adoption of any measures pursuant to paragraph 1, the Commission shall publish a draft thereof and invite all interested parties to submit their comments within the time limit it lays down, which may not be less than one month.

Amendment

2. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 32(4). Before the adoption of any measures pursuant to paragraph 1, the Commission shall publish a draft thereof and invite all interested parties to submit their comments within the time limit it lays down, which may not be less than one month.

Amendment 178

Proposal for a regulation
Article 36 a (new)

Text proposed by the Commission

Article 36a

Guidelines

To facilitate the compliance of gatekeepers with and the enforcement of the obligations in Articles 5, 6, 12 and 13, the Commission shall accompany the obligations set out in those Articles with guidelines, where appropriate. Where appropriate and necessary, the Commission may mandate the standardisation bodies to develop standards to facilitate the implementation of the obligations.

Amendment
Proposal for a regulation
Article 37 – paragraph 2

Text proposed by the Commission

2. The power to adopt delegated acts referred to in Articles 3(6) and 9(1) shall be conferred on the Commission for a period of five years from DD/MM/YYYY. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

Amendment

2. The power to adopt delegated acts referred to in Articles 3(5) and 10(1) shall be conferred on the Commission for a period of five years from DD/MM/YYYY. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

Amendment 180

Proposal for a regulation
Article 37 – paragraph 3

Text proposed by the Commission

3. The delegation of power referred to in Articles 3(6) and 9(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment

3. The delegation of power referred to in Articles 3(5) and 10(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment 181

Proposal for a regulation
Article 37 – paragraph 6

Text proposed by the Commission

6. A delegated act adopted pursuant to Articles 3(6) and 9(1) shall enter into force

Amendment

6. A delegated act adopted pursuant to Articles 3(6) and 9(1) shall enter into force
only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.

Amendment 182

Proposal for a regulation
Article 39 – paragraph 2 – introductory part

Text proposed by the Commission

2. This Regulation shall apply from six months after its entry into force.

Amendment

2. This Regulation shall apply from three months after its entry into force.
**PROCEDURE – COMMITTEE ASKED FOR OPINION**

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<th><strong>Title</strong></th>
<th>Contestable and fair markets in the digital sector (Digital Markets Act)</th>
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<td><strong>References</strong></td>
<td>COM(2020)0842 – C9-0419/2020 – 2020/0374(COD)</td>
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<td><strong>Committee responsible</strong></td>
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<tr>
<td>Date announced in plenary</td>
<td>8.2.2021</td>
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<td><strong>Opinion by</strong></td>
<td>JURI</td>
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<td>Date announced in plenary</td>
<td>8.2.2021</td>
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<tr>
<td><strong>Rapporteur for the opinion</strong></td>
<td>Tiemo Wölken</td>
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<tr>
<td>Date appointed</td>
<td>10.5.2021</td>
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<tr>
<td><strong>Discussed in committee</strong></td>
<td>27.5.2021</td>
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<td><strong>Date adopted</strong></td>
<td>30.9.2021</td>
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<td><strong>Substitutes present for the final vote</strong></td>
<td>Patrick Breyer, Daniel Buda, Emmanuel Maurel, Nacho Sánchez Amor, Kosma Złotowski</td>
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<td><strong>Substitutes under Rule 209(7) present for the final vote</strong></td>
<td>Isabel Benjumea Benjumea</td>
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## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

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Key to symbols:
+ : in favour
- : against
0 : abstention
OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS

for the Committee on the Internal Market and Consumer Protection


Rapporteur for opinion: Ondřej Kovařík

SHORT JUSTIFICATION

Background information

The Commission’s proposal for a Regulation of the European Parliament and of the Council on contestable and fair markets in the digital sector (Digital Markets Act) is a welcome step towards better contestability, fairness and innovation and the possibility of market entry, as well as public interests that go beyond competition or economic considerations. Digital Markets Act brings about a set of ex ante rules and obligations that platforms with significant network effects have to follow in order to keep the market fair and contestable. The digital market is, to a great extent, a market with data and, most importantly, a market with personal data. The committee on Civil Liberties, Justice and Home Affairs provides Opinion to the Digital Markets Act, having protection of personal data in the forefront of its agenda.

Rapporteur’s proposals

LIBE rapporteur’s proposals were focusing mainly on the LIBE’s exclusive and shared competences in the Digital Markets Act, mainly parts of Articles 1, 2, 5, 6, 9, 11 and 13. In general, the rapporteur is convinced that the scope of the DMA needs to be precisely defined and the obligation of gatekeepers to protect personal data must be further underlined.

- Thus, the report underlines that Digital Markets acts complements GDPR, and highlights the exclusive position of GDPR in the personal data protection legislation.
- The report also aims at re-balancing the legal clarity of the text so that circumvention of the Regulation can be better prevented.
- The report further clarifies the process of profiling in the definition, as profiling is mentioned in the Article 13 of the DMA, but there is no definition of profiling in the Article 2.
- The report further clarifies the consent in the definitions, as consent is mentioned throughout the text of the DMA, but there is no definition of consent in the Article 2.
- In line with the recommendations of European Data Protection Supervisor, the report...
puts emphasis on using user-friendly solutions for consent management.

- The DMA proposal already asks for effective portability of data generated through the activity of users, the rapporteur goes further in exact definition as to who would be entitled to port personal data and which data, if personal or non-personal would form the object of the portability.
- The report also asks the Commission to share, upon request, the audited description as well as any relevant materials that is collected in the context of supervising the gatekeepers, with European Data Protection Board.
- In the context of data consultation, the report also asks the Commission to consult with data protection authorities in the context of market investigation, before a decision is adopted.
- The rapporteur also shortens the periods after which the Commission’s action is expected in case of non-compliance with the Regulation from the side of gatekeepers.

**AMENDMENTS**

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to take into account the following amendments:

**Amendment 1**

**Proposal for a regulation**

**Recital 11**

*Text proposed by the Commission*


*Amendment*

aimed at enforcing or, as the case may be, implementing that Union legislation.

This Regulation does not particularise or replace any of the obligations of core platform services under Regulation 2016/679 and Directive 2002/58/EC.


administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).

Amendment 2
Proposal for a regulation
Recital 13

Text proposed by the Commission

(13) In particular, online intermediation services, online search engines, operating systems, online social networking, video sharing platform services, number-independent interpersonal communication services, cloud computing services and online advertising services all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They therefore should be included in the definition of core platform services and fall into the scope of this Regulation. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council. In certain circumstances, the notion of end users should encompass users that are traditionally considered business users, but in a given situation do not use the core platform services to provide goods or services to other end users, such as for example businesses relying on cloud computing services for their own purposes.

__________________

Amendment

(13) In particular, online intermediation services, online search engines, operating systems, online social networking, video sharing platform services, number-independent interpersonal communication services, cloud computing services, online advertising services, web browsers and voice assistants all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They therefore should be included in the definition of core platform services and fall into the scope of this Regulation. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council. In certain circumstances, the notion of end users should encompass users that are traditionally considered business users, but in a given situation do not use the core platform services to provide goods or services to other end users, such as for example businesses relying on cloud computing services for their own purposes. Non-profit, collaborative projects carried out majoritarily by volunteers, organised on a voluntary basis should not be considered as core services.

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Amendment 3
Proposal for a regulation
Recital 17

Text proposed by the Commission
(17) A very significant turnover in the Union and the provision of a core platform service in at least three Member States constitute compelling indications that the provider of a core platform service has a significant impact on the internal market. This is equally true where a provider of a core platform service in at least three Member States has a very significant market capitalisation or equivalent fair market value. Therefore, a provider of a core platform service should be presumed to have a significant impact on the internal market where it provides a core platform service in at least three Member States and where either its group turnover realised in the EEA is equal to or exceeds a specific, high threshold or the market capitalisation of the group is equal to or exceeds a certain high absolute value. For providers of core platform services that belong to undertakings that are not publicly listed, the equivalent fair market value above a certain high absolute value should be referred to. The Commission should use its power to adopt delegated acts to develop an objective methodology to calculate that value. A high EEA group turnover in conjunction with the threshold of users in the Union of core platform services reflects a relatively strong ability to monetise these users. A high market capitalisation relative

Amendment
(17) A very significant turnover in the Union and the provision of a core platform service in at least three Member States constitute compelling indications that the provider of a core platform service has a significant impact on the internal market. This is equally true where a provider of a core platform service in at least three Member States has a very significant market capitalisation or equivalent fair market value. Therefore, a provider of a core platform service should be presumed to have a significant impact on the internal market where it proactively offers that service in at least three Member States and where either its group turnover realised in the EEA is equal to or exceeds a specific, high threshold or the market capitalisation of the group is equal to or exceeds a certain high absolute value. A provider should be considered to be offering its service in a Member State if it is apparent that the provider envisages offering services to users in that Member State. Factors such as the use of a language or a currency generally used in that Member State with the possibility of ordering goods and services in that language, or the mentioning of users who are in that Member State may make it apparent that the provider is actively seeking business opportunities in that Member State.
to the same threshold number of users in the Union reflects a relatively significant potential to monetise these users in the near future. This monetisation potential in turn reflects in principle the gateway position of the undertakings concerned. Both indicators are in addition reflective of their financial capacity, including their ability to leverage their access to financial markets to reinforce their position. This may for example happen where this superior access is used to acquire other undertakings, which ability has in turn been shown to have potential negative effects on innovation. Market capitalisation can also be reflective of the expected future position and effect on the internal market of the providers concerned, notwithstanding a potentially relatively low current turnover. The market capitalisation value can be based on a level that reflects the average market capitalisation of the largest publicly listed undertakings in the Union over an appropriate period.

Amendment 4

Proposal for a regulation
Recital 29

Text proposed by the Commission

(29) Designated gatekeepers should

Amendment

(29) Designated gatekeepers should

merely accessibility or availability of a service in a Member State should not be considered as an offering of a service by the provider. For providers of core platform services that belong to undertakings that are not publicly listed, the equivalent fair market value above a certain high absolute value should be referred to. The Commission should use its power to adopt delegated acts to develop an objective methodology to calculate that value. A high EEA group turnover in conjunction with the threshold of users in the Union of core platform services reflects a relatively strong ability to monetise these users. A high market capitalisation relative to the same threshold number of users in the Union reflects a relatively significant potential to monetise these users in the near future. This monetisation potential in turn reflects in principle the gateway position of the undertakings concerned. Both indicators are in addition reflective of their financial capacity, including their ability to leverage their access to financial markets to reinforce their position. This may for example happen where this superior access is used to acquire other undertakings, which ability has in turn been shown to have potential negative effects on innovation. Market capitalisation can also be reflective of the expected future position and effect on the internal market of the providers concerned, notwithstanding a potentially relatively low current turnover. The market capitalisation value can be based on a level that reflects the average market capitalisation of the largest publicly listed undertakings in the Union over an appropriate period.
comply with the obligations laid down in this Regulation in respect of each of the core platform services listed in the relevant designation decision. The mandatory rules should apply taking into account the conglomerate position of gatekeepers, where applicable. Furthermore, implementing measures that the Commission may by decision impose on the gatekeeper following a regulatory dialogue should be designed in an effective manner, having regard to the features of core platform services as well as possible circumvention risks and in compliance with the principle of proportionality and the fundamental rights of the undertakings concerned as well as those of third parties.

**Amendment 5**

**Proposal for a regulation**

**Recital 33**

*Text proposed by the Commission*

(33) The obligations laid down in this Regulation are limited to what is necessary and justified to address the unfairness of the identified practices by gatekeepers and to ensure contestability in relation to core platform services provided by gatekeepers. Therefore, the obligations should correspond to those practices that are considered unfair by taking into account the features of the digital sector and where experience gained, for example in the enforcement of the EU competition rules, shows that they have a particularly negative direct impact on the business users and end users. In addition, it is necessary to provide for the possibility of a regulatory dialogue with gatekeepers to tailor those obligations that are likely to require specific implementing measures in

**Amendment**

(33) The obligations laid down in this Regulation are limited to what is necessary and justified to address the unfairness of the identified practices by gatekeepers and to ensure contestability in relation to core platform services provided by gatekeepers. Therefore, the obligations should correspond to those practices that are considered unfair by taking into account the features of the digital sector and where experience gained, for example in the enforcement of the EU competition rules, shows that they have a particularly negative direct impact on the business users and end users. In addition, it is necessary to provide for the possibility of a *brief* regulatory dialogue with gatekeepers to tailor those obligations that are likely to require specific implementing measures in
order to ensure their effectiveness and proportionality. The obligations should only be updated after a thorough investigation on the nature and impact of specific practices that may be newly identified, following an in-depth investigation, as unfair or limiting contestability in the same manner as the unfair practices laid down in this Regulation while potentially escaping the scope of the current set of obligations.

**Amendment 6**

**Proposal for a regulation**

**Recital 36**

*Text proposed by the Commission*

(36) The conduct of combining end user data from different sources or signing in users to different services of gatekeepers gives them potential advantages in terms of accumulation of data, thereby raising barriers to entry. To ensure that gatekeepers do not unfairly undermine the contestability of core platform services, they should enable their end users to freely choose to opt-in to such business practices by offering a less personalised alternative. The possibility should cover all possible sources of personal data, including own services of the gatekeeper as well as third party websites, and should be proactively presented to the end user in an explicit, clear and straightforward manner.

**Amendment**

(36) The conduct of combining end user data from different sources or signing in users to different services of gatekeepers gives them potential advantages in terms of accumulation of data, thereby raising barriers to entry. To ensure that gatekeepers do not unfairly undermine the contestability of core platform services, they should enable their end users to freely choose to opt-in to such business practices by offering a less personalised but similar alternative, that should not be different or of degraded quality compared to the service offered to the end users who provide consent to the combining of their personal data. The possibility should cover all possible sources of personal data, including own services of the gatekeeper as well as third party websites, and should be proactively presented to the end user in an explicit, clear and straightforward manner. Consent should be given in a clear, informed and specific way by the end user in accordance with Regulation (EU) 2016/679 and end users should be properly informed that a refusal may lead to a less personalised offer, but the quality and functionalities of the core platform
service will remain unchanged.

Amendment 7

Proposal for a regulation
Recital 39

Text proposed by the Commission

(39) To safeguard a fair commercial environment and protect the contestability of the digital sector it is important to safeguard the right of business users to raise concerns about unfair behaviour by gatekeepers with any relevant administrative or other public authorities. For example, business users may want to complain about different types of unfair practices, such as discriminatory access conditions, unjustified closing of business user accounts or unclear grounds for product de-listings. Any practice that would in any way inhibit such a possibility of raising concerns or seeking available redress, for instance by means of confidentiality clauses in agreements or other written terms, should therefore be prohibited. This should be without prejudice to the right of business users and gatekeepers to lay down in their agreements the terms of use including the use of lawful complaints-handling mechanisms, including any use of alternative dispute resolution mechanisms or of the jurisdiction of specific courts in compliance with respective Union and national law. This should therefore also be without prejudice to the role gatekeepers play in the fight against illegal content online.

Amendment

(39) To safeguard a fair commercial environment and protect the contestability of the digital sector it is important to safeguard the right of business users or end users to raise concerns about unfair behaviour by gatekeepers with any relevant administrative or other public authorities. For example, business users or end users may want to complain about different types of unfair practices, such as discriminatory access conditions, unjustified closing of business user accounts or unclear grounds for product de-listings. Any practice that would in any way inhibit such a possibility of raising concerns or seeking available redress, for instance by means of confidentiality clauses in agreements or other written terms, should therefore be prohibited. This should be without prejudice to the right of business users and gatekeepers to lay down in their agreements the terms of use including the use of lawful complaints-handling mechanisms, including any use of alternative dispute resolution mechanisms or of the jurisdiction of specific courts in compliance with respective Union and national law. This should therefore also be without prejudice to the role gatekeepers play in the fight against illegal content online.

Amendment 8

Proposal for a regulation
Recital 41
(41) Gatekeepers should not restrict the free choice of end users by technologically preventing switching between or subscription to different software applications and services. Gatekeepers should therefore ensure a free choice irrespective of whether they are the manufacturer of any hardware by means of which such software applications or services are accessed and should not raise artificial technical barriers so as to make switching impossible or ineffective. The mere offering of a given product or service to end users, including by means of pre-installation, as well as the improvement of end user offering, such as better prices or increased quality, would not in itself constitute a barrier to switching.

Amendment 9

Proposal for a regulation
Recital 41 a (new)

Text proposed by the Commission

(41 a) The gatekeeper shall not subvert or impair consumers’ autonomy, decision-making, or choice via the structure, function or manner of operation of their online interface or any part thereof while exercising those rights or making specific choices.

Amendment 10

Proposal for a regulation
Recital 42

Text proposed by the Commission

(42) The conditions under which gatekeepers provide online advertising services to business users including both
advertisers and publishers are often non-transparent and opaque. This opacity is partly linked to the practices of a few platforms, but is also due to the sheer complexity of modern day programmatic advertising. The sector is considered to have become more non-transparent after the introduction of new privacy legislation, and is expected to become even more opaque with the announced removal of third-party cookies. This often leads to a lack of information and knowledge for advertisers and publishers about the conditions of the advertising services they purchased and undermines their ability to switch to alternative providers of online advertising services. Furthermore, the costs of online advertising are likely to be higher than they would be in a fairer, more transparent and contestable platform environment. These higher costs are likely to be reflected in the prices that end users pay for many daily products and services relying on the use of online advertising. Transparency obligations should therefore require gatekeepers to provide advertisers and publishers to whom they supply online advertising services, when requested and to the extent possible, with information that allows both sides to understand the price paid for each of the different advertising services provided as part of the relevant advertising value chain.

Amendment 11

Proposal for a regulation
Recital 47

Text proposed by the Commission

(47) The rules that the gatekeepers set for the distribution of software applications may in certain circumstances restrict the ability of end users to install and effectively use third party software applications or software application stores or repositories on operating systems or hardware of the
relevant gatekeeper and restrict the ability of end users to access these software applications or software application stores outside the core platform services of that gatekeeper. Such restrictions may limit the ability of developers of software applications to use alternative distribution channels and the ability of end users to choose between different software applications from different distribution channels and should be prohibited as unfair and liable to weaken the contestability of core platform services. In order to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper the gatekeeper concerned may implement proportionate technical or contractual measures to achieve that goal if the gatekeeper demonstrates that such measures are necessary and justified and that there are no less restrictive means to safeguard the integrity of the hardware or operating system.

Amendment 12
Proposal for a regulation
Recital 47 a (new)

_text proposed by the commission_

(47a) Where the gatekeeper provides several core platform services, business users or end users should be entitled to have separate authentication factors, for example separate user accounts set up for each core platform service. Where business users or end users have accounts with different core platform services belonging to the same gatekeeper, they should not be required to combine or link these accounts.
Amendment 13

Proposal for a regulation
Recital 47 b (new)

_text proposed by the Commission_

**Amendment**

Some gatekeepers may also provide ancillary services alongside their core platform service in a manner that the average user cannot distinguish the ancillary service from the core platform service. Hence, there is a risk that gatekeepers use such ancillary services to compete unfairly with a view to substantiate or further increase their market power, including with respect to their competitors and to business users of the core platform service, such as suppliers of goods and services, who depend on this ancillary service. To prevent gatekeepers from benefiting from the leverage provided by ancillary services to their core platform service and any resulting market imbalance, these ancillary services should also be subject to the obligations applicable to core platform services.

Amendment 14

Proposal for a regulation
Recital 48

_text proposed by the Commission_

**Amendment**

(48) Gatekeepers are often vertically integrated and offer certain products or services to end users through their own core platform services, or through a business user over which they exercise control which frequently leads to conflicts of interest. This can include the situation whereby a gatekeeper offers its own online intermediation services through an online search engine. When offering those products or services on the core platform service, gatekeepers can reserve a better
position to their own offering, in terms of ranking, as opposed to the products of third parties also operating on that core platform service. This can occur for instance with products or services, including other core platform services, which are ranked in the results communicated by online search engines, or which are partly or entirely embedded in online search engines results, groups of results specialised in a certain topic, displayed along with the results of an online search engine, which are considered or used by certain end users as a service distinct or additional to the online search engine. Other instances are those of software applications which are distributed through software application stores, or products or services that are given prominence and display in the newsfeed of a social network, or products or services ranked in search results or displayed on an online marketplace. In those circumstances, the gatekeeper is in a dual-role position as intermediary for third party providers and as direct provider of products or services of the gatekeeper. Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper.

(52) Gatekeepers may also have a dual role as developers of operating systems and device manufacturers, including any...
technical functionality that such a device may have. For example, a gatekeeper that is a manufacturer of a device may restrict access to some of the functionalities in this device, such as near-field-communication technology and the software used to operate that technology, which may be required for the effective provision of an ancillary service by the gatekeeper as well as by any potential third party provider of such an ancillary service. Such access may equally be required by software applications related to the relevant ancillary services in order to effectively provide similar functionalities as those offered by gatekeepers. If such a dual role is used in a manner that prevents alternative providers of ancillary services or of software applications to have access under equal conditions to the same operating system, hardware or software features that are available or used in the provision by the gatekeeper of any ancillary services, this could significantly undermine innovation by providers of such ancillary services as well as choice for end users of such ancillary services. The gatekeepers should therefore be obliged to ensure access under equal conditions to, and interoperability with, the same operating system, hardware or software features that are available or used in the provision of any ancillary services by the gatekeeper.

Amendment 16

Proposal for a regulation
Recital 55

Text proposed by the Commission

(55) Business users that use large core platform services provided by gatekeepers and end users of such business users provide and generate a vast amount of data, including data inferred from such use. In order to ensure that business users have access to the relevant data thus generated,

Amendment

(55) Business users that use large core platform services provided by gatekeepers and end users of such business users provide and generate a vast amount of data, including data inferred from such use. In order to ensure that business users have access to the relevant data thus generated,
the gatekeeper should, upon their request, allow unhindered access, free of charge, to such data. Such access should also be given to third parties contracted by the business user, who are acting as processors of this data for the business user. Data provided or generated by the same business users and the same end users of these business users in the context of other services provided by the same gatekeeper may be concerned where this is inextricably linked to the relevant request. To this end, a gatekeeper should not use any contractual or other restrictions to prevent business users from accessing relevant data and should enable business users to obtain consent of their end users for such data access and retrieval, where such consent is required under Regulation (EU) 2016/679 and Directive 2002/58/EC. Gatekeepers should also facilitate access to these data in real time by means of appropriate technical measures, such as for example putting in place high quality application programming interfaces.

Amendment 17
Proposal for a regulation
Recital 56

Text proposed by the Commission

(56) The value of online search engines to their respective business users and end users increases as the total number of such users increases. Providers of online search engines collect and store aggregated datasets containing information about what users searched for, and how they interacted with, the results that they were served. Providers of online search engine services collect these data from searches undertaken on their own online search engine service and, where applicable, searches undertaken on the platforms of their downstream commercial partners. Access by
gatekeepers to such ranking, query, click and view data constitutes an important barrier to entry and expansion, which undermines the contestability of online search engine services. Gatekeepers should therefore be obliged to provide access, on fair, reasonable and non-discriminatory terms, to these ranking, query, click and view data in relation to free and paid search generated by consumers on online search engine services to other providers of such services, so that these third-party providers can optimise their services and contest the relevant core platform services. Such access should also be given to third parties contracted by a search engine provider, who are acting as processors of this data for that search engine. When providing access to its search data, a gatekeeper should ensure the protection of the personal data of end users by appropriate means, without substantially degrading the quality or usefulness of the data.

Amendment 18
Proposal for a regulation
Recital 57

Text proposed by the Commission

(57) In particular gatekeepers which provide access to software application stores serve as an important gateway for business users that seek to reach end users. In view of the imbalance in bargaining power between those gatekeepers and business users of their software application stores, those gatekeepers should not be allowed to impose general conditions, including pricing conditions, that would be unfair or lead to unjustified differentiation. Pricing or other general access conditions should be considered unfair if they lead to

Amendment

(57) Gatekeepers which provide access to core platform services, serve as an important gateway for business users that seek to reach end users. In view of the imbalance in bargaining power between those gatekeepers on the one hand and business users of their core platform services particularly when accessing online search engine and online social network on the other hand, those gatekeepers should not be allowed to impose general conditions, including pricing conditions, that would be unfair or
an imbalance of rights and obligations imposed on business users or confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users or lead to a disadvantage for business users in providing the same or similar services as the gatekeeper. The following benchmarks can serve as a yardstick to determine the fairness of general access conditions: prices charged or conditions imposed for the same or similar services by other providers of software application stores; prices charged or conditions imposed by the provider of the software application store for different related or similar services or to different types of end users; prices charged or conditions imposed by the provider of the software application store for the same service in different geographic regions; prices charged or conditions imposed by the provider of the software application store for the same service the gatekeeper offers to itself. This obligation should not establish an access right and it should be without prejudice to the ability of providers of software application stores to take the required responsibility in the fight against illegal and unwanted content as set out in Regulation [Digital Services Act].

lead to unjustified differentiation. Pricing or other general access conditions should be considered unfair if they lead to an imbalance of rights and obligations imposed on business users or confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users or lead to a disadvantage for business users in providing the same or similar services as the gatekeeper. The following benchmarks can serve as a yardstick to determine the fairness of general access conditions: prices charged or conditions imposed for the same or similar services by other providers of core platform services; prices charged or conditions imposed by the provider of the software application store online search engine or online social networking service for different related or similar services or to different types of end users; prices charged or conditions imposed by the provider of the core platform services for the same service in different geographic regions; prices charged or conditions imposed by the provider of the core platform services for the same service the gatekeeper offers to itself. Determining the fairness of general access conditions should allow for the revenue stream of digital content providers to be more transparent, notably in terms of revenues deriving from advertisement, and in terms of distribution of appropriate shares of revenues to the authors of works incorporated in press publications. This obligation should not establish an access right and it should be without prejudice to the ability of providers of core platform services to take the required responsibility in the fight against illegal and unwanted content as set out in Regulation [Digital Services Act].
Proposal for a regulation
Recital 58

Text proposed by the Commission

(58) To ensure the effectiveness of the obligations laid down by this Regulation, while also making certain that these obligations are limited to what is necessary to ensure contestability and tackling the harmful effects of the unfair behaviour by gatekeepers, it is important to clearly define and circumscribe them so as to allow the gatekeeper to immediately comply with them, in full respect of Regulation (EU) 2016/679 and Directive 2002/58/EC, consumer protection, cyber security and product safety. The gatekeepers should ensure the compliance with this Regulation by design. The necessary measures should therefore be as much as possible and where relevant integrated into the technological design used by the gatekeepers. However, it may in certain cases be appropriate for the Commission, following a dialogue with the gatekeeper concerned, to further specify some of the measures that the gatekeeper concerned should adopt in order to effectively comply with those obligations that are susceptible of being further specified. This possibility of a regulatory dialogue should facilitate compliance by gatekeepers and expedite the correct implementation of the Regulation.

Amendment

(58) To ensure the effectiveness of the obligations laid down by this Regulation, while also making certain that these obligations are limited to what is necessary to ensure contestability and tackling the harmful effects of the unfair behaviour by gatekeepers, it is important to clearly define and circumscribe them so as to allow the gatekeeper to immediately comply with them, in full respect of Regulation (EU) 2016/679 and Directive 2002/58/EC, consumer protection, cyber security and product safety. The gatekeepers should ensure the compliance with this Regulation by design. The necessary measures should therefore be as much as possible and where relevant integrated into the technological design used by the gatekeepers. However, it may in certain cases be appropriate for the Commission, following a dialogue with the gatekeeper concerned, to further specify some of the measures that the gatekeeper concerned should adopt in order to effectively comply with those obligations that are susceptible of being further specified.

Amendment 20

Proposal for a regulation
Recital 60

Text proposed by the Commission

(60) In exceptional circumstances justified on the limited grounds of public morality, public health or public security, the Commission should be able to decide

Amendment

(60) In exceptional circumstances justified on the limited grounds of public health or public security, the Commission should be able to decide that the obligation

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that the obligation concerned does not apply to a specific core platform service. Affecting these public interests can indicate that the cost to society as a whole of enforcing a certain obligation would in a certain exceptional case be too high and thus disproportionate. The regulatory dialogue to facilitate compliance with limited suspension and exemption possibilities should ensure the proportionality of the obligations in this Regulation without undermining the intended ex ante effects on fairness and contestability.

Amendment 21

Proposal for a regulation
Recital 67

(67) Where, in the course of a proceeding into non-compliance or an investigation into systemic non-compliance, a gatekeeper offers commitments to the Commission, the latter should be able to adopt a decision making these commitments binding on the gatekeeper concerned, where it finds that the commitments ensure effective compliance with the obligations of this Regulation. This decision should also find that there are no longer grounds for action by the Commission.

(67) Where, in the course of a proceeding into non-compliance or an investigation into systemic non-compliance, a gatekeeper offers commitments to the Commission, the latter should be able to adopt a decision making these commitments binding on the gatekeeper concerned, where it finds that the commitments ensure effective compliance with the obligations of this Regulation, taking into account damages, where they already exist, caused by the gatekeeper to other market participants. This decision should also find that there are no longer grounds for action by the Commission.

Amendment 22

Proposal for a regulation
Recital 70
(70) The Commission should be able to directly request that undertakings or association of undertakings provide any relevant evidence, data and information. In addition, the Commission should be able to request any relevant information from any public authority, body or agency within the Member State, or from any natural person or legal person for the purpose of this Regulation. When complying with a decision of the Commission, undertakings are obliged to answer factual questions and to provide documents.

When deciding on the time limits provided for in Article 19(3) and (4) the Commission should take into account the size and capabilities of an undertaking or association of undertakings and not impose disproportionate administrative burden on them.

Amendment 23
Proposal for a regulation
Recital 79 – point 1

Text proposed by the Commission

This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, in particular Articles 16, 47 and 50 thereof. Accordingly, this Regulation should be interpreted and applied with respect to those rights and principles

Amendment

This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, in particular Articles 11, 16, 47 and 50 thereof. Accordingly, this Regulation should be interpreted and applied with respect to those rights and principles

Amendment 24
Proposal for a regulation
Recital 79 a (new)
(79a) The Commission shall take enforcement action for non-compliance with this Regulation in an appropriate timeframe within legally binding deadlines. Where it adopts a non-compliance decision, the Commission shall be entitled to specify the measures the gatekeeper shall implement to ensure effective compliance with its obligations. This may include, in addition to a cease and desist order, any proportionate measures to restore the contestability of the market where this has been harmed by the gatekeeper’s non-compliance. The Commission shall, where appropriate, be entitled to require the measures to be tested, to optimise their effectiveness. The Commission shall regularly review the measures adopted to ensure compliance by the gatekeeper with its obligations under Articles 5 and 6, and where it finds that they are not effective, the Commission shall be entitled to require amendment of these measures.

Amendment 25
Proposal for a regulation
Article 1 – paragraph 4 a (new)

Amendment

4a. This Regulation is without prejudice to Regulation (EU) 2016/679 and Directive 2002/58/EC.

Amendment 26
Proposal for a regulation
Article 1 – paragraph 5

Amendment

5. In order to avoid the
gatekeepers further obligations by way of laws, regulations or administrative action for the purpose of ensuring contestable and fair markets. This is without prejudice to rules pursuing other legitimate public interests, in compliance with Union law. In particular, nothing in this Regulation precludes Member States from imposing obligations, which are compatible with Union law, on undertakings, including providers of core platform services where these obligations are unrelated to the relevant undertakings having a status of gatekeeper within the meaning of this Regulation in order to protect consumers or to fight against acts of unfair competition.


Amendment 27

Proposal for a regulation
Article 2 – paragraph 1 – point 2 – introductory part

Text proposed by the Commission

(2) ‘Core platform service’ means any of the following:
(a) online intermediation services;
(b) online search engines;
(c) online social networking services;
(d) video-sharing platform services;

Amendment

(2) ‘Core platform service’ means any of the following:
(a) online intermediation services;
(b) online search engines;
(c) online social networking services;
(d) video-sharing platform services;
(e) number-independent interpersonal communication services;

(f) operating systems;

(g) cloud computing services;

(h) advertising services, including any advertising networks, advertising exchanges and any other advertising intermediation services, provided by a provider of any of the core platform services listed in points (a) to (g);

(ha) voice assistants

(hb) web browsers

Amendment 28

Proposal for a regulation
Article 2 – paragraph 1 – point 15 a (new)

Text proposed by the Commission

Amendment

(15a) 'web browsers': software programs used by users of client PCs, mobile devices and other devices to access and interact with web content hosted on servers connected to networks such as the Internet;

Amendment 29

Proposal for a regulation
Article 2 – paragraph 1 – point 15 b (new)

Text proposed by the Commission

Amendment

(15b) 'voice assistants': a software application that is capable of oral dialogue with a user in natural language and which mediates between end users and business users offering voice-based services;

Amendment 30
Proposal for a regulation
Article 2 – paragraph 1 – point 23 a (new)

Text proposed by the Commission

Amendment

(23a) ‘Profiling’ means profiling as defined in point (4) of Article 4 of Regulation (EU) 2016/679;

Amendment 31

Proposal for a regulation
Article 2 – paragraph 1 – point 23 b (new)

Text proposed by the Commission

Amendment

(23b) ‘Consent’ of the data subject means consent as defined in point (11) of Article 4 of Regulation (EU) 2016/679;

Amendment 32

Proposal for a regulation
Article 2 – paragraph 1 – point 23 c (new)

Text proposed by the Commission

Amendment

(23c) ‘Data portability’ means data portability provided for in Article 20 of Regulation (EU) 2016/679

Amendment 33

Proposal for a regulation
Article 3 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) it operates a core platform service which serves as an important gateway for business users to reach end users; and

(b) it operates a core platform service which serves as an important gateway for business users or end users to reach other business users or end users; and

Amendment 34
Proposal for a regulation
Article 5 – paragraph 1 – point a

Text proposed by the Commission

(a) refrain from combining personal data sourced from these core platform services with personal data from any other services offered by the gatekeeper or with personal data from third-party services, and from signing in end users to other services of the gatekeeper in order to combine personal data, unless the end user has been presented with the specific choice and provided consent in the sense of Regulation (EU) 2016/679.

Amendment

(a) refrain from combining personal data sourced from any of its core platform services with personal data from any other services offered by the gatekeeper or with personal data from third-party services, and from signing in business or end users to other services of the gatekeeper in order to combine personal data, unless the end user has been presented, in a user-friendly, promptly accessible and clear method for consent management, with the specific choice and they have given their consent; such method shall implement in particular the requirement of privacy by design and privacy by default in accordance with Regulation (EU) 2016/679.

Amendment 35

Proposal for a regulation
Article 5 – paragraph 1 – point d

Text proposed by the Commission

(d) refrain from preventing or restricting business users from raising issues with any relevant public authority relating to any practice of gatekeepers;

Amendment

(d) refrain from directly or indirectly preventing or restricting business and end users from raising issues with any relevant public authority, including judicial authority, relating to any practice of gatekeepers including by means of the reporting mechanism for professional and end users pursuant to Article 18(a);

Amendment 36

Proposal for a regulation
Article 5 – paragraph 1 – point e

Text proposed by the Commission

Amendment
(e) refrain from requiring business users to use, offer or interoperate with an identification service of the gatekeeper in the context of services offered by the business users using the core platform services of that gatekeeper;

Amendment 37
Proposal for a regulation
Article 5 – paragraph 1 – point g

Text proposed by the Commission

(g) provide advertisers and publishers to which it supplies advertising services, upon their request, with information concerning the price paid by the advertiser and publisher, as well as the amount or remuneration paid to the publisher, for the publishing of a given ad and for each of the relevant advertising services provided by the gatekeeper.

Amendment

(g) provide advertisers and publishers to which it supplies advertising services, upon their request, with information concerning the price paid by the advertiser and publisher, as well as the amount or remuneration paid to the publisher, for the publishing of a given ad and for each of the relevant advertising services provided by the gatekeeper and refrain from collecting or processing personal data for the purpose of targeting the end users to whom advertisements are displayed without any informed and clear consent, in accordance with point (a) of Article 6(1) of Regulation (EU) 2016/679.

Amendment 38
Proposal for a regulation
Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) refrain from using, in competition with business users, any data not publicly available, which is generated through activities by those business users, including by the end users of these business users, of its core platform services or ancillary services or provided by those business users of its core platform services or by the end users of these business users;

Amendment

(a) refrain from using, in competition with business users, any data not publicly available, which is generated through activities by those business users, including by the end users of these business users and end users of its core platform services or ancillary services or provided by those business users of its core platform services or by the end users of these business users via the core platform services or ancillary
services;

Amendment 39
Proposal for a regulation
Article 6 – paragraph 1 – point b

Text proposed by the Commission

(b) allow end users to un-install any pre-installed software applications on its core platform service without prejudice to the possibility for a gatekeeper to restrict such un-installation in relation to software applications that are essential for the functioning of the operating system or of the device and which cannot technically be offered on a standalone basis by third-parties;

Amendment

(b) inform end users and device manufacturers upon first use of any pre-installed software applications on its core platform service and of the option to un-install them without prejudice to the possibility for a gatekeeper to restrict such un-installation in relation to software applications that are essential for the functioning of the operating system or of the device and which cannot technically be offered on a standalone basis by third-parties;

Amendment 40
Proposal for a regulation
Article 6 – paragraph 1 – point c

Text proposed by the Commission

(c) allow the installation and effective use of third party software applications or software application stores using, or interoperating with, operating systems of that gatekeeper and allow these software applications or software application stores to be accessed by means other than the core platform services of that gatekeeper. The gatekeeper shall not be prevented from taking proportionate measures to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper;

Amendment

(c) allow the installation and effective use, setting as the default, of third party software applications or software application stores using, or interoperating with, operating systems of that gatekeeper and allow these software applications or software application stores or repositories to be accessed by means other than the core platform services of that gatekeeper. The gatekeeper shall not be prevented from taking proportionate measures to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper;
Amendment 41

Proposal for a regulation
Article 6 – paragraph 1 – point d

Text proposed by the Commission
(d) refrain from treating more favourably in ranking services and products offered by the gatekeeper itself or by any third party belonging to the same undertaking compared to similar services or products of third party and apply fair and non-discriminatory conditions to such ranking;

Amendment
(d) refrain from embedding or treating more favourably or differently in terms of ranking access or terms of service or technical features and interfaces, services and products and refrain from favouring additional services offered by the gatekeeper itself or by any third party belonging to the same undertaking compared to similar services or products of third party and apply fair and non-discriminatory conditions in terms of ranking, access or terms of service or technical features and interfaces;

Amendment 42

Proposal for a regulation
Article 6 – paragraph 1 – point f

Text proposed by the Commission
(f) allow business users and providers of ancillary services access to and interoperability with the same operating system, hardware or software features that are available or used in the provision by the gatekeeper of any ancillary services;

Amendment
(f) allow business and end users and providers of core and ancillary services access to and interoperability with the same operating system, hardware or software features that are available or used in the provision by the gatekeeper of any ancillary services; provide the information to allow third-party operating systems, software applications or ancillary services to interoperate with the gatekeeper's core platform services by making the core platform service's features and functionality available to the fullest extent as technically possible within the core platform service, for use with the third-party software application or service; The gatekeeper shall not be prevented from taking necessary and proportionate measures to ensure that third party
ancillary services do not endanger the integrity of the operating system, hardware or software features provided by the gatekeeper, provided that such proportionate measures are duly justified by the gatekeeper.

Amendment 43

Proposal for a regulation
Article 6 – paragraph 1 – point h

Text proposed by the Commission

(h) provide effective portability of data generated through the activity of a business user or end user and shall, in particular, provide tools for end users to facilitate the exercise of data portability, in line with Regulation EU 2016/679, including by the provision of continuous and real-time access;

Amendment

(h) provide effective portability and interoperability of personal data generated through the activity of a business user or end user and shall, in particular, provide tools, free of charge for end users to facilitate the effective exercise of such portability of these personal data in accordance with Article 20 of Regulation EU 2016/679, including by the provision of continuous and real-time access;

Amendment 44

Proposal for a regulation
Article 6 – paragraph 1 – point i

Text proposed by the Commission

(i) provide business users, or third parties authorised by a business user, free of charge, with effective, high-quality, continuous and real-time access and use of aggregated or non-aggregated data, that is provided for or generated in the context of the use of the relevant core platform services by those business users and the end users engaging with the products or services provided by those business users; for personal data, provide access and use only where directly connected with the use effectuated by the end user in respect of the products or services offered by the relevant

Amendment

(i) provide business users, or third parties authorised by a business user, free of charge, with effective, secure high-quality, continuous and real-time access and use of non-personal data, that is provided for or generated in the context of the use of the relevant core platform services by those business users and the end users engaging with the products or services provided by those business users; for personal data, provide access and use only where directly connected with the use effectuated by the end user in respect of the products or services offered by the relevant
business user through the relevant core platform service, and when the end user opts in to such sharing with a consent in the sense of the Regulation (EU) 2016/679; business user through the relevant core platform service, and when the end user opts in to such sharing with a consent; and ensure that the functionalities for providing information and offering of the opportunity to give consent are as user friendly as possible.

Amendment 45

Proposal for a regulation
Article 6 – paragraph 1 – point j

*Text proposed by the Commission*

(j) provide to any third party providers of online search engines, upon their request, with access on fair, reasonable and non-discriminatory terms to ranking, query, click and view data in relation to free and paid search generated by end users on online search engines of the gatekeeper, subject to anonymisation for the query, click and view data that constitutes personal data;

*Amendment*

(j) provide to any third party providers of online search engines, upon their request, with access on fair, reasonable and non-discriminatory terms to fully anonymised ranking, query, click and view data in relation to free and paid search generated by end users on online search engines of the gatekeeper, as query, click and view data that constitutes personal data;

Amendment 46

Proposal for a regulation
Article 6 – paragraph 1 – point j a (new)

*Text proposed by the Commission*

(ja) where applicable allow end users and business users to have information presented to them in chronological order only or, where technically possible, to use third-party recommender systems;

*Amendment*

(ja) where applicable allow end users and business users to have information presented to them in chronological order only or, where technically possible, to use third-party recommender systems;

Amendment 47

Proposal for a regulation
Article 6 – paragraph 1 – point j b (new)
Text proposed by the Commission

(jb) refrain from practices that make unnecessarily difficult for business or end users to unsubscribe from a core platform service;

Amendment 48
Proposal for a regulation
Article 6 – paragraph 1 – point j c (new)

Text proposed by the Commission

(jc) ensure their services, including user interfaces, are accessible to persons with disabilities in accordance with Article 13 of Directive (EU) 2019/882;

Amendment 49
Proposal for a regulation
Article 6 – paragraph 1 – point k

Text proposed by the Commission

(k) apply fair and non-discriminatory general conditions of access for business users to its software application store designated pursuant to Article 3 of this Regulation.

Amendment

(k) apply fair and non-discriminatory general conditions of access to and treatment of business users of its core platform service to its software application store, search engine, online payment service or online social networking service designated pursuant to Article 3 of this Regulation.

Amendment 50
Proposal for a regulation
Article 6 – paragraph 2 a (new)

Text proposed by the Commission

2a. A gatekeeper shall make contractual arrangements with its business partners to make sure that
obligations provided for in Articles 5 and 6 are effective also in the event that the final product is provided to business users and end users by a third party, and that such product uses one of the gatekeeper’s core platform services.

Amendment 51
Proposal for a regulation
Article 7 – paragraph 2

Text proposed by the Commission

2. Where the Commission finds that the measures that the gatekeeper intends to implement pursuant to paragraph 1, or has implemented, do not ensure effective compliance with the relevant obligations laid down in Article 6, it may by decision specify the measures that the gatekeeper concerned shall implement. The Commission shall adopt such a decision within six months from the opening of proceedings pursuant to Article 18.

Amendment

2. Where the Commission finds that the measures that the gatekeeper intends to implement pursuant to paragraph 1, or has implemented, do not ensure effective compliance with the relevant obligations laid down in Article 6, it shall by decision specify the measures that the gatekeeper concerned shall implement. The Commission shall adopt such a decision within four months from the opening of proceedings pursuant to Article 18.

Amendment 52
Proposal for a regulation
Article 7 – paragraph 4

Text proposed by the Commission

4. In view of adopting the decision under paragraph 2, the Commission shall communicate its preliminary findings within three months from the opening of the proceedings. In the preliminary findings, the Commission shall explain the measures it considers to take or it considers that the provider of core platform services concerned should take in order to effectively address the preliminary findings.

Amendment

4. In view of adopting the decision under paragraph 2, the Commission shall communicate its preliminary findings within two months from the opening of the proceedings. In the preliminary findings, the Commission shall explain the measures it considers to take or it considers that the provider of core platform services concerned should take in order to effectively address the preliminary findings.
Proposal for a regulation
Article 7 – paragraph 6

Text proposed by the Commission

6. For the purposes of specifying the obligations under Article 6(1) points (j) and (k), the Commission shall also assess whether the intended or implemented measures ensure that there is no remaining imbalance of rights and obligations on business users and that the measures do not themselves confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users.

Amendment

6. For the purposes of specifying the obligations under Article 6(1) points (j) and (k), the Commission shall also assess whether the intended or implemented measures ensure that there is no remaining imbalance of rights and obligations on business users and end users and that the measures do not themselves confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users.

Amendment 54

Proposal for a regulation
Article 7 – paragraph 7

Text proposed by the Commission

7. A gatekeeper may request the opening of proceedings pursuant to Article 18 for the Commission to determine whether the measures that the gatekeeper intends to implement or has implemented under Article 6 are effective in achieving the objective of the relevant obligation in the specific circumstances. A gatekeeper may, with its request, provide a reasoned submission to explain in particular why the measures that it intends to implement or has implemented are effective in achieving the objective of the relevant obligation in the specific circumstances.

Amendment

7. A gatekeeper may request the opening of proceedings pursuant to Article 18 for the Commission to determine whether the measures that the gatekeeper intends to implement or has implemented under Article 6 are effective in achieving the objective of the relevant obligation in the specific circumstances. A gatekeeper shall, with its request, provide a reasoned submission to explain in particular why the measures that it intends to implement or has implemented are effective in achieving the objective of the relevant obligation in the specific circumstances. The Commission may open proceedings pursuant to Article 18 and, by decision adopted in accordance with the advisory procedure referred to in Article 37a(2), specify the measures that the gatekeeper concerned shall implement. The Commission shall adopt a decision pursuant to this provision within four months from the opening of proceedings.
pursuant to Article 18.

Amendment 55

Proposal for a regulation
Article 9 – paragraph 2 – point a

Text proposed by the Commission

(a) public morality;

Amendment

deleted

Amendment 56

Proposal for a regulation
Article 10 – paragraph 2 – point a

Text proposed by the Commission

(a) there is an imbalance of rights and obligations on business users and the gatekeeper is obtaining an advantage from business users that is disproportionate to the service provided by the gatekeeper to business users; or

Amendment

(a) there is an imbalance of rights and obligations on business users, active users or end users and the gatekeeper is obtaining an advantage from business users, active users or end users that is disproportionate to the service provided by the gatekeeper to business users, active users or end users; or

Amendment 57

Proposal for a regulation
Article 11 – paragraph 1

Text proposed by the Commission

1. A gatekeeper shall ensure that the obligations of Articles 5 and 6 are fully and effectively complied with. While the obligations of Articles 5 and 6 apply in respect of core platform services designated pursuant to Article 3, their implementation shall not be undermined by any behaviour of the undertaking to which the gatekeeper belongs, regardless of whether this behaviour is of a contractual, commercial, technical or any other nature.

Amendment

1. A gatekeeper shall ensure that the obligations of Articles 5 and 6 are fully and effectively complied with. While the obligations of Articles 5 and 6 apply in respect of core platform services designated pursuant to Article 3, their implementation shall not be undermined by any behaviour of the gatekeeper or any part of the undertaking to which the gatekeeper belongs, regardless of whether this behaviour is of a contractual,
commercial, technical or any other nature.

Amendment 58
Proposal for a regulation
Article 11 – paragraph 2

Text proposed by the Commission

2. Where consent for collecting and processing of personal data is required to ensure compliance with this Regulation, a gatekeeper shall take the necessary steps to either enable business users to directly obtain the required consent to their processing, where required under Regulation (EU) 2016/679 and Directive 2002/58/EC, or to comply with Union data protection and privacy rules and principles in other ways including by providing business users with duly anonymised data where appropriate. The gatekeeper shall not make the obtaining of this consent by the business user more burdensome than for its own services.

Amendment

2. Where consent for collecting and processing of personal data is required to ensure compliance with this Regulation, a gatekeeper shall take the necessary steps to either enable business users to directly request the required consent to their processing, where required under Regulation (EU) 2016/679 and Directive 2002/58/EC, or to provide business users with duly anonymised data. The gatekeeper shall not make the obtaining of this consent by the business user more burdensome than for its own service.

Amendment 59
Proposal for a regulation
Article 13 – paragraph 1

Text proposed by the Commission

Within six months after its designation pursuant to Article 3, a gatekeeper shall submit to the Commission an independently audited description of any techniques for profiling of consumers that the gatekeeper applies to or across its core platform services identified pursuant to Article 3. This description shall be updated at least annually.

Amendment

Within six months after its designation pursuant to Article 3, a gatekeeper shall submit to the Commission an independently audited description of any techniques for profiling of end users that the gatekeeper applies to or across its core platform services identified pursuant to Article 3. This description shall be updated at least annually and an overview of it shall be made publicly available, taking into account the limitations imposed by the requirements of business secrets and other confidential business information. The Commission shall develop, after
consulting the European Data Protection Supervisor, the European Data Protection Board, civil society and experts, the standards and process of the audit. The Commission shall share the audited description, as well as any relevant materials that are collected in the context of supervising the gatekeepers relating to the processing of personal data, with any competent supervisory authority, upon its request.

Amendment 60
Proposal for a regulation
Article 14 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Where processing of personal data is concerned, the Commission shall consult with data protection authorities in the context of its investigation before adopting a decision pursuant to Articles 15, 16 and 17.

Amendment 61
Proposal for a regulation
Article 18 a (new)

Text proposed by the Commission

Amendment

Article 18a
Reporting mechanism for business users and end users

1. Business users, and end users of the core platform services defined in Article 2(2) may notify the Commission or a national competition authority of any practice or behaviour that they deem in breach with this Regulation, on the part of a gatekeeper that falls within the scope of this Regulation.

2. If the notification pursuant to paragraph 1 is received by a national
competition authority, it shall be forwarded directly to the Commission.

3. The Commission shall have the power to set its priorities for examining the cases notified, as referred to paragraph 1. Without prejudice to Article 33, the Commission shall have the power to choose to not examine a notification where it does not consider that notification to be an enforcement priority.

Amendment 62
Proposal for a regulation
Article 23 – paragraph 1

Text proposed by the Commission

1. If during proceedings under Articles 16 or 25 the gatekeeper concerned offers commitments for the relevant core platform services to ensure compliance with the obligations laid down in Articles 5 and 6, the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) make those commitments binding on that gatekeeper and declare that there are no further grounds for action.

Amendment

1. If during proceedings under Articles 16 or 25 the gatekeeper concerned offers commitments for the relevant core platform services to ensure compliance with the obligations laid down in Articles 5 and 6, the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) make those commitments binding on that gatekeeper taking into account potentially already existing damages caused by the gatekeeper to other market participants and declare that there are no further grounds for action.

Amendment 63
Proposal for a regulation
Article 24 – paragraph 1

Text proposed by the Commission

1. The Commission may take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in Articles 5 and 6 and the decisions taken pursuant to Articles 7, 16, 22 and 23.

Amendment

1. The Commission shall monitor the effective implementation and compliance with the obligations laid down in Articles 5 and 6 and the decisions taken pursuant to Articles 7, 16, 22 and 23.
Amendment 64

Proposal for a regulation
Article 25 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. The Commission shall close its investigation by adopting a decision within 36 months from the opening of the investigation pursuant to Article 18.

Amendment 65

Proposal for a regulation
Article 30 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Where the Commission considers it necessary, it may also hear other natural or legal persons who show a sufficient interest, including persons recommended by national competent authorities designated under Article 21(a), before taking the decisions.

Amendment 66

Proposal for a regulation
Article 31 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. As an exception to paragraph 1, competent supervisory authorities may share relevant information that is collected in the context of supervising the gatekeepers with other competent authorities, including data protection and consumer protection authorities, pursuant to Articles 3, 12, 13, 19, 20 and 21, for the sole purpose of enabling those competent authorities to fulfil their respective
mandates and public service missions.

Amendment 67
Proposal for a regulation
Article 33 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. When conducting and drafting its assessment on whether to open an investigation, the Commission shall consult and cooperate with the competent oversight authorities, including data protection authorities.

Amendment 68
Proposal for a regulation
Article 33 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Third parties representing business users or end users shall be entitled to lodge complaints, with regard to the non-designation of gatekeepers, non-compliance and systematic non-compliance by gatekeepers with their obligations in accordance with Article 3, 5 and 6, and request the opening of a market investigation; They shall submit evidence in support of their request; The Commission shall inform the third parties of its decision within three months.

Amendment 69
Proposal for a regulation
Article 33 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. Amendment to Directive (EU) 2020/1828 The following point is added to
Amendment 70

Proposal for a regulation
Article 34 – paragraph 1

Text proposed by the Commission

1. The Commission shall publish the decisions which it takes pursuant to Articles 3, 7, 8, 9, 15, 16, 17, 22, 23(1), 25, 26 and 27. Such publication shall state the names of the parties and the main content of the decision, including any penalties imposed.

Amendment

1. The Commission shall publish the decisions which it takes pursuant to Articles 3, 7, 8, 9, 15, 16, 17, 18, 22, 23(1), 25, 26, 27, 33 and 33a. Such publication shall state the names of the parties and the main content of the decision, including any penalties imposed.

Amendment 71

Proposal for a regulation
Article 36 a (new)

Text proposed by the Commission

Article 36a
Reporting

The Commission’s Annual Report on Competition Policy shall include a chapter on the implementation of this Regulation.
## PROCEDURE – COMMITTEE ASKED FOR OPINION

<table>
<thead>
<tr>
<th>Title</th>
<th>Contestable and fair markets in the digital sector (Digital Markets Act)</th>
</tr>
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<tbody>
<tr>
<td>Committee responsible</td>
<td>IMCO</td>
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<tr>
<td>Date announced in plenary</td>
<td>8.2.2021</td>
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<td>Opinion by</td>
<td>LIBE</td>
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<tr>
<td>Date announced in plenary</td>
<td>8.2.2021</td>
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<tr>
<td>Rapporteur for the opinion</td>
<td>Ondřej Kovařík</td>
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<tr>
<td>Date appointed</td>
<td>22.4.2021</td>
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<td>Date adopted</td>
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<td>Substitutes present for the final vote</td>
<td>Olivier Chastel, Tanja Fajon, Jan-Christoph Oetjen, Philippe Olivier, Anne-Sophie Pelletier, Thijs Reuten, Rob Rook, Maria Walsh</td>
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## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

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Key to symbols:
+ : in favour
- : against
0 : abstention
### PROCEDURE – COMMITTEE RESPONSIBLE

| Title | Contestable and fair markets in the digital sector (Digital Markets Act) |
| Date submitted to Parliament | 16.12.2020 |
| Committee responsible | IMCO |
| Date announced in plenary | 8.2.2021 |
| Committees asked for opinions | ECON ITRE TRAN CULT |
| Date announced in plenary | 8.2.2021 8.2.2021 11.3.2021 20.5.2021 |
| Associated committees | ITRE ECON |
| Date announced in plenary | 20.5.2021 20.5.2021 |
| Rapporteurs | Andreas Schwab |
| Date appointed | 28.1.2021 |
| Date adopted | 23.11.2021 |
| Result of final vote | +: 42  
| | -: 2  
| | 0: 1 |
| Members present for the final vote | Alex Agius Saliba, Andrus Ansip, Pablo Arias Echeverría, Alessandra Basso, Brando Benifei, Adam Bielan, Hynek Blaško, Biljana Borzan, Markus Buchheit, Andrea Caroppo, Anna Cavazzini, Dita Charanzová, Deirdre Clune, David Cormand, Carlo Fidanza, Evelyne Gebhardt, Alexandra Geese, Sandro Gozi, Maria Grapini, Svenja Hahn, Virginie Joron, Eugen Jurzyca, Arba Kokalari, Marcel Kolaja, Andrey Kovatchev, Jean-Lin Lacapelle, Morten Løkkegaard, Adriana Maldonado López, Antonius Manders, Beata Mazurek, Leszek Miller, Anne-Sophie Pelletier, Miroslav Radačovský, Christel Schaldemose, Andreas Schwab, Tomislav Sokol, Ivan Štefanec, Róża Thun und Hohenstein, Tom Vandenkendelaere, Kim Van Sparrentak, Marion Walsmann |
| Substitutes present for the final vote | Marc Angel, Vlad-Marius Botoș, Maria da Graça Carvalho, Martin Schirdewan |
| Date tabled | 30.11.2021 |
# FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

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Key to symbols:
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- : against
0 : abstention