



2020/0374(COD)

29.6.2021

AMENDMENTS

56 - 210

Draft opinion
Petra Kammerevert
(PE693.640v01-00)

Contestable and fair markets in the digital sector (Digital Markets Act)

Proposal for a regulation
(COM(2020)0842 ââ C9-0419/2020 ââ 2020/0374(COD))

Amendment 56
Martina Michels

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.

Or. de

Amendment 57
Martina Michels

Proposal for a regulation
Recital 1 a (new)

Text proposed by the Commission

Amendment

(1 a) Digital services also shape changing forms of work and communication in public services and can facilitate European cultural exchange and the global availability of media content. Bodies providing public services are, to a degree, public economic entities operating on a non-profit basis. Accordingly, these bodies can be commercial users of digital services as well as end users or intermediaries providing access to services for other individual end users;

Or. de

Amendment 58
Martina Michels

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 practice, and therefore can confer to the provider of those services the position of a so-called gatekeeper.

Amendment

(2) Core platform services, **which are used in the economy and society**, 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.

Or. de

Amendment 59

Marcel Kolaja

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.

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 ***complements*** their application.

Or. en

Amendment 60
Victor Negrescu

Proposal for a regulation
Recital 10 a (new)

Text proposed by the Commission

Amendment

(10 a) 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 special attention should be given to takeovers in important sectors such as health, education, defence and financial services.

Or. en

Amendment 61
Marcel Kolaja

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 on *all of* those digital services that are most used by business users and end users and where, based on current market conditions, concerns about weak contestability and unfair practices by gatekeepers are pressing from an internal market perspective.

Or. en

Amendment 62
Dace Melbārde

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 Council³². 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.

(13) In particular, online intermediation services, online search engines, operating systems ***(including those for smart TVs, digital voice assistants and alike), 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 Council³². 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.

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

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

Or. en

Amendment 63

Tomasz Frankowski, Sabine Verheyen, Loucas Furlas, François-Xavier Bellamy

Proposal for a regulation

Recital 14 a (new)

Text proposed by the Commission

Amendment

(14 a) 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.

Or. en

Amendment 64

Tomasz Frankowski, Sabine Verheyen, Loucas Fourlas, François-Xavier Bellamy

Proposal for a regulation

Recital 14 b (new)

Text proposed by the Commission

Amendment

(14 b) 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 in breach of such terms and conditions should be allowed, they should be formally justified and

allow for 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.

Or. en

Amendment 65

Irena Joveva, Laurence Farreng

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

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, ***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

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.

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.

Or. en

Amendment 66 **Dace Melbārde**

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

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.

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.

Or. en

Amendment 67
Marcel Kolaja

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.

Or. en

Amendment 68
Dace Melbārde

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 ***in order to combine personal data*** 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 ***be prohibited combining personal data of end users.***

Or. en

Amendment 69

Irena Joveva, Laurence Farreng

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 ***offer*** their end users ***an option*** to opt-in to such business practices by offering ***both*** less personalised ***and non-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,

user-friendly, clear and straightforward manner.

Or. en

Amendment 70
Marcel Kolaja

Proposal for a regulation
Recital 36 a (new)

Text proposed by the Commission

Amendment

(36 a) 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.

Or. en

Amendment 71
Marcel Kolaja

Proposal for a regulation
Recital 37

Text proposed by the Commission

Amendment

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

(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 business channels***, limiting inter-platform contestability, which in turn limits choice of alternative online intermediation channels for end users. To ensure that

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.

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 de-listing *or less favourable display* of the offers of business users *in the ranking*.

Or. en

Amendment 72

Tomasz Frankowski, Sabine Verheyen, Loucas Fourlas, François-Xavier Bellamy

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

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 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, 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

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.

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.

Or. en

Amendment 73

Tomasz Frankowski, Sabine Verheyen, Loucas Fourlas, François-Xavier Bellamy

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

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

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.

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*.

Or. en

Amendment 74

Tomasz Frankowski, Sabine Verheyen, Loucas Fourlas, François-Xavier Bellamy

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

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 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, *drafted in plain and intelligible language*, including the use of lawful complaints-handling mechanisms, including any use of alternative dispute resolution mechanisms

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.

and including 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.

Or. en

Amendment 75

Irena Joveva, Laurence Farreng

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

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.

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. ***Such information sharing should include necessary safeguards in order to protect users' fundamental rights as enshrined in the EU Charter of Fundamental rights and enable users to make use of their rights as data subjects.***

Or. en

Amendment 76
Marcel Kolaja

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

Amendment

(42) The conditions under which gatekeepers provide ***targeted*** online advertising ***based on contextual information*** 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. 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

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.

gatekeepers to provide advertisers and publishers to whom they supply **targeted** online advertising services **based on contextual information**, 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.

Or. en

Amendment 77
Dace Melbārde

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

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.

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, 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.

Or. en

Amendment 78

Tomasz Frankowski, Sabine Verheyen, Loucas Fourlas, François-Xavier Bellamy

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 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

Amendment

(43) 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 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 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

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.

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 ***or with the supplier of an ancillary service.***

Or. en

Amendment 79

Irena Joveva, Laurence Farreng

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 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

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. 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 ***exclusively in domain of core platform providers*** to offer similar services to those of their

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.

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. en

Amendment 80

Irena Joveva, Laurence Farreng

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 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, ***and should offer end users the opportunity to choose the software applications on its core platforms including an option to settings without any pre-installed software that is not required for the basic functionality of their platform.***

Or. en

Amendment 81

Tomasz Frankowski, Sabine Verheyen, Loucas Fourlas, François-Xavier Bellamy

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.

(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 therefore also be without prejudice to the ability of gatekeepers to take the required responsibility in the fight against illegal content online.***

Or. en

Amendment 82

Irena Joveva, Laurence Farreng

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 *for different reasons* between different software applications *to run on platforms* 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.

Or. en

Amendment 83

Petra Kammerevert

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.

(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 which they have entered into particular cooperation agreements or which they prefer due to other reasons unrelated to their service's actual relevance*, 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 *intermediated via* that core platform service. This can occur for instance with products or services, including other core platform services, which are ranked *within or along* the results communicated by 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 topic, displayed along with the results of an online search engine, which *may be* considered or used by certain end users as a service distinct or additional to the online search engine. *Such preferential or embedded display of a separate online intermediation service shall 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. 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. 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.

Or. en

Amendment 84

Tomasz Frankowski, Sabine Verheyen, Loucas Furlas, François-Xavier Bellamy

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

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 *using* that core platform service. This can occur for instance with products or services, including other core platform services, which are ranked *within or along* 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 *may be* considered or used

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.

by certain end users as a service distinct or additional to the online search engine. ***Such preferential or embedded display of a separate online intermediation service should 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. 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.

Or. en

Amendment 85 **Dace Melbārde**

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

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.

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, ***or engage in self-preferencing through other settings***, 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, ***or products or services to which users are directed following a request 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. 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.

Or. en

Amendment 86
Petra Kammerevert

Proposal for a regulation
Recital 49

(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

(49) In such situations *of a conflict of interest*, the gatekeeper should not *partly or entirely embed such distinct product or service 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 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, where a gatekeeper's online search engine results page includes the ranking of separate products or services, third parties shall 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 shall be treated as a separate commercial entity and shall be commercially viable as a stand-alone service, offered outside of the gatekeeper's core platform service.* To ensure that this obligation is effective, it should also be ensured that the conditions that apply to such ranking are also generally fair, *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.³⁴

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

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

Or. en

Amendment 87

Irena Joveva

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

Amendment

(49) In such situations, the gatekeeper should not 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 controls. ***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***

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

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. 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 embedded results* are fair. Ranking should in this context cover all forms of relative prominence, including 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

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

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

Or. en

Amendment 88

Tomasz Frankowski, Sabine Verheyen, Loucas Furlas, François-Xavier Bellamy

Proposal for a regulation

Recital 49

(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

(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 the gatekeeper's own products or services do not have more access to information about the ranking or any other competition-relevant aspects than products or services of third parties**. Ranking should in this context cover all forms of relative prominence, including **among others order, graphic** 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. **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.

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

Amendment 89
Dace Melbārde

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

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

Amendment

(49) In such situations, the gatekeeper should not engage in any form of differentiated or preferential treatment in ranking ***or through other settings*** 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 ***and other relevant settings*** are also generally fair ***and non-discriminatory***. 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 ***measures and settings*** 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

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

Or. en

Amendment 90
Irena Joveva

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 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

(50) Gatekeepers should not restrict or prevent the free choice of end users by technically preventing switching between, ***installment, effective use*** or subscription to different, ***including third party*** 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, ***installing or using*** impossible or ineffective.

Or. en

Amendment 91
Irena Joveva

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,

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 unduly restrict end users in choosing their Internet access service provider.

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 *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.*

Or. en

Amendment 92
Victor Negrescu

Proposal for a regulation
Recital 52 a (new)

Text proposed by the Commission

Amendment

(52 a) 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.

Or. en

Amendment 93
Irena Joveva

Proposal for a regulation
Recital 53

Text proposed by the Commission

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

(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.

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, ***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.

Or. en

Amendment 94 **Marcel Kolaja**

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

Amendment

(53) The conditions under which gatekeepers provide ***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,

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.

with free of charge access to the performance measuring tools of the gatekeeper ***for the purpose of targeted digital advertising based on contextual information*** 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.

Or. en

Amendment 95
Dace Melbārde

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, when requested, with free of charge access to the performance measuring tools of the gatekeeper and ***granular*** information ***that is*** 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.

Or. en

Amendment 96
Victor Negrescu

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 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. ***These portability rights will provide users with the right to access and transfer their data from the platforms that hold it.***

Or. en

Amendment 97
Tomasz Frankowski, Sabine Verheyen, Loucas Furlas, François-Xavier Bellamy

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, **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 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.

Or. en

Amendment 98 Marcel Kolaja

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,

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.

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 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.

Or. en

Amendment 99

Irena Joveva, Laurence Farreng

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.

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.

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. ***The gatekeeper should be able to demonstrate that anonymised query, click and view data have been adequately tested against possible re-identification risks.***

Or. en

Amendment 100
Marcel Kolaja

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.

Amendment

(57) In particular gatekeepers which provide access to software application stores ***online search engine and online social networking service*** serve as an

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].

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 ***on the one hand***, and business users of their software application stores, ***especially those being in a minority position 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, 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.

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 in according to article 15(1) of Directive(EU) 2019/790.*

Or. en

Amendment 101

Dace Melbārde

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

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 and business users of their **core platform services**, those gatekeepers should not be allowed to impose general conditions, including pricing conditions **and conditions obliging transfer of data or certain rights**, that would be unfair or lead to unjustified

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].

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 **relevant services**; prices charged or conditions imposed by the provider of the **core platform 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 service** 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].

Or. en

Justification

Pricing based on geographical location can be justified given the different components that make up the final price as well as the effective purchasing power in the relevant area.

Amendment 102
Irena Joveva

Proposal for a regulation
Recital 60

Text proposed by the Commission

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 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.

(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.

Or. en

Amendment 103
Victor Negrescu

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 themselves better through the use of superior privacy guaranteeing facilities. To

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.

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. ***If such a consent procedure will not be envisaged the users should be protected from targeted advertising practices as well as commercial tracking and profiling.***

Or. en

Amendment 104
Irena Joveva, Laurence Farreng

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 themselves better through the use of superior privacy guaranteeing facilities. To ensure a minimum level of effectiveness of

Amendment

(61) The data protection and privacy interests of end users are relevant to any assessment of potential negative effects of the observed practice of gatekeepers to collect and accumulate large amounts of data from end users. Ensuring an adequate level of transparency of profiling practices employed by gatekeepers facilitates contestability of core platform services, by putting external pressure on gatekeepers to prevent making consumer profiling, ***tracking or accumulation of personal data from third parties*** 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

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.

facilities. To ensure a minimum level of effectiveness of this transparency obligation, gatekeepers should provide a *comprehensive report* of the basis upon which profiling, *tracking and the use of data from third parties* 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 users' privacy*, and the steps taken to enable end users to be aware of the use of such profiling, as well as to seek their consent.

Or. en

Amendment 105
Martina Michels

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

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.

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 must not be unreasonable high. The Commission may be decide not further investigate upon such request. In this case, it shall give sufficient reason for its decision.*

Or. en

Amendment 106
Dace Melbārde

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

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 commercially sensitive** 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

considered confidential if the relevant conditions are met.

and their clients, may be considered confidential if the relevant conditions are met.

Or. en

Amendment 107

Dace Melbārde

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.

Or. en

Amendment 108

Marcel Kolaja

Proposal for a regulation

Recital 79 – point 1

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 109
Dace Melbārde

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 **fully** 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.

Or. en

Amendment 110
Dace Melbārde

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 **so as to contribute to the proper functioning of the internal market.**

Amendment 111**Marcel Kolaja****Proposal for a regulation****Article 1 – paragraph 2***Text proposed by the Commission*

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

Amendment

2. This Regulation shall apply to core platform services provided or offered by gatekeepers to 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 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 should be interpreted and applied with respect to those rights and principles.***

Amendment 112**Marcel Kolaja****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

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.

precludes Member States from imposing obligations, which are compatible with Union law, on undertakings, including providers of core platform services where these obligations are unrelated to the relevant undertakings having a status of gatekeeper within the meaning of this Regulation in order to protect consumers, to fight against acts of unfair competition, **to protect and to foster media freedom, pluralism of media or opinion as well as diversity in cultures and in languages or to pursue those other legitimate public interests.**

Or. en

Amendment 113 **Dace Melbārde**

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. Member States shall not impose on gatekeepers **any** 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, this Regulation **does not preclude** 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.

Or. en

Amendment 114

Marcel Kolaja

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.

³⁸ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).

³⁹ 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

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. ***In particular, this Regulation does not preclude Member States from monitoring compliance with obligations laid down in the Regulation and to report regularly to the Commission on compliance with this Regulation in accordance with Article 24.***

³⁸ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).

³⁹ 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.

Or. en

Amendment 115

Dace Melbārde

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(b a) web browsers;

Or. en

Amendment 116

Irena Joveva, Laurence Farreng

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(f a) web browsers;

Or. en

Amendment 117

Irena Joveva

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(g a) profiling;

Or. en

Amendment 118

Irena Joveva

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(g b) consent;

Amendment 119

Irena Joveva

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(g c) active end user;

Amendment 120

Marcel Kolaja

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(h a) voice assistants;

Amendment 121

Marcel Kolaja

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(h a) web browsers;

Amendment 122

Marcel Kolaja

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(h b) connected TVs;

Or. en

Amendment 123

Marcel Kolaja

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(h c) Non-commercial, not-for profit, collaborative projects, organised on a voluntary basis should not be considered as core services.

Or. en

Amendment 124

Dace Melbārde

Proposal for a regulation

Article 2 – paragraph 1 – point 6 a (new)

Text proposed by the Commission

Amendment

(6 a) 'Web browser' means independent or embedded software application that permits to access and interact with content hosted on servers that are connected to the internet;

Or. en

Amendment 125

Irena Joveva, Laurence Farreng

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(10 a) 'Web browser' means a type of software application that permits the retrieval and presentation of information, mediates what occurs between the end-user and the website and enables a user to navigate in the World Wide Web to access and display data or to interact with content hosted on servers that are connected to this network;

Or. en

Amendment 126

Marcel Kolaja

Proposal for a regulation

Article 2 – paragraph 1 – point 11 a (new)

Text proposed by the Commission

Amendment

(11 a) 'Web browser' means a client software programme that enables a user to navigate in the World Wide Web to access and display data or to interact with content hosted on servers that are connected to this network, including standalone web browsers, as well as web browsers integrated or embedded in software;

Or. en

Amendment 127

Marcel Kolaja

Proposal for a regulation

Article 2 – paragraph 1 – point 11 b (new)

Text proposed by the Commission

Amendment

(11 b) 'voice assistant' means a software application that provides capabilities for oral dialogue with a user in natural language and which intermediates

*between end users and business users
offering voice-based apps;*

Or. en

Amendment 128

Marcel Kolaja

Proposal for a regulation

Article 2 – paragraph 1 – point 11 c (new)

Text proposed by the Commission

Amendment

(11 c) '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;

Or. en

Amendment 129

Tomasz Frankowski, Sabine Verheyen, Loucas Fourlas, François-Xavier Bellamy

Proposal for a regulation

Article 2 – paragraph 1 – point 14

Text proposed by the Commission

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, fulfilment, identification or advertising services;

(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 which support the provision of payment services as defined in Article 3(j) of Directive (EU) 2015/2366, fulfilment, identification or advertising services;

Or. en

Amendment 130

Marcel Kolaja

Proposal for a regulation
Article 2 – paragraph 1 – point 17 a (new)

Text proposed by the Commission

Amendment

(17 a) 'Business users of small press publications' means any natural or legal person acting in a commercial or professional capacity using core platform services for the purpose of or in the course of providing press publications that qualify as micro or small enterprises within the meaning of the Annex to Recommendation 2003/361/EC;

Or. en

Amendment 131
Irena Joveva, Laurence Farreng

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

Text proposed by the Commission

Amendment

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

(18) 'Ranking' means the relative prominence given to goods or services offered through online intermediation services, ***video sharing platforms, search engines, web browsers*** 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;

Or. en

Amendment 132
Irena Joveva

Proposal for a regulation
Article 2 – paragraph 1 – point 21 a (new)

Text proposed by the Commission

Amendment

(21 a) ‘Profiling’ means any form of automated processing of personal data as defined in point 4 of Article 4 of Regulation (EU) 2016/697;

Or. en

Amendment 133
Irena Joveva

Proposal for a regulation
Article 2 – paragraph 1 – point 21 b (new)

Text proposed by the Commission

Amendment

(21 b) ‘Consent’ of the data subject means any freely given, specific, informed and unambiguous indication of the data subject’s wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her;

Or. en

Amendment 134
Irena Joveva

Proposal for a regulation
Article 2 – paragraph 1 – point 21 c (new)

Text proposed by the Commission

Amendment

(21 c) ‘Active end user’ means any natural or legal person using core platform services, and having saved personal data on the platform in the form of a profile of that user or in similar for, on a long-term basis;

Or. en

Amendment 135

Tomasz Frankowski, Sabine Verheyen, Loucas Fourlas, François-Xavier Bellamy

Proposal for a regulation

Article 2 – paragraph 1 – point 23 a (new)

Text proposed by the Commission

Amendment

(23 a) ‘interoperability’ means the ability of the digital content or digital service, legally acquired, within a given ecosystem, to function with hardware or software 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.

Or. en

Amendment 136

Marcel Kolaja

Proposal for a regulation

Article 2 – paragraph 1 – point 23 a (new)

Text proposed by the Commission

Amendment

(23 a) ‘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;

Or. en

Amendment 137

Marcel Kolaja

Proposal for a regulation

Article 2 – paragraph 1 – point 23 b (new)

Text proposed by the Commission

Amendment

(23 b) ‘profiling’ means any form of automated processing of personal data as defined in point 4 of Article 4 of Regulation (EU) 2016/679;

Or. en

Amendment 138
Marcel Kolaja

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** end users; and

Or. en

Amendment 139
Marcel Kolaja

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

Text proposed by the Commission

Amendment

(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 **one or more** core platform service that **combined** has 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;

Or. en

Amendment 140

Tomasz Frankowski, Sabine Verheyen, Loucas Furlas, François-Xavier Bellamy

Proposal for a regulation

Article 3 – paragraph 2 – point b – paragraph 1

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 ***at least six, not necessarily consecutive, months*** of the financial year;

Or. en

Amendment 141

Tomasz Frankowski, Sabine Verheyen, Loucas Furlas, François-Xavier Bellamy

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 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

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 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).

Or. en

Amendment 142

Marcel Kolaja

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 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

3. 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 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).

Or. en

Amendment 143
Irena Joveva, Laurence Farreng

Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(e a) access to receive public information, dissemination to the public, notably as concerns the modalities of the transmission of the relevant information;

Or. en

Amendment 144
Tomasz Frankowski, Sabine Verheyen, Loucas Fourlas, François-Xavier Bellamy

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

Text proposed by the Commission

Amendment

(f) other structural market characteristics.

(f) other structural **systemic** market characteristics.

Or. en

Amendment 145

Tomasz Frankowski, Sabine Verheyen, Loucas Fourlas, François-Xavier Bellamy

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 **within 3 months** 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).

Or. en

Amendment 146

Marcel Kolaja

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

Or. en

Amendment 147

Marcel Kolaja

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.***

Or. en

Amendment 148

Tomasz Frankowski, Sabine Verheyen, Loucas Furlas, François-Xavier Bellamy

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:

Or. en

Amendment 149

Irena Joveva, Laurence Farreng

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

Amendment

(a) refrain from combining ***and accumulating of*** personal data sourced from these core platform services with personal data from any other services

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. ;

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 ***and accumulate*** personal data, ***and present to*** the end user, ***including by offering a less personalised or non-personalised alternative in an explicit, user-friendly, clear and straight forward manner*** with the specific choice ***to opt-in to such practices and provide a user friendly consent management to the end user*** in the sense of Regulation (EU) 2016/679;

Or. en

Amendment 150
Dace Melbārde

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;

Or. en

Amendment 151
Marcel Kolaja

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

Text proposed by the Commission

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 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.*** ;

(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.

Or. en

Amendment 152

Tomasz Frankowski, Sabine Verheyen, Loucas Furlas, François-Xavier Bellamy

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

Or. en

Amendment 153

Marcel Kolaja

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

Amendment

(b) allow business users 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

online intermediation services of the gatekeeper;

different from those offered through the online intermediation services of the gatekeeper;

Or. en

Amendment 154

Tomasz Frankowski, Sabine Verheyen, Loucas Furlas, François-Xavier Bellamy

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;

Or. en

Amendment 155

Tomasz Frankowski, Sabine Verheyen, Loucas Furlas, François-Xavier Bellamy

Proposal for a regulation

Article 5 – paragraph 1 – point d

Text proposed by the Commission

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

Amendment

(d) refrain from ***directly or indirectly*** preventing or restricting business users ***or supplier to the gatekeeper's ancillary service*** from raising issues with any relevant public authority relating to any practice of gatekeepers;

Amendment 156

Marcel Kolaja

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 business users **or end user** from raising issues with any relevant public authority **or in front of national judicial authority** relating to any practice of gatekeepers;

Or. en

Amendment 157

Petra Kammerevert

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;

Or. en

Amendment 158

Marcel Kolaja

Proposal for a regulation

Article 5 – paragraph 1 – point f

Text proposed by the Commission

(f) refrain from requiring business

Amendment

(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;

users or end users to subscribe to or register with any other core platform services *any ancillary service* as a condition to access, sign up or register to any of their core platform services identified pursuant to that Article;

Or. en

Amendment 159
Marcel Kolaja

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

Text proposed by the Commission

Amendment

(f a) 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;

Or. en

Amendment 160
Marcel Kolaja

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.

(g) provide advertisers and publishers to which it supplies *targeted digital* advertising services *based on contextual information*, 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.

Or. en

Amendment 161

Dace Melbārde

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 ***and free of charge***, 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.

Or. en

Amendment 162

Marcel Kolaja

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(g a) allow end users to un-install any pre-installed software applications on its operating system;

Or. en

Amendment 163

Marcel Kolaja

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(g b) 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;

Or. en

Amendment 164

Tomasz Frankowski, Sabine Verheyen, Loucas Furlas, François-Xavier Bellamy

Proposal for a regulation

Article 6 – paragraph 1 – introductory part

Text proposed by the Commission

1. In respect of each of its core platform services identified *pursuant to* Article 3(7), *a* gatekeeper shall:

Amendment

1. In respect of each of its core platform services identified *in accordance with* Article 3(7) *and its ancillary services including distribution, the* gatekeeper shall:

Or. en

Amendment 165

Tomasz Frankowski, Sabine Verheyen, Loucas Furlas, François-Xavier Bellamy

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 (notably distribution) suppliers*, any data *non-publicly* available, 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;

Or. en

Amendment 166
Irena Joveva, Laurence Farreng

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, any data ***exclusively in domain of core platform provider***, 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;

Or. en

Amendment 167
Marcel Kolaja

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;

Or. en

Amendment 168
Irena Joveva, Laurence Farreng

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 provide users an option to change to a default settings in regards and without any pre-installed software on a non-discriminatory basis** on its core platform service without prejudice to the possibility for a gatekeeper to restrict such un-installation **or pre-installment of software** 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;

Or. en

Amendment 169
Irena Joveva, Laurence Farreng

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 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 170**Tomasz Frankowski, Sabine Verheyen, Loucas Furlas, François-Xavier Bellamy****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. 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. ***This should be without prejudice to the role gatekeepers play in the fight against illegal content online.***

Amendment 171**Dace Melbārde****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.

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.

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;

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***;

Or. en

Amendment 172

Irena Joveva

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 ***user profiling and using exclusive data for*** 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; ***refrain from favouring its additional services or products offered by the gatekeeper or by an 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 offerings, and avoid the use of behavioural techniques and interface design with lack of transparency, inadequate information and lack of valid consent mechanisms in its ads personalisation tool***;

Or. en

Amendment 173

Petra Kammerevert

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***;

Or. en

Amendment 174
Dace Melbārde

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 treating more favourably in ranking ***and 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 fair and non-discriminatory conditions to such ranking ***and other settings***;

Or. en

Amendment 175
Tomasz Frankowski, Sabine Verheyen, Loucas Fourlas, François-Xavier Bellamy

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 treating more favourably in ranking 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 and non-discriminatory conditions to such ranking;

Or. en

Amendment 176

Marcel Kolaja

Proposal for a regulation

Article 6 – paragraph 1 – point d a (new)

Text proposed by the Commission

(d a) ensure that algorithms that determine the ranking of products and services are fair and transparent, and that the ranking of any content in online platforms incorporating voice assistant technologies must accurately and impartially reflect users' voice requests;

Amendment

Or. en

Amendment 177

Irena Joveva, Laurence Farreng

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 ***install, effectively use***, switch between and subscribe to different software applications and services ***from third parties*** to be accessed using the operating system of the gatekeeper, including as regards the choice

of Internet access provider for end users;

Or. en

Amendment 178

Marcel Kolaja

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, including as regards the choice of Internet access provider for end users;

Or. en

Amendment 179

Marcel Kolaja

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 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 services;

Or. en

Amendment 180

Tomasz Frankowski, Sabine Verheyen, Loucas Furlas, François-Xavier Bellamy

Proposal for a regulation

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

(f a) 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 should have the possibility to require gatekeepers to provide the necessary interoperability information to comply with the purpose of this Regulation.

Or. en

Amendment 181

Marcel Kolaja

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, upon their request and free of charge, with access to the performance measuring tools of the gatekeeper ***for the purpose of targeted digital advertising based on contextual information*** and the information necessary for advertisers and publishers to carry out their own independent verification of the ad inventory;

Or. en

Amendment 182

Tomasz Frankowski, Sabine Verheyen, Loucas Fourlas, François-Xavier Bellamy

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 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 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;

Or. en

Amendment 183

Irena Joveva, Laurence Farreng

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 of data generated through the activity of a business user or 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;

Or. en

Amendment 184

Marcel Kolaja

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 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 by those business users and the end users engaging with the products or services provided by those business users;

Or. en

Amendment 185
Irena Joveva, Laurence Farreng

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

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 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;
;

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, ***presented in an explicit, user-friendly, clear and straightforward manner*** in the sense of the Regulation (EU) 2016/679; ***shall ensure that the functionalities forgiving information and offering of the opportunity to grant consent are as user-friendly as possible;***

Or. en

Amendment 186

Tomasz Frankowski, Sabine Verheyen, Loucas Furlas, François-Xavier Bellamy

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 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 in the sense of the (EU) 2016/679;

Or. en

Amendment 187
Irena Joveva, Laurence Farreng

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 **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**;

Or. en

Amendment 188
Marcel Kolaja

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 for business users to its software application store **and for business users SMEs on a given sectorial market to its online search engine and online social networking service** designated pursuant to Article 3 of this Regulation.

Or. en

Amendment 189

Dace Melbārde

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 usage*** for business users to its ***core platform services*** designated pursuant to Article 3 of this Regulation.

Or. en

Amendment 190

Marcel Kolaja

Proposal for a regulation

Article 6 – paragraph 1 – point k a (new)

Text proposed by the Commission

Amendment

(k a) ensure their services, including user interfaces, are accessible to persons with disabilities in accordance with Article 13 of Directive (EU) 2019/882. 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.

Or. en

Amendment 191

Marcel Kolaja

Proposal for a regulation

Article 6 – paragraph 1 – point k b (new)

Text proposed by the Commission

Amendment

(k b) 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.

Or. en

Amendment 192

Tomasz Frankowski, Sabine Verheyen, Loucas Furlas, François-Xavier Bellamy

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) 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.

Or. en

Amendment 193

Irena Joveva, Laurence Farreng

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 *exclusively in domain of core platform provider* 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 194

Marcel Kolaja

Proposal for a regulation

Article 7 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6 a. 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 Articles 6(1)(a) and 5(1)(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 final or Article 32(1)(c) of Regulation(EU) 2016/679.

Amendment 195

Irena Joveva

Proposal for a regulation

Article 9 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) public *morality*;

(a) public *policy*;

Amendment 196**Marcel Kolaja****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 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, ***including product design, structure, function or manner of operation capable of influencing user choice and autonomy.***

Or. en

Amendment 197**Irena Joveva, Laurence Farreng****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

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.

processing, where required under Regulation (EU) 2016/679 and Directive 2002/58/EC, **and** comply with Union data protection and privacy rules and principles in other ways including by providing business users with duly **effectively** anonymised data **with every reasonable means and techniques available to prevent re-identification**. The gatekeeper shall not make the obtaining of this consent by the business user more burdensome than for its own services.

Or. en

Amendment 198
Irena Joveva

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 **and possibilities including consent of combining end user data or signing in users with offering a less personalised and non-personalised alternatives** or choices laid down in Articles 5 and 6, or make the exercise of those rights or choices unduly difficult **and avoid the use of behavioural techniques and interface design with lack of transparency, inadequate information and lack of valid consent to ads personalisation or consumer profiling;**

Or. en

Amendment 199
Marcel Kolaja

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). 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.

Or. en

Amendment 200

Marcel Kolaja

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).

Or. en

Amendment 201

Dace Melbārde

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.

Or. en

Amendment 202
Marcel Kolaja

Proposal for a regulation
Article 30 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. 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.

Or. en

Amendment 203

Marcel Kolaja

**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.

Or. en

**Amendment 204
Marcel Kolaja**

**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.

Or. en

**Amendment 205
Marcel Kolaja**

**Proposal for a regulation
Article 32 a (new)**

Text proposed by the Commission

Amendment

Article 32 a

***Role of national competent authorities
and coordination by the***

Role of national competent authorities and coordination by the Commission

1. Member State 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 in accordance with Article 24.

2. National competent authorities shall not take decisions that run counter to a decision adopted by the Commission under this Regulation.

3. National competent authorities may provide, under the coordination of the Commission, support to a market investigation or proceeding pursuant to Article 7(2), 15,16, 17 , 19, 20 by requesting and collecting information, providing expertise, carrying interviews or conducting on-site inspections.

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, the national authorities shall request the opening of a market investigation in accordance with Article 33.

Or. en

Amendment 206
Marcel Kolaja

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

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.

Commission shall within four months examine whether there are reasonable grounds to open such an investigation ***and adopt a decision. In case the Commission decides there is no grounds for opening a market investigation, it shall publish a reasoned opinion.***

Or. en

Amendment 207
Dace Melbārde

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 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 ***and justify its decision to open or refuse to open an investigation.***

Or. en

Amendment 208
Marcel Kolaja

Proposal for a regulation
Article 33 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. 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.

Or. en

Amendment 209
Marcel Kolaja

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 Article 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.

Or. en

Amendment 210
Marcel Kolaja

Proposal for a regulation
Article 38 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States shall provide any

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.

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.***

Or. en