AMENDMENTS
115 - 223

Draft opinion
Sabine Verheyen
(PE693.943v01-00)

Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC

Proposal for a regulation
Amendment 115
Martina Michels, Alexis Georgoulis

Proposal for a regulation
Recital 1

Text proposed by the Commission

(1) Information society services and especially intermediary services have become an important part of the Union’s economy and daily life of Union citizens. Twenty years after the adoption of the existing legal framework applicable to such services laid down in Directive 2000/31/EC of the European Parliament and of the Council\(^{25}\), new and innovative business models and services, such as online social networks and marketplaces, have allowed business users and consumers to impart and access information and engage in transactions in novel ways. A majority of Union citizens now uses those services on a daily basis. However, the digital transformation and increased use of those services has also resulted in new risks and challenges, both for individual users and for society as a whole.

Amendment

(1) Information society services and especially intermediary services have become an important part of the Union’s economy and daily life of Union citizens. Twenty years after the adoption of the existing legal framework applicable to such services laid down in Directive 2000/31/EC of the European Parliament and of the Council\(^{25}\), new and innovative business models and services, such as online social networks and marketplaces, have allowed business users, including institutions of public life, and consumers to impart and access information and engage in transactions in novel ways. A majority of Union citizens now uses those services on a daily basis. However, the digital transformation and increased use of those services has also resulted in new risks and challenges, both for individual users, for institutional users such as educational and cultural institutions, and for society as a whole.

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Amendment 116
Victor Negrescu

Proposal for a regulation

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Or. de
Recital 1

Text proposed by the Commission

(1) Information society services and especially intermediary services have become an important part of the Union’s economy and daily life of Union citizens. Twenty years after the adoption of the existing legal framework applicable to such services laid down in Directive 2000/31/EC of the European Parliament and of the Council\textsuperscript{25}, new and innovative business models and services, such as online social networks and marketplaces, have allowed business users and consumers to impart and access information and engage in transactions in novel ways. A majority of Union citizens now uses those services on a daily basis. However, the digital transformation and increased use of those services has also resulted in new risks and challenges, both for individual users and for society as a whole.


Amendment

(1) Information society services and especially intermediary services have become an important part of the Union’s economy and daily life of Union citizens. Twenty years after the adoption of the existing legal framework applicable to such services laid down in Directive 2000/31/EC of the European Parliament and of the Council\textsuperscript{25}, new and innovative business models and services, such as online social networks and marketplaces, have allowed business users and consumers to impart and access information and engage in transactions in novel ways. A majority of Union citizens now uses those services on a daily basis. However, the digital transformation and increased use of those services has also resulted in new risks and challenges that will be tackled with this Regulation, both for individual users and for society as a whole.


Amendment 117
Victor Negrescu

Proposal for a regulation
Recital 2

Text proposed by the Commission

(2) Member States are increasingly introducing, or are considering introducing,

Amendment

(2) Member States are increasingly introducing, or are considering introducing,
national laws on the matters covered by this Regulation, imposing, in particular, diligence requirements for providers of intermediary services. Those diverging national laws negatively affect the internal market, which, pursuant to Article 26 of the Treaty, comprises an area without internal frontiers in which the free movement of goods and services and freedom of establishment are ensured, taking into account the inherently cross-border nature of the internet, which is generally used to provide those services. The conditions for the provision of intermediary services across the internal market should be harmonised, so as to provide businesses with access to new markets and opportunities to exploit the benefits of the internal market, while allowing consumers and other recipients of the services to have increased choice.

 Amendment 118
 Ibán García Del Blanco, Marcos Ros Sempere, Domènec Ruiz Devesa

Proposal for a regulation
Recital 3

Text proposed by the Commission

(3) Responsible and diligent behaviour by providers of intermediary services is essential for a safe, predictable and trusted online environment and for allowing Union citizens and other persons to exercise their fundamental rights guaranteed in the Charter of Fundamental Rights of the European Union (‘Charter’), in particular the freedom of expression and information and the freedom to conduct a business, and the right to non-discrimination.

Amendment

(3) Responsible and diligent behaviour by providers of intermediary services is essential for a safe, predictable and trusted online environment and for allowing Union citizens and other persons to exercise their fundamental rights guaranteed in the Charter of Fundamental Rights of the European Union (‘Charter’). These rights include, as the case may be, the right to freedom of expression and information, the right to respect for private and family life, the right to protection of personal data, the right to non-discrimination and the right to an effective remedy of the
recipients of the service; the freedom to conduct a business, including the freedom of contract, of service providers; as well as the right to human dignity, the rights of the child, the right to protection of property, including intellectual property, and the right to non-discrimination.

Or. en

*Justification*

The Charter of Fundamental Rights of the European Union lists other fundamental rights that are relevant to the DSA, which should be mentioned as well. This is especially important as per the constant jurisprudence of the Court of Justice of the EU, no fundamental right ranks above the others, meaning that all of them must be taken into account and balanced between each other.

**Amendment 119**
Irena Joveva

**Proposal for a regulation**
**Recital 3**

*Text proposed by the Commission*

(3) Responsible and diligent behaviour by providers of intermediary services is essential for a safe, predictable and trusted online environment and for allowing Union citizens and other persons to exercise their fundamental rights guaranteed in the Charter of Fundamental Rights of the European Union (‘Charter’), in particular the freedom of expression and information and the freedom to conduct a business, and the right to non-discrimination.

*Amendment*

(3) Responsible and diligent behaviour by providers of intermediary services is essential for a safe, predictable and trusted online environment and for allowing Union citizens and other persons to exercise their fundamental rights guaranteed in the Charter of Fundamental Rights of the European Union (‘Charter’), in particular the freedom of expression and information, fundamental rights to privacy and to the protection of personal data, freedom and pluralism of media, the freedom to conduct a business, and the right to non-discrimination.

Or. en

**Amendment 120**
Victor Negrescu
Proposal for a regulation
Recital 3

*Text proposed by the Commission*

(3) Responsible and diligent behaviour by providers of intermediary services is essential for a safe, predictable and trusted online environment and for allowing Union citizens and other persons to exercise their fundamental rights guaranteed in the Charter of Fundamental Rights of the European Union (‘Charter’), in particular the freedom of expression and information and the freedom to conduct a business, and the right to non-discrimination.

*Amendment*

(3) Responsible and diligent behaviour by providers of intermediary services is essential for a safe, predictable and trusted online environment and for allowing Union citizens and other persons to exercise their fundamental rights guaranteed in the Charter of Fundamental Rights of the European Union (‘Charter’), in particular the freedom of expression and information and the freedom to conduct a business, the right to education and healthcare and the right to non-discrimination.

Or. en

Amendment 121
Victor Negrescu

Proposal for a regulation
Recital 4

*Text proposed by the Commission*

(4) Therefore, in order to safeguard and improve the functioning of the internal market, a targeted set of uniform, effective and proportionate mandatory rules should be established at Union level. This Regulation provides the conditions for innovative digital services to emerge and to scale up in the internal market. The approximation of national regulatory measures at Union level concerning the requirements for providers of intermediary services is necessary in order to avoid and put an end to fragmentation of the internal market and to ensure legal certainty, thus reducing uncertainty for developers and fostering interoperability. By using requirements that are technology neutral, innovation should not be hampered but

*Amendment*

(4) Therefore, in order to safeguard and improve the functioning of the internal market, a targeted set of uniform, effective and proportionate mandatory rules should be established at Union level. This Regulation provides the conditions for innovative digital services to emerge and to scale up in the internal market and will provide the EU with its own Digital Rights Charter. The approximation of national regulatory measures at Union level concerning the requirements for providers of intermediary services is necessary in order to avoid and put an end to fragmentation of the internal market and to ensure legal certainty, thus reducing uncertainty for developers and fostering interoperability. By using requirements that
instead be stimulated. are technology neutral, innovation should not be hampered but instead be stimulated.

Amendment 122
Victor Negrescu
Proposal for a regulation
Recital 7

Text proposed by the Commission

(7) In order to ensure the effectiveness of the rules laid down in this Regulation and a level playing field within the internal market, those rules should apply to providers of intermediary services irrespective of their place of establishment or residence, in so far as they provide services in the Union, as evidenced by a substantial connection to the Union.

Amendment

(7) In order to ensure the effectiveness of the rules laid down in this Regulation and a level playing field within the internal market, those rules should apply to providers of intermediary services irrespective of their place of establishment or residence, in so far as they provide services in the Union, as evidenced by a substantial connection to the Union. Specific measures should be put in place in making sure that non-EU resident providers respect the current regulations;

Or. en

Amendment 123
Victor Negrescu
Proposal for a regulation
Recital 8 a (new)

Text proposed by the Commission

(8 a) The use of artificial intelligence and blockchain technologies should be considered and highlighted explicitly to users in allowing them to choose whether they agree in the use of this technology during their use of the platform.

Amendment

Or. en
Amendment 124
Victor Negrescu

Proposal for a regulation
Recital 8 b (new)

Text proposed by the Commission

(8 b) Platforms and providers should have an ethical responsibility to ensure the highest level of digital education, knowledge and information about digital services and platforms.

Or. en

Amendment 125
Sabine Verheyen

Proposal for a regulation
Recital 9

Text proposed by the Commission

(9) This Regulation should complement, yet not affect the application of rules resulting from other acts of Union law regulating certain aspects of the provision of intermediary services, in particular Directive 2000/31/EC, with the exception of those changes introduced by this Regulation, Directive 2010/13/EU of the European Parliament and of the Council as amended,\(^28\) and Regulation (EU) …/.. of the European Parliament and of the Council\(^29\) – proposed Terrorist Content Online Regulation. Therefore, this Regulation leaves those other acts, which are to be considered lex specialis in relation to the generally applicable framework set out in this Regulation, unaffected. However, the rules of this Regulation apply in respect of issues that are not or not fully addressed by those other acts as well as issues on which those other acts as well as issues on which those
other acts leave Member States the possibility of adopting certain measures at national level. Other measures in order to secure and promote the freedom of expression and information in the media, as well as cultural and linguistic diversity. Where those acts leave Member States the possibility of adopting certain measures at national level, this possibility should remain unaffected by this Regulation, in particular their right to adopt stricter measures. In the event of a conflict between this Regulation and Directive 2010/13/EU as amended as well as national legislation taken in accordance with the Directive, given that, in their entirety, they aim at securing and fostering the fulfilment of various objectives underpinning the audiovisual policies of the Union and its Member States, Directive 2010/13/EU should prevail.


Or. en

Amendment 126
Petra Kammerevert, Christel Schaldemose
Proposal for a regulation
Recital 9

Text proposed by the Commission
(9) This Regulation should complement, yet not affect the application

Amendment
(9) This Regulation should complement, yet not affect the application
of rules resulting from other acts of Union law regulating certain aspects of the provision of intermediary services, in particular Directive 2000/31/EC, with the exception of those changes introduced by this Regulation, Directive 2010/13/EU of the European Parliament and of the Council as amended, and Regulation (EU) …/.. of the European Parliament and of the Council – proposed Terrorist Content Online Regulation. Therefore, this Regulation leaves those other acts, which are to be considered lex specialis in relation to the generally applicable framework set out in this Regulation, unaffected. However, the rules of this Regulation apply in respect of issues that are not or not fully addressed by those other acts as well as issues on which those other acts leave Member States the possibility of adopting certain measures at national level.

The current approach could lead to the rules of the DSA de facto taking precedence over media and sector-specific rules of the Member States and the Union. Therefore, it should be clarified that the DSA will not impede Member States' possibilities to adopt further measures aiming to protect media freedom and to foster media pluralism and cultural diversity, including rules for intermediary service providers in the implementation of the AVMSD.

Amendment 127
Marcel Kolaja

Proposal for a regulation
Recital 9

(9) This Regulation should complement, yet not affect the application of rules resulting from other acts of Union law regulating certain aspects of the provision of intermediary services, in particular Directive 2000/31/EC, with the exception of those changes introduced by this Regulation, Directive 2010/13/EU of the European Parliament and of the Council as amended, and Regulation (EU) …/.. of the European Parliament and of the Council – proposed Terrorist Content Online Regulation. Therefore, this Regulation leaves those other acts, which are to be considered lex specialis in relation to the generally applicable framework set out in this Regulation, unaffected. However, the rules of this Regulation apply in respect of issues that are not or not fully addressed by those other acts as well as issues on which those other acts leave Member States the possibility of adopting certain measures at national level. At the same time, it respects Member States' competence to adopt and
further develop laws in order to protect and promote the freedom of expression in line with the Charter of fundamental Rights of the European Union.

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29 Regulation (EU) …/.. of the European Parliament and of the Council – proposed Terrorist Content Online Regulation

Amendment 128
Laurence Farreng
Proposal for a regulation
Recital 9

(9) This Regulation should complement, yet not affect the application of rules resulting from other acts of Union law regulating certain aspects of the provision of intermediary services, in particular Directive 2000/31/EC, with the exception of those changes introduced by this Regulation, Directive 2010/13/EU of the European Parliament and of the Council as amended,28 and Regulation (EU) …/.. of the European Parliament and of the Council29 – proposed Terrorist Content Online Regulation. Therefore, this Regulation leaves those other acts, which are to be considered lex specialis in relation to the generally applicable framework set out in this Regulation, unaffected. However, the rules of this
Regulation apply in respect of issues that are not or not fully addressed by those other acts as well as issues on which those other acts leave Member States the possibility of adopting certain measures at national level.

respect the jurisdiction of the Member States in adopting laws promoting press freedom and media pluralism in addition to cultural and linguistic diversity. However, the rules of this Regulation apply in respect of issues that are not or not fully addressed by those other acts as well as issues on which those other acts leave Member States the possibility of adopting certain measures at national level.


29 Regulation (EU) …/.. of the European Parliament and of the Council – proposed Terrorist Content Online Regulation

Amendment 129
Petra Kammerervert, Christel Schaldemose

Proposal for a regulation
Recital 9 a (new)

Text proposed by the Commission

Amendment

(9 a) The right of the Member States to provide additional obligations, exemptions or derogations, which serve a legitimate public interest, in particular to protect the freedom of information and media or to foster the diversity of media or opinion and cultural or linguistic diversity, should remain unaffected. Because of the convergence of media, legislation and other measures that ensure and promote media pluralism may be necessary for the entire online environment. The right of
the Member States especially includes substantive rules, rules of procedure and enforcement rules, including the regulatory structure.

Amendment 130
Victor Negrescu
Proposal for a regulation
Recital 9 a (new)

Text proposed by the Commission
Amendment

(9 a) An adequate information campaign should be put in place in order to make sure all relevant stakeholders and customers are properly informed regarding the specific elements of this regulation, before its actual entering into force.

Amendment 131
Petra Kammerevert, Christel Schaldemose
Proposal for a regulation
Recital 9 b (new)

Text proposed by the Commission
Amendment

(9 b) Respecting the Union’s subsidiary competence to take cultural aspects into account in its action according to Article 167, Paragraph 4 of the Treaty, this Regulation should not affect Member States’ competences in their respective cultural policies, nor should it prejudice national measures addressed to intermediary service providers in order to protect the freedom of expression and information, media freedom and to foster media pluralism as well as cultural and
linguistic diversity.

Amendment 132
Victor Negrescu

Proposal for a regulation
Recital 10 a (new)

Text proposed by the Commission

(10 a) It is necessary to reinforce the visibility, the role and the protection of content and digital creators.

Amendment

Or. en

Amendment 133
Victor Negrescu

Proposal for a regulation
Recital 11

Text proposed by the Commission

(11) It should be clarified that this Regulation is without prejudice to the rules of Union law on copyright and related rights, which establish specific rules and procedures that should remain unaffected.

Amendment

This Regulation should provide a set of well-defined rules that will ensure legal certainty for platforms and safeguard the fundamental rights of users.

Or. en

Amendment 134
Laurence Farreng

Proposal for a regulation
Recital 11
(11) It should be clarified that this Regulation is without prejudice to the rules of Union law on copyright and related rights, which establish specific rules and procedures that should remain unaffected.

(11) It should be clarified that this Regulation is without prejudice to the rules of Union law on copyright and related rights, in particular Directive (EU) 2019/790 on copyright and related rights in the Digital Single Market, which establish specific rules and procedures that should remain unaffected.

Or. fr

Amendment 135
Marcel Kolaja

Proposal for a regulation
Recital 11

Text proposed by the Commission

(11) It should be clarified that this Regulation is without prejudice to the rules of Union law on copyright and related rights, which establish specific rules and procedures that should remain unaffected.

Amendment

(11) It should be clarified that this Regulation is without prejudice to the rules of national laws implemented in line with Union law on copyright and related rights, which establish specific rules and procedures that should remain unaffected.

Or. en

Amendment 136
Victor Negrescu

Proposal for a regulation
Recital 11 a (new)

(11 a) Digital platforms and providers should engage in actively fighting against fake news, misinformation, online bullying, irregular and minors gambling and illegal online gaming.
Amendment 137
Victor Negrescu
Proposal for a regulation
Recital 11 b (new)

Text proposed by the Commission

Amendment

(11 b) Collection of data for scientific, education, cultural, medical purpose for a non-commercial and non-profit purpose should be allowed and envisaged as an exception under specific conditions of this Regulation.

Amendment 138
Victor Negrescu
Proposal for a regulation
Recital 11 c (new)

Text proposed by the Commission

Amendment

(11 c) The Regulation should include specific exceptions for educational institutions, research centres, youth NGOs and cultural associations.

Amendment 139
Victor Negrescu
Proposal for a regulation
Recital 11 d (new)

Text proposed by the Commission

Amendment

(11 d) Specific efforts should be made in order to ensure European digital SMEs
are not impacted by the current regulation; underlines the need for active information and consultation of European digital SMEs in order to adapt to the current Regulation.

Or. en

Amendment 140
Victor Negrescu

Proposal for a regulation
Recital 11 e (new)

Text proposed by the Commission

Amendment

(11 e) The key relevance of the Digital Education Action Plan in the implementation of an effective Digital Services Act should be recognised.

Or. en

Amendment 141
Marcel Kolaja

Proposal for a regulation
Recital 12

Text proposed by the Commission

Amendment

(12) In order to achieve the objective of ensuring a safe, predictable and trusted online environment, for the purpose of this Regulation the concept of “illegal content” should be defined broadly and also covers information relating to illegal content, products, services and activities. In particular, that concept should be understood to refer to information, irrespective of its form, that under the applicable law is either itself illegal, such as illegal hate speech or terrorist content and unlawful discriminatory content, or that relates to activities that are illegal,
such as the sharing of images depicting child sexual abuse, unlawful non-consensual sharing of private images, online stalking, the sale of non-compliant or counterfeit products, the non-authorised use of copyright protected material or activities involving infringements of consumer protection law. In this regard, it is immaterial whether the illegality of the information or activity results from Union law or from national law that is consistent with Union law and what the precise nature or subject matter is of the law in question. For the purpose of this Regulation, the concept of “manifestly illegal content” should be defined as any information which has been subject of a specific ruling by a court or administrative authority of a Member State or where it is evident to a layperson, without any substantive analysis, that the content is in not in compliance with Union law or the law of a Member State.

Amendment 142
Irena Joveva
Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) In order to achieve the objective of ensuring a safe, predictable and trusted online environment, for the purpose of this Regulation the concept of “illegal content” should be defined broadly and also covers information relating to illegal content, products, services and activities. In particular, that concept should be understood to refer to information, irrespective of its form, that under the applicable law is either itself illegal, such as illegal hate speech or terrorist content and unlawful discriminatory content, or

Amendment

(12) In order to achieve the objective of ensuring a safe, predictable and trusted online environment, for the purpose of this Regulation the concept of “illegal content” should underpin the general idea that what is illegal offline should also be illegal online, while ensuring that what is legal offline should also be legal online. The concept of “illegal content” should be defined appropriately and also covers information relating to illegal content, products, services and activities. In particular, that concept should be
that relates to activities that are illegal, such as the sharing of images depicting child sexual abuse, unlawful non-consensual sharing of private images, online stalking, the sale of non-compliant or counterfeit products, the non-authorised use of copyright protected material or activities involving infringements of consumer protection law. In this regard, it is immaterial whether the illegality of the information or activity results from Union law or from national law that is consistent with Union law and what the precise nature or subject matter is of the law in question.

understood to refer to information, irrespective of its form, that under the applicable law is either itself illegal, such as illegal hate speech or terrorist content and unlawful discriminatory content, or that relates to activities that are illegal, such as the sharing of images depicting child sexual abuse, unlawful non-consensual sharing of private images, online stalking, the sale of non-compliant or counterfeit products, the non-authorised use or illegal dissemination of copyright protected material or activities involving infringements of consumer protection law. In this regard, it is immaterial whether the illegality of the information or activity results from Union law or from national law that is consistent with Union law and what the precise nature or subject matter is of the law in question.

Or. en

Amendment 143
Martina Michels, Alexis Georgoulis

Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) In order to achieve the objective of ensuring a safe, predictable and trusted online environment, for the purpose of this Regulation the concept of “illegal content” should be defined broadly and also covers information relating to illegal content, products, services and activities. In particular, that concept should be understood to refer to information, irrespective of its form, that under the applicable law is either itself illegal, such as illegal hate speech or terrorist content and unlawful discriminatory content, or that relates to activities that are illegal, such as the sharing of images depicting child sexual abuse, unlawful non-

Amendment

(12) In order to achieve the objective of ensuring a safe, predictable and trusted online environment, for the purpose of this Regulation the concept of “illegal content” should be defined broadly but must be determined separately from legal harmful content such as equivalent relevant information on 'illegal content'; it also covers information relating to illegal content, products, services and activities. In particular, that concept should be understood to refer to information, irrespective of its form, that under the applicable law is either itself illegal, such as illegal hate speech or terrorist content and unlawful discriminatory content, or
consensual sharing of private images, online stalking, the sale of non-compliant or counterfeit products, the non-authorised use of copyright protected material or activities involving infringements of consumer protection law. In this regard, it is immaterial whether the illegality of the information or activity results from Union law or from national law that is consistent with Union law and what the precise nature or subject matter is of the law in question.

Amendment 144
Victor Negrescu

Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) In order to achieve the objective of ensuring a safe, predictable and trusted online environment, for the purpose of this Regulation the concept of “illegal content” should be defined broadly and also covers information relating to illegal content, products, services and activities. In particular, that concept should be understood to refer to information, irrespective of its form, that under the applicable law is either itself illegal, such as illegal hate speech or terrorist content and unlawful discriminatory content, or that relates to activities that are illegal, such as the sharing of images depicting child sexual abuse, unlawful non-consensual sharing of private images, online stalking, the sale of non-compliant or counterfeit products, the non-authorised use of copyright protected material or activities involving infringements of consumer protection law. In this regard, it that relates to activities that are illegal, such as the sharing of images depicting child sexual abuse, unlawful non-consensual sharing of private images, online stalking, the sale of non-compliant or counterfeit products, the non-authorised use of copyright protected material or activities involving infringements of consumer protection law. In this regard, it
is immaterial whether the illegality of the information or activity results from Union law or from national law that is consistent with Union law and what the precise nature or subject matter is of the law in question. What is illegal offline is illegal online.

Amendment 145
Irena Joveva

Proposal for a regulation
Recital 13

Text proposed by the Commission

(13) Considering the particular characteristics of the services concerned and the corresponding need to make the providers thereof subject to certain specific obligations, it is necessary to distinguish, within the broader category of providers of hosting services as defined in this Regulation, the subcategory of online platforms. Online platforms, such as social networks or online marketplaces, should be defined as providers of hosting services that not only store information provided by the recipients of the service at their request, but that also disseminate that information to the public, again at their request. However, in order to avoid imposing overly broad obligations, providers of hosting services should not be considered as online platforms where the dissemination to the public is merely a minor and purely ancillary feature of another service and that feature cannot, for objective technical reasons, be used without that other, principal service, and the integration of that feature is not a means to circumvent the applicability of the rules of this Regulation applicable to online platforms. For example, the comments section in an online newspaper could constitute such a feature, where it is

Amendment

(13) Considering the particular characteristics of the services concerned and the corresponding need to make the providers thereof subject to certain specific obligations, it is necessary to distinguish, within the broader category of providers of hosting services as defined in this Regulation, the subcategory of online platforms. Online platforms, such as social networks, content-sharing platforms, search engines, livestreaming platforms, messaging services or online marketplaces, should be defined as providers of hosting services that not only store information provided by the recipients of the service at their request, but that also disseminate that information to the public, again at their request. However, in order to avoid imposing overly broad obligations, providers of hosting services should not be considered as online platforms where the dissemination to the public is merely a minor and purely ancillary feature of another service and that feature cannot, for objective technical reasons, be used without that other, principal service, and the integration of that feature is not a means to circumvent the applicability of the rules of this Regulation applicable to
clear that it is ancillary to the main service represented by the publication of news under the editorial responsibility of the publisher.

online platforms. For example, the comments section in an online newspaper could constitute such a feature, where it is clear that it is ancillary to the main service represented by the publication of news under the editorial responsibility of the publisher.

Amendment 146
Ibán García Del Blanco, Marcos Ros Sempere, Domènec Ruiz Devesa

Proposal for a regulation
Recital 13

Text proposed by the Commission

(13) Considering the particular characteristics of the services concerned and the corresponding need to make the providers thereof subject to certain specific obligations, it is necessary to distinguish, within the broader category of providers of hosting services as defined in this Regulation, the subcategory of online platforms. Online platforms, such as social networks or online marketplaces, should be defined as providers of hosting services that not only store information provided by the recipients of the service at their request, but that also disseminate that information to the public, again at their request. However, in order to avoid imposing overly broad obligations, providers of hosting services should not be considered as online platforms where the dissemination to the public is merely a minor and purely ancillary feature of another service and that feature cannot, for objective technical reasons, be used without that other, principal service, and the integration of that feature is not a means to circumvent the applicability of the rules of this Regulation applicable to online platforms. For example, the comments section in an online newspaper

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(13) Considering the particular characteristics of the services concerned and the corresponding need to make the providers thereof subject to certain specific obligations, it is necessary to distinguish, within the broader category of providers of hosting services as defined in this Regulation, the subcategory of online platforms. Online platforms, such as social networks, search engines or online marketplaces, should be defined as providers of hosting services that not only store information provided by the recipients of the service at their request, but that also disseminate that information to the public, again at their request. However, in order to avoid imposing overly broad obligations, providers of hosting services should not be considered as online platforms where the dissemination to the public is merely a minor and purely ancillary feature of another service and that feature cannot, for objective technical reasons, be used without that other, principal service, and the integration of that feature is not a means to circumvent the applicability of the rules of this Regulation applicable to online platforms. For example, the
could constitute such a feature, where it is clear that it is ancillary to the main service represented by the publication of news under the editorial responsibility of the publisher.

Or. en

Amendment 147
Irena Joveva

Proposal for a regulation
Recital 14

Text proposed by the Commission

(14) The concept of ‘dissemination to the public’, as used in this Regulation, should entail the making available of information to a potentially unlimited number of persons, that is, making the information easily accessible to users in general without further action by the recipient of the service providing the information being required, irrespective of whether those persons actually access the information in question. The mere possibility to create groups of users of a given service should not, in itself, be understood to mean that the information disseminated in that manner is not disseminated to the public. However, the concept should exclude dissemination of information within closed groups consisting of a finite number of pre-determined persons. Interpersonal communication services, as defined in Directive (EU) 2018/1972 of the European Parliament and of the Council, such as emails or private messaging services, fall outside the scope of this Regulation.

Information should be considered disseminated to the public within the meaning of this Regulation only where that occurs upon the direct request by the recipient of the service that provided the

Amendment

(14) The concept of ‘dissemination to the public’, as used in this Regulation, should entail the making available of information to a potentially unlimited or large number of persons, that is, making the information easily accessible to users in general without further action by the recipient of the service providing the information being required, irrespective of whether those persons actually access the information in question. The mere possibility to create groups of users of a given service should not, in itself, be understood to mean that the information disseminated in that manner is not disseminated to the public. Interpersonal communication services, as defined in Directive (EU) 2018/1972 of the European Parliament and of the Council, such as emails or private messaging services, fall outside the scope of this Regulation.
The concept of ‘dissemination to the public’, as used in this Regulation, should entail the making available of information to a potentially unlimited number of persons, that is, making the information easily accessible to users in general without further action by the recipient of the service providing the information being required, irrespective of whether those persons actually access the information in question. The mere possibility to create groups of users of a given service should not, in itself, be understood to mean that the information disseminated in that manner is not disseminated to the public. However, the concept should exclude dissemination of information within closed groups consisting of a finite number of pre-determined persons. Interpersonal communication services, as defined in Directive (EU) 2018/1972 of the European Parliament and of the Council, 39 such as emails or private messaging services, fall outside the scope of this Regulation. Information should be considered disseminated to the public within the meaning of this Regulation only where that occurs upon the direct request by the recipient of the service that provided the information. File-sharing services and other cloud services should fall within the scope of this Regulation, to the extent that such services are used to make the stored information.

Amendment 148
Ibán García Del Blanco, Marcos Ros Sempere, Domèneç Ruiz Devesa
Proposal for a regulation
Recital 14

Text proposed by the Commission

(14) The concept of ‘dissemination to the public’, as used in this Regulation, should entail the making available of information to a large or potentially unlimited number of persons, that is, making the information easily accessible to users in general without further action by the recipient of the service providing the information being required, irrespective of whether those persons actually access the information in question. The mere possibility to create groups of users of a given service should not, in itself, be understood to mean that the information disseminated in that manner is not disseminated to the public. However, the concept should exclude dissemination of information within closed groups consisting of a small number of pre-determined persons. Information should be considered disseminated to the public within the meaning of this Regulation only where that occurs upon the direct request by the recipient of the service that provided the information. File-sharing services and other cloud services should fall within the scope of this Regulation, to the extent that such services are used to make the stored information.

Amendment
where that occurs upon the direct request by the recipient of the service that provided the information.

information available to the public at the direct request of the content provider.


Or. en

Justification

The scope of the DSA needs to be refined in order not to exclude entire categories of services, such as interpersonal communication services. This would otherwise lead to significant legal uncertainty as to the obligations applicable to these services, especially regarding illegal content that are widely shared on such services. Given that closed groups can be comprised of hundreds or thousands of people, sometimes solely for the purpose of sharing illegal content, such groups should not be excluded from the scope of the DSA, in order not to create safe havens for illegal activities.

Amendment 149
Marcel Kolaja

Proposal for a regulation
Recital 15 a (new)

Text proposed by the Commission

(15 a) Ensuring that providers of intermediary services can offer effective end-to-end encryption to data is essential for trust in and security of digital services in the Digital Single Market, and effectively prevents unauthorised third-party access.

Or. en

Amendment 150
Irena Joveva

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) The relevant rules of Chapter II should only establish when the provider of intermediary services concerned cannot be held liable in relation to illegal content provided by the recipients of the service. Those rules should not be understood to provide a positive basis for establishing when a provider can be held liable, which is for the applicable rules of Union or national law to determine. Furthermore, the exemptions from liability established in this Regulation should apply in respect of any type of liability as regards any type of illegal content, irrespective of the precise subject matter or nature of those laws.

Amendment

(17) The relevant rules of Chapter II should only establish when the provider of intermediary services concerned cannot be held liable in relation to illegal content provided by the recipients of the service. Those rules should not be understood to provide a positive basis for establishing when a provider can be held liable, which is for the applicable rules of Union or national law to determine. Furthermore, the exemptions from liability established in this Regulation should apply in respect of any type of liability as regards any type of illegal content, irrespective of the precise subject matter or nature of those laws, however, it should not apply to matters relating to information society services covered by Regulation (EU) 2016/679 and Directive 2002/58/EC, including the liability of controllers and processors.

Or. en

Amendment 151
Martina Michels, Alexis Georgoulis

Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) The exemptions from liability established in this Regulation should not apply where, instead of confining itself to providing the services neutrally, by a merely technical and automatic processing of the information provided by the recipient of the service, the provider of intermediary services plays an active role of such a kind as to give it knowledge of, or control over, that information. Those exemptions should accordingly not be available in respect of liability relating to

Amendment

(18) The exemptions from liability established in this Regulation should not apply where, instead of confining itself to providing the services neutrally, by a merely technical and automatic processing of the information provided by the recipient of the service, the provider of intermediary services plays an active role of such a kind as to give it knowledge of, or control over, the dissemination and meaning of that information, in the context of automatic, quantity-statistical
information provided not by the recipient of the service but by the provider of intermediary service itself, including where the information has been developed under the editorial responsibility of that provider.

or broader computer-linguistic document analysis, and which it actively employs. Those exemptions should accordingly not be available in respect of liability relating to information provided not by the recipient of the service but by the provider of intermediary service itself, including where the information has been developed under the editorial responsibility of that provider.

Amendment 152
Petra Kammerevert, Christel Schaldemose

Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) The exemptions from liability established in this Regulation should not apply where, instead of confining itself to providing the services neutrally, by a merely technical and automatic processing of the information provided by the recipient of the service, the provider of intermediary services plays an active role of such a kind as to give it knowledge of, or control over, that information. Those exemptions should accordingly not be available in respect of liability relating to information provided not by the recipient of the service but by the provider of intermediary service itself, including where the information has been developed under the editorial responsibility of that provider.

Amendment

(18) The exemptions from liability established in this Regulation should not apply where, instead of confining itself to providing the services neutrally, by a merely technical, automatic and passive processing of the information provided by the recipient of the service, the provider of intermediary services plays an active role of such a kind as to give it knowledge of, or control over, that information. Those exemptions should accordingly not be available in respect of liability relating to information provided not by the recipient of the service but by the provider of intermediary service itself, including where the information has been developed under the editorial responsibility of that provider or where the intermediary service provider optimises or promotes content considered as legal, regardless of whether this process is automated.
Amendment 153
Ibán García Del Blanco, Marcos Ros Sempere, DomèneRuiz Devesa
Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) The exemptions from liability established in this Regulation should not apply where, instead of confining itself to providing the services neutrally, by a merely technical and automatic processing of the information provided by the recipient of the service, the provider of intermediary services plays an active role of such a kind as to give it knowledge of, or control over, that information. Those exemptions should accordingly not be available in respect of liability relating to information provided not by the recipient of the service but by the provider of intermediary service itself, including where the information has been developed under the editorial responsibility of that provider.

Amendment

(18) The exemptions from liability established in this Regulation should not apply where, instead of confining itself to providing the services neutrally, by a merely technical, passive and automatic processing of the information provided by the recipient of the service, the provider of intermediary services plays an active role of such a kind as to give it knowledge of, or control over, that information. Those exemptions should accordingly not be available in respect of liability relating to information provided not by the recipient of the service but by the provider of intermediary service itself, including where the information has been developed under the editorial responsibility of that provider or where the provider of the service promotes and optimises the content.

Or. en

Amendment 154
Irena Joveva
Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) The exemptions from liability established in this Regulation should not apply where, instead of confining itself to providing the services neutrally, by a merely technical and automatic processing of the information provided by the recipient of the service, the provider of intermediary services plays an active role of such a kind as to give it knowledge of,

Amendment

(18) The exemptions from liability established in this Regulation should not apply where, instead of confining itself to providing the services neutrally, by a merely technical and automatic processing of the information provided by the recipient of the service, the provider of intermediary services plays an active role of such a kind, including moderating or
or control over, that information. Those exemptions should accordingly not be available in respect of liability relating to information provided not by the recipient of the service but by the provider of intermediary service itself, including where the information has been developed under the editorial responsibility of that provider.

promoting content, and has knowledge of, or control over, that information. Those exemptions should accordingly not be available in respect of liability relating to information provided not by the recipient of the service but by the provider of intermediary service itself, including where the information has been developed under the editorial responsibility of that provider.

Amendment 155
Ibán García Del Blanco, Marcos Ros Sempere, Domènec Ruiz Devesa

Proposal for a regulation
Recital 18 a (new)

Text proposed by the Commission

Amendment

(18 a) The exemptions from liability should also not be available to providers of intermediary services that do not comply with the due diligence obligations set out in this Regulation.

Or. en

Amendment 156
Ibán García Del Blanco, Marcos Ros Sempere, Domènec Ruiz Devesa

Proposal for a regulation
Recital 22

Text proposed by the Commission

Amendment

(22) In order to benefit from the exemption from liability for hosting services, the provider should, upon obtaining actual knowledge or awareness of illegal content, act expeditiously to remove or to disable access to that content. The removal or disabling of access should be undertaken in the observance of the principle of freedom of expression. The
Charter of Fundamental Rights, including freedom of expression. The provider can obtain such actual knowledge or awareness through, in particular, its own-initiative investigations or notices submitted to it by individuals or entities in accordance with this Regulation in so far as those notices are sufficiently precise and adequately substantiated to allow a diligent economic operator to reasonably identify, assess and where appropriate act against the allegedly illegal content.

Justification

The Charter of Fundamental Rights of the European Union lists other fundamental rights that are relevant to the DSA, which should be mentioned as well. This is especially important as per the constant jurisprudence of the Court of Justice of the EU, no fundamental right ranks above the others, meaning that all of them must be taken into account and balanced between each other.

Amendment 157
Petra Kammerevert, Christel Schaldemose

Proposal for a regulation
Recital 22

Text proposed by the Commission

(22) In order to benefit from the exemption from liability for hosting services, the provider should, upon obtaining actual knowledge or awareness of illegal content, act expeditiously to remove or to disable access to that content. The removal or disabling of access should be undertaken in the observance of the principle of freedom of expression. The provider can obtain such actual knowledge or awareness through, in particular, its own-initiative investigations or notices submitted to it by individuals or entities in accordance with this Regulation in so far as those notices are sufficiently precise and adequately substantiated to allow a diligent economic operator to reasonably identify,

Amendment

(22) In order to benefit from the exemption from liability for hosting services, the provider should, upon obtaining actual knowledge or awareness of illegal content, act expeditiously to remove or to disable access to that content. The removal or disabling of access should be undertaken in the observance of the principle of freedom of expression. The provider can obtain such actual knowledge or awareness through notices submitted to it by individuals or entities in accordance with this Regulation in so far as those notices are sufficiently precise and adequately substantiated to allow a diligent economic operator to reasonably identify,
economic operator to reasonably identify, assess and where appropriate act against the allegedly illegal content.

Amendment 158
Christine Anderson
Proposal for a regulation
Recital 22

Text proposed by the Commission

(22) In order to benefit from the exemption from liability for hosting services, the provider should, upon obtaining actual knowledge or awareness of illegal content, act expeditiously to remove or to disable access to that content. The removal or disabling of access should be undertaken in the observance of the principle of freedom of expression. The provider can obtain such actual knowledge or awareness through, in particular, its own-initiative investigations or notices submitted to it by individuals or entities in accordance with this Regulation in so far as those notices are sufficiently precise and adequately substantiated to allow a diligent economic operator to reasonably identify, assess and where appropriate act against the allegedly illegal content.

Or. en

Amendment 159
Irena Joveva
Proposal for a regulation
Recital 23

Text proposed by the Commission

(22) In order to benefit from the exemption from liability for hosting services, the provider should, upon obtaining actual knowledge or awareness of illegal content, act expeditiously to remove or to disable access to that content. The removal or disabling of access must be undertaken in the observance of the principle of freedom of expression as a matter of urgency. The provider can obtain such actual knowledge or awareness through, in particular, its own-initiative investigations or notices submitted to it by individuals or entities in accordance with this Regulation in so far as those notices are sufficiently precise and adequately substantiated to allow a diligent economic operator to reasonably identify, assess and where appropriate act against the allegedly illegal content.

Or. de
(23) In order to ensure the effective protection of consumers when engaging in intermediated commercial transactions online, certain providers of hosting services, namely, online platforms that allow consumers to conclude distance contracts with traders, should not be able to benefit from the exemption from liability for hosting service providers established in this Regulation, in so far as those online platforms present the relevant information relating to the transactions at issue in such a way that it leads consumers to believe that the information was provided by those online platforms themselves or by recipients of the service acting under their authority or control, and that those online platforms thus have knowledge of or control over the information, even if that may in reality not be the case. In that regard, is should be determined objectively, on the basis of all relevant circumstances, whether the presentation could lead to such a belief on the side of an average and reasonably well-informed consumer.

(25) In order to create legal certainty and not to discourage activities aimed at detecting, identifying and acting against illegal content that providers of intermediary services may undertake on a voluntary basis, it should be clarified that the mere fact that providers undertake such activities does not lead to the unavailability of the exemptions from liability set out in this Regulation,
provided those activities are carried out in good faith and in a diligent manner. In addition, it is appropriate to clarify that the mere fact that those providers take measures, in good faith, to comply with the requirements of Union law, including those set out in this Regulation as regards the implementation of their terms and conditions, should not lead to the unavailability of those exemptions from liability. Therefore, any such activities and measures that a given provider may have taken should not be taken into account when determining whether the provider can rely on an exemption from liability, in particular as regards whether the provider provides its service neutrally and can therefore fall within the scope of the relevant provision, without this rule however implying that the provider can necessarily rely thereon.

Or. en

Amendment 161
Irena Joveva

Proposal for a regulation
Recital 26

Text proposed by the Commission

(26) Whilst the rules in Chapter II of this Regulation concentrate on the exemption from liability of providers of intermediary services, it is important to recall that, despite the generally important role played by those providers, the problem of illegal content and activities online should not be dealt with by solely focusing on their liability and responsibilities. Where possible, third parties affected by illegal content transmitted or stored online should attempt to resolve conflicts relating to such content without involving the providers of intermediary services in question. Recipients of the service should be held

Amendment

(26) Whilst the rules in Chapter II of this Regulation concentrate on the exemption from liability of providers of intermediary services, it is important to recall that, despite the generally important role played by those providers, the problem of illegal content and activities online should not be dealt with by solely focusing on their liability and responsibilities. Where possible, third parties affected by illegal content transmitted or stored online should attempt to resolve conflicts relating to such content without involving the providers of intermediary services in question. Recipients of the service should be held
liable, where the applicable rules of Union and national law determining such liability so provide, for the illegal content that they provide and may disseminate through intermediary services. Where appropriate, other actors, such as group moderators in closed online environments, in particular in the case of large groups, should also help to avoid the spread of illegal content online, in accordance with the applicable law. Furthermore, where it is necessary to involve information society services providers, including providers of intermediary services, any requests or orders for such involvement should, as a general rule, be directed to the actor that has the technical and operational ability to act against specific items of illegal content, so as to prevent and minimise any possible negative effects for the availability and accessibility of information that is not illegal content.

Amendment 162
Ibán García Del Blanco, Marcos Ros Sempere, Domèneç Ruiz Devesa

Proposal for a regulation
Recital 26

Text proposed by the Commission
(26) Whilst the rules in Chapter II of this Regulation concentrate on the exemption from liability of providers of intermediary services, it is important to recall that, despite the generally important role played by those providers, the problem of illegal content and activities online should not be dealt with by solely focusing on their liability and responsibilities. Where

Amendment
(26) Whilst the rules in Chapter II of this Regulation concentrate on the exemption from liability of providers of intermediary services, it is important to recall that, despite the generally important role played by those providers, the problem of illegal content and activities online should not be dealt with by solely focusing on their liability and responsibilities. In many
possible, third parties affected by illegal content transmitted or stored online should attempt to resolve conflicts relating to such content without involving the providers of intermediary services in question. Recipients of the service should be held liable, where the applicable rules of Union and national law determining such liability so provide, for the illegal content that they provide and may disseminate through intermediary services. Where appropriate, other actors, such as group moderators in closed online environments, in particular in the case of large groups, should also help to avoid the spread of illegal content online, in accordance with the applicable law. Furthermore, where it is necessary to involve information society services providers, including providers of intermediary services, any requests or orders for such involvement should, as a general rule, be directed to the actor that has the technical and operational ability to act against specific items of illegal content, so as to prevent and minimise any possible negative effects for the availability and accessibility of information that is not illegal content.

cases, however, such providers are best placed to address the problem of illegal content and activities by removing or limiting access to such content or by bringing such activities to an end. Recipients of the service should be held liable, where the applicable rules of Union and national law determining such liability so provide, for the illegal content that they provide and may disseminate through intermediary services. Where appropriate, other actors, such as group moderators in closed online environments, in particular in the case of large groups, should also help to avoid the spread of illegal content online, in accordance with the applicable law. Furthermore, where it is appropriate to involve information society services providers, including providers of intermediary services, any requests or orders for such involvement should, as a general rule, be directed to the actor that has the technical and operational ability to act against specific items of illegal content, so as to prevent and minimise any possible negative effects for the availability and accessibility of information that is not illegal content. It must be ensured that third parties can easily identify and contact the entity that has the technical and operational ability to act against illegal content.

Justification

One of the main objectives of the e-Commerce Directive was to avoid internet users being the main target of procedures against illegal content, service providers being the relevant point of contact. 20 years later, this objective should remain in place, especially given the current scale of the internet, where actions against individual users would be inefficient, time consuming and costly.

Amendment 163
Victor Negrescu

Proposal for a regulation
Recital 26

Text proposed by the Commission

(26) Whilst the rules in Chapter II of this Regulation concentrate on the exemption from liability of providers of intermediary services, it is important to recall that, despite the generally important role played by those providers, the problem of illegal content and activities online should not be dealt with by solely focusing on their liability and responsibilities. Where possible, third parties affected by illegal content transmitted or stored online should attempt to resolve conflicts relating to such content without involving the providers of intermediary services in question. Recipients of the service should be held liable, where the applicable rules of Union and national law determining such liability so provide, for the illegal content that they provide and may disseminate through intermediary services. Where appropriate, other actors, such as group moderators in closed online environments, in particular in the case of large groups, should also help to avoid the spread of illegal content online, in accordance with the applicable law. Furthermore, where it is necessary to involve information society services providers, including providers of intermediary services, any requests or orders for such involvement should, as a general rule, be directed to the actor that has the technical and operational ability to act against specific items of illegal content, so as to prevent and minimise any possible negative effects for the availability and accessibility of information that is not illegal content.

Amendment

(26) Whilst the rules in Chapter II of this Regulation concentrate on the exemption from liability of providers of intermediary services, it is important to recall that, despite the generally important role played by those providers. Where possible, third parties affected by illegal content transmitted or stored online should attempt to resolve conflicts relating to such content without involving the providers of intermediary services in question. Recipients of the service should be held liable, where the applicable rules of Union and national law determining such liability so provide, for the illegal content that they provide and may disseminate through intermediary services. Where appropriate, other actors, such as group moderators in closed online environments, in particular in the case of large groups, should also help to avoid the spread of illegal content online, in accordance with the applicable law. Furthermore, where it is necessary to involve information society services providers, including providers of intermediary services, any requests or orders for such involvement should, as a general rule, be directed to the actor that has the technical and operational ability to act against specific items of illegal content, so as to prevent and minimise any possible negative effects for the availability and accessibility of information that is not illegal content.

Or. en

Amendment 164
Martina Michels, Alexis Georgoulis
Proposal for a regulation
Recital 26

Text proposed by the Commission

(26) Whilst the rules in Chapter II of this Regulation concentrate on the exemption from liability of providers of intermediary services, it is important to recall that, despite the generally important role played by those providers, the problem of illegal content and activities online should not be dealt with by solely focusing on their liability and responsibilities. Where possible, third parties affected by illegal content transmitted or stored online should attempt to resolve conflicts relating to such content without involving the providers of intermediary services in question. Recipients of the service should be held liable, where the applicable rules of Union and national law determining such liability so provide, for the illegal content that they provide and may disseminate through intermediary services. Where appropriate, other actors, such as group moderators in closed online environments, in particular in the case of large groups, should also help to avoid the spread of illegal content online, in accordance with the applicable law. Furthermore, where it is necessary to involve information society services providers, including providers of intermediary services, any requests or orders for such involvement should, as a general rule, be directed to the actor that has the technical and operational ability to act against specific items of illegal content, so as to prevent and minimise any possible negative effects for the availability and accessibility of information that is not illegal content.

Amendment

(26) Whilst the rules in Chapter II of this Regulation concentrate on the exemption from liability of providers of intermediary services, it is important to recall that, despite the generally important role played by those providers, the problem of illegal content and activities online cannot be dealt with by solely focusing on their liability and responsibilities, and yet complete faith is in some cases placed in non-transparent programmed routines being used for automatic content recognition. Recipients of the service should be held liable, where the applicable rules of Union and national law determining such liability so provide, for the illegal content that they provide and may disseminate through intermediary services. Where appropriate, other actors, such as group moderators in closed online environments, in particular in the case of large groups, should also help to avoid the spread of illegal content online, in accordance with the applicable law. Furthermore, where it is necessary to involve information society services providers, including providers of intermediary services, any requests or orders for such involvement should, as a general rule, be directed to the actor that has the technical and operational ability to act against specific items of illegal content, so as to prevent and minimise any possible negative effects for the availability and accessibility of information that is not illegal content.

Or. de

Amendment 165
Marcel Kolaja
Proposal for a regulation
Recital 28

Text proposed by the Commission

(28) Providers of intermediary services should not be subject to a monitoring obligation with respect to obligations of a general nature. This does not concern monitoring obligations in a specific case and, in particular, does not affect orders by national authorities in accordance with national legislation, in accordance with the conditions established in this Regulation. Nothing in this Regulation should be construed as an imposition of a general monitoring obligation or active fact-finding obligation, or as a general obligation for providers to take proactive measures to relation to illegal content.

Amendment

(28) Providers of intermediary services should not be subject to a monitoring obligation with respect to obligations of a general nature. This does not concern monitoring obligations in a specific case and, in particular, does not affect orders by national judicial authorities in accordance with national legislation, in accordance with the conditions established in this Regulation. Nothing in this Regulation should be construed as an imposition of a general monitoring obligation or active fact-finding obligation, or as a general obligation for providers to take proactive measures to relation to illegal content.

Providers of intermediary services should not be obliged to use automated tools for content moderation. Nothing in this regulation should be construed as preventing providers of intermediary services from offering end-to-end encrypted services, or make the provision of such services a cause for liability or loss of immunity.

Or. en

Amendment 166
Ibán García Del Blanco, Marcos Ros Sempere, Domènec Ruiz Devesa

Proposal for a regulation
Recital 28

Text proposed by the Commission

(28) Providers of intermediary services should not be subject to a monitoring obligation with respect to obligations of a general nature. This does not concern monitoring obligations in a specific case and, in particular, does not affect orders by

Amendment

(28) Providers of intermediary services should not be subject to a monitoring obligation with respect to obligations of a general nature. This does not concern monitoring obligations in a specific case and, in particular, does not affect orders by
national authorities in accordance with national legislation, in accordance with the conditions established in this Regulation. Nothing in this Regulation should be construed as an imposition of a general monitoring obligation or active fact-finding obligation, or as a general obligation for providers to take proactive measures to relation to illegal content.

Amendment 167
Hannes Heide, Petra Kammerevert

Proposal for a regulation
Recital 28

Text proposed by the Commission

(28) Providers of intermediary services should not be subject to a monitoring obligation with respect to obligations of a general nature. This does not concern monitoring obligations in a specific case and, in particular, does not affect orders by national authorities in accordance with national legislation, in accordance with the conditions established in this Regulation. Nothing in this Regulation should be construed as an imposition of a general monitoring obligation or active fact-finding obligation, or as a general obligation for providers to take proactive measures to relation to illegal content.

Amendment

(28) Providers of intermediary services should not be subject to a monitoring obligation with respect to obligations of a general nature. This does not concern monitoring obligations in a specific case and, in particular, does not affect orders by national authorities in accordance with national legislation, in accordance with the conditions established in this Regulation. Nothing in this Regulation should be construed as an imposition of a general monitoring obligation or active fact-finding obligation, or as a general obligation for providers to take proactive measures to relation to illegal content. Nor does it concern ex ante measures by online marketplaces such as random checks to identify illegal content.

Amendment 168
(28 a) Since media service providers and publishers of press publications within the meaning of Article 2(4) of Directive (EU) 2019/790 hold editorial responsibility for the content and services they make available, such content and services should benefit from a specific regime that prevents a multiple control of those content and services. Those content and services are typically offered in accordance with professional and journalistic standards as well as legislation and are already subject to systems of supervision and control, often enshrined in commonly accepted self-regulatory standards and codes. In addition, they usually have in place complaints handling mechanisms to resolve content-related disputes. Editorial responsibility means the exercise of effective control both over the selection of content and over its provision by means of its presentation, composition and organisation. Editorial responsibility does not necessarily imply any legal liability under national law for the content or the services provided. Intermediary service providers should refrain from removing, suspending or disabling access to any such content or services, and should be exempt from liability for such content and services. A presumption of legality should exist in relation to the content and services provided by media service providers publishers of press publications who carry out their activities in respect of European values and fundamental rights. Compliance by media service providers with these rules and regulations should be overseen by the respective independent regulatory authorities, bodies or both and the respective European networks they are
Intermediaries should not assume editor-like roles as they currently sometimes do. A general prohibition of interference with content and services provided by media service providers and publishers of press publications is needed, as secondary control of media content in line with sector-specific rules and national provisions would pose risks to media freedom and availability of trustworthy information online. As such, content and services should benefit from a special regime that presumes their legality, intermediary service providers likewise should not be liable for it.

Amendment 169
Marcel Kolaja

Proposal for a regulation
Recital 29

Text proposed by the Commission

(29) Depending on the legal system of each Member State and the field of law at issue, national judicial or administrative authorities may order providers of intermediary services to act against certain specific items of illegal content or to provide certain specific items of information. The national laws on the basis of which such orders are issued differ considerably and the orders are increasingly addressed in cross-border situations. In order to ensure that those orders can be complied with in an effective and efficient manner, so that the public authorities concerned can carry out their tasks and the providers are not subject to any disproportionate burdens, without unduly affecting the rights and legitimate interests of any third parties, it is necessary to set certain conditions that those orders should meet and certain complementary requirements relating to the processing of those orders.

Amendment

(29) Depending on the legal system of each Member State and the field of law at issue, national judicial authorities may order providers of intermediary services to act against certain specific items of illegal content or to provide certain specific items of information. The national laws on the basis of which such orders are issued differ considerably and the orders are increasingly addressed in cross-border situations. In order to ensure that those orders can be complied with in an effective and efficient manner, so that the public authorities concerned can carry out their tasks and the providers are not subject to any disproportionate burdens, without unduly affecting the rights and legitimate interests of any third parties, it is necessary to set certain conditions that those orders should meet and certain complementary requirements relating to the processing of those orders.
Amendment 170
Victor Negrescu

Proposal for a regulation
Recital 31 a (new)

Text proposed by the Commission

(31 a) The Commission should ensure the proper enforcement of this regulation at European level, across Member States, in order to avoid potential inequalities, differences of approach and unfair competition within or from outside the Union.

Or. en

Amendment 171
Marcel Kolaja

Proposal for a regulation
Recital 32

Text proposed by the Commission

(32) The orders to provide information regulated by this Regulation concern the production of specific information about individual recipients of the intermediary service concerned who are identified in those orders for the purposes of determining compliance by the recipients of the services with applicable Union or national rules. Therefore, orders about information on a group of recipients of the service who are not specifically identified, including orders to provide aggregate information required for statistical purposes or evidence-based policy-making, should remain unaffected by the rules of this Regulation on the provision of information.

Amendment

(32) The orders by judicial authorities to provide information about one or more specific suspects or serious threat to public security or orders by national authorities about a specific item of information about service providers licence numbers, address or rental, or number of nights let, regulated by this Regulation concern the production of specific information about individual recipients of the intermediary service concerned who are suspect or suspects of a serious threat to public security, identified in those orders for the purposes of determining compliance by the recipients of the services with applicable Union or national rules. Therefore, orders about information on a group of recipients of the service who are not specifically identified,
including orders to provide aggregate information required for statistical purposes or evidence-based policy-making, should remain unaffected by the rules of this Regulation on the provision of information.

Or. en

Amendment 172
Marcel Kolaja

Proposal for a regulation
Recital 33

 Text proposed by the Commission

(33) Orders to act against illegal content and to provide information are subject to the rules safeguarding the competence of the Member State where the service provider addressed is established and laying down possible derogations from that competence in certain cases, set out in Article 3 of Directive 2000/31/EC, only if the conditions of that Article are met. Given that the orders in question relate to specific items of illegal content and information, respectively, where they are addressed to providers of intermediary services established in another Member State, they do not in principle restrict those providers’ freedom to provide their services across borders. Therefore, the rules set out in Article 3 of Directive 2000/31/EC, including those regarding the need to justify measures derogating from the competence of the Member State where the service provider is established on certain specified grounds and regarding the notification of such measures, do not apply in respect of those orders.

 Amendment

(33) Orders to act against illegal content and to provide information are subject to the rules safeguarding the competence of the Member State where the service provider addressed is established and laying down possible derogations from that competence in certain cases, set out in Article 3 of Directive 2000/31/EC, only if the conditions of that Article are met. Given that the orders to provide information relate to specific information where they are addressed to providers of intermediary services established in another Member State, they do not in principle restrict those providers’ freedom to provide their services across borders. Therefore, the rules set out in Article 3 of Directive 2000/31/EC, including those regarding the need to justify measures derogating from the competence of the Member State where the service provider is established on certain specified grounds and regarding the notification of such measures, do not apply in respect of those orders.

Or. en
Amendment 173
Marcel Kolaja

Proposal for a regulation
Recital 33 a (new)

_text proposed by the Commission_

(33 a) With the exception of Article 7, rules in Chapter II should not apply to online platforms that qualify as micro enterprises within the meaning of the Annex to Recommendation 2003/361/EC or as a not-for-profit service, including free and open source software projects, online encyclopaedia and educational or scientific repositories. Content managed by educational and scientific repositories are subject to various national laws and are made available in order to safeguard public interest and are meant to be reused by students, researchers and the general public.

Or. en

Amendment 174
Martina Michels, Alexis Georgoulis

Proposal for a regulation
Recital 34

_text proposed by the Commission_

(34) In order to achieve the objectives of this Regulation, and in particular to improve the functioning of the internal market and ensure a safe and transparent online environment, it is necessary to establish a clear and balanced set of harmonised due diligence obligations for providers of intermediary services. Those obligations should aim in particular to guarantee different public policy objectives such as _the safety_ and trust of the recipients of the service, including minors and vulnerable users, _protect_ the relevant
fundamental rights enshrined in the Charter, to ensure meaningful accountability of those providers and to empower recipients and other affected parties, whilst facilitating the necessary oversight by competent authorities.

users, and the relevant fundamental rights to freedom of expression and protection against discrimination enshrined in the Charter, and to ensure meaningful accountability of those providers and to empower recipients and other affected parties, whilst facilitating the necessary oversight by competent authorities.

Amendment 175
Christine Anderson

Proposal for a regulation
Recital 34

Text proposed by the Commission

(34) In order to achieve the objectives of this Regulation, and in particular to improve the functioning of the internal market and ensure a safe and transparent online environment, it is necessary to establish a clear and balanced set of harmonised due diligence obligations for providers of intermediary services. Those obligations should aim in particular to guarantee different public policy objectives such as the safety and trust of the recipients of the service, including minors and vulnerable users, protect the relevant fundamental rights enshrined in the Charter, to ensure meaningful accountability of those providers and to empower recipients and other affected parties, whilst facilitating the necessary oversight by competent authorities.

Amendment

(34) In order to achieve the objectives of this Regulation, and in particular to improve the functioning of the internal market and ensure a safe and transparent online environment, it is necessary to establish a clear and balanced set of harmonised due diligence obligations for providers of intermediary services. Those obligations should aim in particular to guarantee different public policy objectives such as the safety and trust of all recipients of the service, protect the relevant fundamental rights enshrined in the Charter, to ensure meaningful accountability of those providers and to empower recipients and other affected parties, whilst facilitating the necessary oversight by competent authorities.

Amendment 176
Christine Anderson

Proposal for a regulation
Recital 36

Text proposed by the Commission

(36) In order to facilitate smooth and efficient communications relating to matters covered by this Regulation, providers of intermediary services should be required to establish a single point of contact and to publish relevant information relating to their point of contact, including the languages to be used in such communications. *The point of contact can also be used by trusted flaggers and by professional entities which are under a specific relationship with the provider of intermediary services.* In contrast to the legal representative, the point of contact should serve operational purposes and should not necessarily have to have a physical location.

Amendment

(36) In order to facilitate smooth and efficient communications relating to matters covered by this Regulation, providers of intermediary services should be required to establish a single point of contact and to publish relevant information relating to their point of contact, including the languages to be used in such communications. In contrast to the legal representative, the point of contact should serve operational purposes and should not necessarily have to have a physical location.

Or. de

Amendment 177
Dace Melbārde

Proposal for a regulation
Recital 36 a (new)

Text proposed by the Commission

(36 a) Very large online platforms should provide for the possibility to communicate to their points of contact in every of the official languages of the Member States where they provide services. Other providers of intermediary services should ensure that the choice of language does not impose a disproportionate burden on Member States' authorities and make every effort to establish effective communication options. Recourse to a possible language barrier should not be used to ignore or deny communication with a Member States' authorities and should not be used as an excuse for
Where necessary, Member States’ authorities and providers of intermediary services may reach a separate agreement on the language of communication.

Amendment 178
Marcel Kolaja

Proposal for a regulation
Recital 38

Text proposed by the Commission

(38) Whilst the freedom of contract of providers of intermediary services should in principle be respected, it is appropriate to set certain rules on the content, application and enforcement of the terms and conditions of those providers in the interests of transparency, the protection of recipients of the service and the avoidance of unfair or arbitrary outcomes.

Amendment

(38) Whilst the freedom of contract of providers of intermediary services should in principle be respected, it is appropriate to set certain rules on the content, application and enforcement of the terms and conditions of those providers in the interests of transparency, the protection of the fundamental rights of recipients of the service and the avoidance of discriminatory, unfair or arbitrary outcomes. Terms and conditions of providers of intermediary services should respect the essential principles of human rights as enshrined in the Charter and international law, including the right to freedom of expression. The freedom and pluralism of media should be respected, to this end, Member States should ensure that editorial content providers’ and media service providers’ possibilities to contest decisions of online platforms or to seek judicial redress in accordance with the laws of the Member State concerned is unaffected.

Amendment 179
Sabine Verheyen
Proposal for a regulation
Recital 38

Text proposed by the Commission

(38) Whilst the freedom of contract of providers of intermediary services should in principle be respected, it is appropriate to set certain rules on the content, application and enforcement of the terms and conditions of those providers in the interests of transparency, the protection of recipients of the service and the avoidance of unfair or arbitrary outcomes.

Amendment

(38) Whilst the freedom of contract of providers of intermediary services should in principle be respected, it is appropriate to set certain rules on the content, application and enforcement of the terms and conditions of those providers in the interests of transparency, the protection of recipients of the service and the avoidance of unfair or arbitrary outcomes. To this end, intermediary service providers should be prohibited from drawing up terms and conditions that go beyond European and national laws and that lead to the removal, disabling of access to other kind of interferences with content owned and editorially selected by a media service provider.

Or. en

Amendment 180
Irena Joveva

Proposal for a regulation
Recital 38

Text proposed by the Commission

(38) Whilst the freedom of contract of providers of intermediary services should in principle be respected, it is appropriate to set certain rules on the content, application and enforcement of the terms and conditions of those providers in the interests of transparency, the protection of recipients of the service and the avoidance of unfair or arbitrary outcomes.

Amendment

(38) Whilst the freedom of contract of providers of intermediary services should in principle be respected, it is appropriate to set certain rules on the content, application and enforcing of the terms and conditions of those providers in the interests of transparency, the protection of recipients of the service and the avoidance of unfair or arbitrary outcomes. Terms and conditions should be summarised in a clear, accessible and easily comprehensible manner while offering
possibility of opting-out from optional clauses.

Or. en

Amendment 181
Sabine Verheyen
Proposal for a regulation
Recital 38 a (new)

Text proposed by the Commission

(38 a) A presumption of legality should exist in relation to the content provided by media service providers who carry out their activities in respect of European values and fundamental rights. Given the structural differences in media markets, it should be up to the Member States to identify relevant media service providers on the basis of certain cumulative criteria. Media service providers should bear the editorial responsibility for the content they make available. They should also be subject to media specific regulation, including self-regulatory standards and finally, media service providers should have put in place complaints handling mechanisms to resolve content-related disputes. In any case, any provider of an audiovisual media service within the meaning of Article 1, paragraph 1a of Directive 2010/13/EC should be considered as a media service provider for the purposes of this Regulation.

Or. en

Amendment 182
Irena Joveva
Proposal for a regulation
Recital 39
(39) To ensure an adequate level of transparency and accountability, providers of intermediary services should **annually** report, in accordance with the harmonised requirements contained in this Regulation, on the content moderation they engage in, including the measures taken as a result of the application and enforcement of their terms and conditions. However, so as to avoid disproportionate burdens, those transparency reporting obligations should not apply to providers that are micro- or small enterprises as defined in Commission Recommendation 2003/361/EC.40


(39) To ensure an adequate level of transparency and accountability, providers of intermediary services should **present publicly available annual** report, in accordance with the harmonised requirements contained in this Regulation, on the content moderation they engage in, including the measures taken as a result of the application and enforcement of their terms and conditions, **including comprehensive anonymised statistical analysis of measures taken and the misuses of services and manifestly unfounded notices or complaints under the mechanisms established under this Regulation**. However, so as to avoid disproportionate burdens, those transparency reporting obligations should not apply to providers that are micro- or small enterprises as defined in Commission Recommendation 2003/361/EC.40


Or. en
including the measures taken as a result of the application and enforcement of their terms and conditions. However, so as to avoid disproportionate burdens, those transparency reporting obligations should not apply to providers that are micro- or small enterprises as defined in Commission Recommendation 2003/361/EC.40


Or. en

**Justification**

Basic transparency requirements when it comes to moderation should also be applicable to micro or SME, especially given the reach their service may have.

**Amendment 184**
Marcel Kolaja

**Proposal for a regulation**

**Recital 39**

**Text proposed by the Commission**

(39) To ensure an adequate level of transparency and accountability, providers of intermediary services should annually report, in accordance with the harmonised requirements contained in this Regulation, on the content moderation they engage in, including the measures taken as a result of the application and enforcement of their terms and conditions. However, so as to avoid disproportionate burdens, those transparency reporting obligations should not apply to providers that are micro- or small enterprises as defined in Commission Recommendation 2003/361/EC.40

**Amendment**

(39) To ensure an adequate level of transparency and accountability, providers of intermediary services should annually report in a standardised and machine-readable format, in accordance with the harmonised requirements contained in this Regulation, on the content moderation they engage in, including the measures taken as a result of the application and enforcement of their terms and conditions. However, so as to avoid disproportionate burdens, those transparency reporting obligations should not apply to providers that are micro- or small enterprises as defined in Commission Recommendation 2003/361/EC, or as a...
not-for-profit service with fewer than 100,000 monthly active users.


Amendment 185
Hannes Heide, Petra Kammerevert

Proposal for a regulation
Recital 39

Text proposed by the Commission

(39) To ensure an adequate level of transparency and accountability, providers of intermediary services should annually report, in accordance with the harmonised requirements contained in this Regulation, on the content moderation they engage in, including the measures taken as a result of the application and enforcement of their terms and conditions. However, so as to avoid disproportionate burdens, those transparency reporting obligations should not apply to providers that are micro- or small enterprises as defined in Commission Recommendation 2003/361/EC.40

Amendment

(39) To ensure an adequate level of transparency and accountability, providers of intermediary services should annually report, in accordance with the harmonised requirements contained in this Regulation, on the content moderation they engage in, including the measures taken as a result of the application and enforcement of their terms and conditions, and, where a platform is an online marketplace, their business users. However, so as to avoid disproportionate burdens, those transparency reporting obligations should not apply to providers that are micro- or small enterprises as defined in Commission Recommendation 2003/361/EC.40

Amendment 186
Marcel Kolaja

Proposal for a regulation
Recital 39 a (new)

Text proposed by the Commission

(39 a) Recipients of the service should be empowered to make autonomous decisions inter alia regarding the acceptance of and changes to terms and conditions, advertising practices, privacy and other settings, recommender systems when interacting with intermediary services. Dark patterns however typically exploit cognitive biases and prompt online consumers to purchase goods and services that they do not want or to reveal personal information they would prefer not to disclose. Therefore, providers of intermediary services should be prohibited from deceiving or nudging recipients of the service and from subverting or impairing the autonomy, decision-making, or choice of the recipients of the service via the structure, design or functionalities of an online interface or a part thereof (‘dark pattern’). This includes, but is not limited to, exploitative design choices to direct the user to actions that benefit the provider of intermediary services, but which may not be in the recipients’ interests, presenting choices in a non-neutral manner, repetitively requesting or pressuring the recipient to make a decision or hiding or obscuring certain options.

Or. en

Amendment 187
Laurence Farreng

Proposal for a regulation
Recital 40
(40) Providers of hosting services play a particularly important role in tackling illegal content online, as they store information provided by and at the request of the recipients of the service and typically give other recipients access thereto, sometimes on a large scale. It is important that all providers of hosting services, regardless of their size, put in place user-friendly notice and action mechanisms that facilitate the notification of specific items of information that the notifying party considers to be illegal content to the provider of hosting services concerned ('notice'), pursuant to which that provider can decide whether or not it agrees with that assessment and wishes to remove or disable access to that content ('action'). Provided the requirements on notices are met, it should be possible for individuals or entities to notify multiple specific items of allegedly illegal content through a single notice. The obligation to put in place notice and action mechanisms should apply, for instance, to file storage and sharing services, web hosting services, advertising servers and paste bins, in as far as they qualify as providers of hosting services covered by this Regulation.

Moreover, the notification and action mechanism should be supplemented by 'stay down' provisions, under which providers of hosting services should do everything in their power to prevent the reappearance of content which is identical to other content which they have identified and withdrawn as illegal. The application of this requirement must not lead to a general monitoring obligation.

Or. fr

Amendment 188
Marcel Kolaja
Recital 40

Providers of hosting services play a particularly important role in tackling illegal content online, as they store information provided by and at the request of the recipients of the service and typically give other recipients access thereto, sometimes on a large scale. It is important that all providers of hosting services, regardless of their size, put in place user-friendly notice and action mechanisms that facilitate the notification of specific items of information that the notifying party considers to be illegal content to the provider of hosting services concerned ('notice'), pursuant to which that provider can decide whether or not it agrees with that assessment and wishes to remove or disable access to that content ('action'). Provided the requirements on notices are met, it should be possible for individuals or entities to notify multiple specific items of allegedly illegal content through a single notice. Content that has been notified and that is not manifestly illegal should remain accessible while the assessment of its legality by the judicial authority is still pending. Provided the requirements on notices are met, it should be possible for individuals or entities to notify multiple specific items of allegedly illegal content through a single notice, Recipients of the service who provided the information to which the notice relates should be given them the opportunity to reply before taking a decision. The obligation to put in place notice and action mechanisms should apply, for instance, to file storage and sharing services, web hosting services, advertising servers and paste bins, in as far as they qualify as providers of hosting services covered by this Regulation.

Or. en

Amendment 189
Marcel Kolaja
Proposal for a regulation
Recital 41

Text proposed by the Commission

(41) The rules on such notice and action mechanisms should be harmonised at Union level, so as to provide for the timely, diligent and objective processing of notices on the basis of rules that are uniform, transparent and clear and that provide for robust safeguards to protect the right and legitimate interests of all affected parties, in particular their fundamental rights guaranteed by the Charter, irrespective of the Member State in which those parties are established or reside and of the field of law at issue. The fundamental rights include, as the case may be, the right to freedom of expression and information, the right to respect for private and family life, the right to protection of personal data, the right to non-discrimination and the right to an effective remedy of the recipients of the service; the freedom to conduct a business, including the freedom of contract, of service providers; as well as the right to human dignity, the rights of the child, the right to protection of property, including intellectual property, and the right to non-discrimination of parties affected by illegal content.

Or. en

Amendment 190
Christine Anderson

Proposal for a regulation
Recital 41

Text proposed by the Commission

(41) The rules on such notice and action mechanisms should be harmonised at Union level, so as to provide for the timely, diligent and objective processing of notices on the basis of rules that are uniform, transparent and clear and that provide for robust safeguards to protect the right and legitimate interests of all affected parties, in particular their fundamental rights guaranteed by the Charter, irrespective of the Member State in which those parties are established or reside and of the field of law at issue. The fundamental rights include the right to freedom of expression and information, the right to respect for private and family life, the right to protection of personal data, the right to non-discrimination and the right to an effective remedy of the recipients of the service; the freedom to conduct a business, including the freedom of contract, of service providers; as well as the right to human dignity, the rights of the child, the right to property and the right to non-discrimination of parties affected by illegal content.
diligent and objective processing of notices on the basis of rules that are uniform, transparent and clear and that provide for robust safeguards to protect the right and legitimate interests of all affected parties, in particular their fundamental rights guaranteed by the Charter, irrespective of the Member State in which those parties are established or reside and of the field of law at issue. The fundamental rights include, as the case may be, the right to freedom of expression and information, the right to respect for private and family life, the right to protection of personal data, the right to non-discrimination and the right to an effective remedy of the recipients of the service; the freedom to conduct a business, including the freedom of contract, of service providers; as well as the right to human dignity, the rights of the child, the right to protection of property, including intellectual property, and the right to non-discrimination of parties affected by illegal content.

Amendment 191
Ibán García Del Blanco, Marcos Ros Sempere, Domèneç Ruiz Devesa

Proposal for a regulation
Recital 42

Text proposed by the Commission

(42) Where a hosting service provider decides to remove or disable information provided by a recipient of the service, for instance following receipt of a notice or acting on its own initiative, including through the use of automated means, that provider should inform the recipient of its decision, the reasons for its decision and the available redress possibilities to contest the decision, in view of the negative consequences that such decisions may have for the recipient, including as regards the

Amendment

(42) Where a hosting service provider decides to remove or disable information provided by a recipient of the service, for instance following receipt of a notice or acting on its own initiative, including through the use of automated means, that provider should make its best efforts in accordance with high industry standards of professional diligence to prevent the reappearance of the notified or equivalent illegal information. The provider should also inform the recipient of its decision, the
exercise of its fundamental right to freedom of expression. That obligation should apply irrespective of the reasons for the decision, in particular whether the action has been taken because the information notified is considered to be illegal content or incompatible with the applicable terms and conditions. Available recourses to challenge the decision of the hosting service provider should always include judicial redress.

reasons for its decision and the available redress possibilities to contest the decision, in view of the negative consequences that such decisions may have for the recipient, including as regards the exercise of its fundamental right to freedom of expression. That obligation should apply irrespective of the reasons for the decision, in particular whether the action has been taken because the information notified is considered to be illegal content or incompatible with the applicable terms and conditions. Available recourses to challenge the decision of the hosting service provider should always include judicial redress.

Justification

The current notice and action system is proving less and less viable as the scale of illegal content online has increased over the past 20 years. The main issue being that illegal content taken, reappears constantly, forcing the notifier to constantly re-start the notice and take down procedure from the beginning every time. To provide an effective answer, it is necessary to modernise the notice and take down mechanism by introducing a stay down duty of care, to ensure that hosting services do not allow the re-upload of illegal content that was already taken down following a notice.

Amendment 192
Irena Joveva

Proposal for a regulation
Recital 42

Text proposed by the Commission

(42) Where a hosting service provider decides to remove or disable information provided by a recipient of the service, for instance following receipt of a notice or acting on its own initiative, including through the use of automated means, that provider should inform the recipient of its decision, the reasons for its decision and the available redress possibilities to contest the decision, in view of the negative

Amendment

(42) Where a hosting service provider decides to remove or disable information provided by a recipient of the service, for instance following receipt of a notice or acting on its own initiative, including through the use of efficient, proportionate and accurate automated means accompanied by human oversight, that provider should inform the recipient of its decision and possible notifier, the reasons
consequences that such decisions may have for the recipient, including as regards the exercise of its fundamental right to freedom of expression. That obligation should apply irrespective of the reasons for the decision, in particular whether the action has been taken because the information notified is considered to be illegal content or incompatible with the applicable terms and conditions. Available recourses to challenge the decision of the hosting service provider should always include judicial redress.

Amendment 193
Marcel Kolaja
Proposal for a regulation
Recital 42

Text proposed by the Commission

(42) Where a hosting service provider decides to remove or disable information provided by a recipient of the service, for instance following receipt of a notice or acting on its own initiative, including through the use of automated means, that provider should inform the recipient of its decision, the reasons for its decision and the available redress possibilities to contest the decision, in view of the negative consequences that such decisions may have for the recipient, including as regards the exercise of its fundamental right to freedom of expression. That obligation should apply irrespective of the reasons for the decision, in particular whether the action has been taken because the information notified is considered to be illegal content or incompatible with the applicable terms and conditions. Available recourses to challenge the decision of the hosting service provider should always include judicial redress.

Amendment

(42) Where a hosting service provider decides to remove or disable information provided by a recipient of the service, for instance following receipt of a notice or acting on its own initiative that provider should inform the recipient of its decision, the reasons for its decision and the available redress possibilities to contest the decision, in view of the negative consequences that such decisions may have for the recipient, including as regards the exercise of its fundamental right to freedom of expression. That obligation should apply irrespective of the reasons for the decision, in particular whether the action has been taken because the information notified is considered to be illegal content or incompatible with the applicable terms and conditions. Available recourses to challenge the decision of the
recourses to challenge the decision of the hosting service provider should always include judicial redress.

hosting service provider should always include judicial redress.

Amendment 194
Marcel Kolaja
Proposal for a regulation
Recital 42 a (new)

Text proposed by the Commission

(42 a) When moderating content, mechanisms voluntarily employed by platforms should not lead to ex-ante control measures based on automated tools or upload-filtering of content. Automated tools are currently unable to differentiate illegal content from content that is legal in a given context and therefore routinely result in overblocking legal content. Human review of automated reports by service providers or their contractors does not fully solve this problem, especially if it is outsourced to private staff that lack sufficient independence, qualification and accountability. Ex-ante control should be understood as making publishing subject to an automated decision. Filtering automated content submissions such as spam should be permitted. Where automated tools are otherwise used for content moderation the provider should ensure human review and the protection of legal content.

Amendment

Or. en

Amendment 195
Irena Joveva
Proposal for a regulation
Recital 43

Text proposed by the Commission

(43) To avoid disproportionate burdens, the additional obligations imposed on online platforms under this Regulation should not apply to micro or small enterprises as defined in Recommendation 2003/361/EC of the Commission,\(^{41}\) unless their reach and impact is such that they meet the criteria to qualify as very large online platforms under this Regulation. The consolidation rules laid down in that Recommendation help ensure that any circumvention of those additional obligations is prevented. The exemption of micro- and small enterprises from those additional obligations should not be understood as affecting their ability to set up, on a voluntary basis, a system that complies with one or more of those obligations.


Amendment

(43) To avoid disproportionate burdens, the additional obligations imposed on online platforms under this Regulation should not apply to micro or small enterprises as defined in Recommendation 2003/361/EC of the Commission,\(^{41}\) unless their reach and impact is such that they meet the criteria to qualify as very large online platforms under this Regulation. The consolidation rules laid down in that Recommendation help ensure that any circumvention of those additional obligations is prevented. The exemption of micro- and small enterprises from those additional obligations should not be understood as affecting their ability to set up, on a voluntary basis, a system that complies with one or more of those obligations, \textit{and are encouraged to do so.}


Proposal for a regulation

Recital 44

Text proposed by the Commission

(44) Recipients of the service should be able to easily and effectively contest certain decisions of online platforms that negatively affect them. Therefore, online platforms should be required to provide for internal complaint-handling systems,

Amendment

(44) Recipients of the service should be able to easily and effectively contest certain decisions of online platforms that negatively affect them. Therefore, online platforms should be required to provide for internal complaint-handling systems,
which meet certain conditions aimed at ensuring that the systems are easily accessible and lead to swift and fair outcomes. In addition, provision should be made for the possibility of out-of-court dispute settlement of disputes, including those that could not be resolved in satisfactory manner through the internal complaint-handling systems, by certified bodies that have the requisite independence, means and expertise to carry out their activities in a fair, swift and cost-effective manner. The possibilities to contest decisions of online platforms thus created should complement, yet leave unaffected in all respects, the possibility to seek judicial redress in accordance with the laws of the Member State concerned.

Amendment 197
Marcel Kolaja

Proposal for a regulation
Recital 44

Text proposed by the Commission

(44) Recipients of the service should be able to easily and effectively contest certain decisions of online platforms that negatively affect them. Therefore, online platforms should be required to provide for internal complaint-handling systems, which meet certain conditions aimed at ensuring that the systems are easily accessible and lead to swift and fair outcomes. In addition, provision should be made for the possibility of out-of-court dispute settlement of disputes, including those that could not be resolved in satisfactory manner through the internal complaint-handling systems, by certified bodies that have the requisite independence, means and expertise to carry out their activities in a fair, swift and cost-effective manner. The possibilities to contest decisions of online platforms thus created should complement, yet leave unaffected in all respects, the possibility to seek judicial redress in accordance with the laws of the Member State concerned.

Amendment

(44) Recipients of the service, including persons with disabilities, should be able to easily and effectively contest certain decisions of online platforms that negatively affect them. Therefore, online platforms should be required to provide for internal complaint-handling systems, which meet certain conditions aimed at ensuring that the systems are easily accessible and lead to swift and fair outcomes. In addition, provision should be made for the possibility of out-of-court dispute settlement of disputes, including those that could not be resolved in satisfactory manner through the internal complaint-handling systems, by certified bodies that have the requisite independence, means and expertise to carry out their activities in a fair, swift and cost-effective manner. The possibilities to contest decisions of online platforms thus created should complement, yet leave unaffected in all respects, the possibility to seek judicial redress in accordance with the laws of the Member State concerned.
bodies that have the requisite independence, means and expertise to carry out their activities in a fair, swift and cost-effective manner. The possibilities to contest decisions of online platforms thus created should complement, yet leave unaffected in all respects, the possibility to seek judicial redress in accordance with the laws of the Member State concerned.

Amendment 198
Christine Anderson

Proposal for a regulation
Recital 44

Text proposed by the Commission

(44) Recipients of the service should be able to easily and effectively contest certain decisions of online platforms that negatively affect them. Therefore, online platforms should be required to provide for internal complaint-handling systems, which meet certain conditions aimed at ensuring that the systems are easily accessible and lead to swift and fair outcomes. In addition, provision should be made for the possibility of out-of-court dispute settlement of disputes, including those that could not be resolved in satisfactory manner through the internal complaint-handling systems, by certified bodies that have the requisite independence, means and expertise to carry out their activities in a fair, swift and cost-effective manner. The possibilities to contest decisions of online platforms thus created should complement, yet leave unaffected in all respects, the possibility to seek judicial redress in accordance with the laws of the Member State concerned.

Amendment

(44) Recipients of the service should be able to easily and effectively contest certain decisions of online platforms that negatively affect them. Therefore, online platforms should be required to provide for internal complaint-handling systems, which meet certain conditions aimed at ensuring that the systems are easily accessible and lead to swift and fair outcomes. In addition, provision should be made for the possibility of out-of-court dispute settlement of disputes, including those that could not be resolved in satisfactory manner through the internal complaint-handling systems, by certified bodies that have the requisite proven independence, means and expertise to carry out their activities in a fair, swift and cost-effective manner. The possibilities to contest decisions of online platforms thus created should complement, yet leave unaffected in all respects, the possibility to seek judicial redress in accordance with the laws of the Member State concerned.
Amendment 199
François-Xavier Bellamy
Proposal for a regulation
Recital 46

Text proposed by the Commission

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content, that they represent collective interests and that they work in a diligent and objective manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation (‘Europol’) or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, organisations of industry and of right-holders could be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals.

Amendment

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent, effective and objective manner. Such trusted flagger status should be awarded to entities, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content, that they have significant legitimate interest and a proven record in flagging illegal content with a high rate of accuracy and that they have demonstrated their competence in detecting, identifying and notifying illegal content or represent collective interests and that they work in a diligent and objective manner. Such entities can also be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation (‘Europol’) or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, individual right-holders, their representatives, duly mandated third
that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council.43

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Or. en

Amendment 200
Irena Joveva

Proposal for a regulation
Recital 46

Text proposed by the Commission

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to

Amendment

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to
process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content, that they represent collective interests and that they work in a diligent and objective manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation (‘Europol’) or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, organisations of industry and of right-holders could be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council.43
(46) Action against illegal content and against activities incompatible with the platform’s terms and conditions can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content or activities incompatible with the platform’s terms and conditions, that they represent public or collective interests and that they work in a diligent and objective manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation (‘Europol’) or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, organisations of industry and of right-holders could be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions. The
rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council.\textsuperscript{43}


**Amendment 202**

Marcel Kolaja

**Proposal for a regulation**

**Recital 46**

*Text proposed by the Commission*

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a

*Amendment*

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a
timely, diligent and objective manner. Such trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content, that they represent collective interests and that they work in a diligent and objective manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation (‘Europol’) or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, organisations of industry and of right-holders could be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council.43

Amendment 203
Christine Anderson

Proposal for a regulation
Recital 46

Text proposed by the Commission

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content, that they represent collective interests and that they work in a diligent and objective manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation (‘Europol’) or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, organisations of industry and of right-holders could be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online

Amendment

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content, that they represent collective interests and that they work in a diligent and objective manner without violating freedom of expression. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation (‘Europol’) or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, organisations of industry and of right-holders could be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers
Platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council.

Amendment 204
Martina Michels, Alexis Georgoulis

Proposal for a regulation
Recital 46

*Text proposed by the Commission*

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such trusted flagger status should **only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise**.

*Amendment*

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such trusted flagger status should **be conferred primarily on organisations, industry representatives and public entities that have particular expertise and competence.**

Or. de
and competence in tackling illegal content, that they represent collective interests and that they work in a diligent and objective manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation (‘Europol’) or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, organisations of industry and of right-holders could be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council.


Or. de

Amendment 205
Ibán García Del Blanco, Marcos Ros Sempere, Domènec Ruiz Devesa
Proposal for a regulation
Recital 46 a (new)

Text proposed by the Commission

(46 a) Trusted flaggers should also be able to submit complaints to the Digital Service Coordinators about those activities by online platforms that create a systemic risk.

Amendment

Or. en

Amendment 206
Marcel Kolaja

Proposal for a regulation
Recital 47

Text proposed by the Commission

(47) The misuse of services of online platforms by frequently providing manifestly illegal content or by frequently submitting manifestly unfounded notices or complaints under the mechanisms and systems, respectively, established under this Regulation undermines trust and harms the rights and legitimate interests of the parties concerned. Therefore, there is a need to put in place appropriate and proportionate safeguards against such misuse. Information should be considered to be manifestly illegal content and notices or complaints should be considered manifestly unfounded where it is evident to a layperson, without any substantive analysis, that the content is illegal respectively that the notices or complaints are unfounded. Under certain conditions, online platforms should temporarily suspend their relevant activities in respect of the person engaged in abusive behaviour. This is without prejudice to the freedom by online platforms to determine their terms and conditions and establish

Amendment

(47) The misuse of services of online platforms by repeatedly submitting manifestly unfounded notices or complaints under the mechanisms and systems, respectively, established under this Regulation undermines trust and harms the rights and legitimate interests of the parties concerned. Therefore, there is a need to put in place appropriate and proportionate safeguards against such misuse. Notices or complaints should be considered manifestly unfounded where it is evident to a layperson, without any substantive analysis, that the content is illegal respectively that the notices or complaints are unfounded. Under certain conditions, online platforms should temporarily suspend their relevant activities in respect of the person engaged in abusive behaviour. For reasons of transparency, this possibility should be set out, clearly and in sufficiently detail, in the terms and conditions of the online platforms. Redress should always be open to the decisions taken in this regard by
stricter measures in the case of manifestly illegal content related to serious crimes.
For reasons of transparency, this possibility should be set out, clearly and in sufficiently detail, in the terms and conditions of the online platforms. Redress should always be open to the decisions taken in this regard by online platforms and they should be subject to oversight by the competent Digital Services Coordinator. The rules of this Regulation on misuse should not prevent online platforms from taking other measures to address the
provision of illegal content by recipients of their service or other misuse of their services, in accordance with the applicable Union and national law. Those rules are without prejudice to any possibility to hold the persons engaged in misuse liable, including for damages, provided for in Union or national law.

Amendment 207
Ibán García Del Blanco, Marcos Ros Sempere, Domèneç Ruiz Devesa
Proposal for a regulation
Recital 47

Text proposed by the Commission

(47) The misuse of services of online platforms by frequently providing manifestly illegal content or by frequently submitting manifestly unfounded notices or complaints under the mechanisms and systems, respectively, established under this Regulation undermines trust and harms the rights and legitimate interests of the parties concerned. Therefore, there is a need to put in place appropriate and proportionate safeguards against such misuse. Information should be considered to be manifestly illegal content and notices or complaints should be considered manifestly unfounded where it online platforms and they should be subject to oversight by the competent Digital Services Coordinator. The rules of this Regulation on misuse should not prevent online platforms from taking other measures to address the misuse of their services, in accordance with the applicable Union and national law. Those rules are without prejudice to any possibility to hold the persons engaged in misuse liable, including for damages, provided for in Union or national law.

Amendment

(47) The misuse of services of online platforms by repeatedly providing or facilitating the provision of illegal content or by submitting repeatedly unfounded notices or complaints under the mechanisms and systems, respectively, established under this Regulation undermines trust and harms the rights and legitimate interests of the parties concerned. Therefore, there is a need to put in place appropriate and proportionate safeguards against such misuse. Under certain conditions, online platforms should temporarily suspend or terminate their relevant activities in respect of the person
is evident to a layperson, without any substantive analysis, that the content is illegal respectively that the notices or complaints are unfounded. Under certain conditions, online platforms should temporarily suspend their relevant activities in respect of the person engaged in abusive behaviour. This is without prejudice to the freedom by online platforms to determine their terms and conditions and establish stricter measures in the case of manifestly illegal content related to serious crimes. For reasons of transparency, this possibility should be set out, clearly and in sufficiently detail, in the terms and conditions of the online platforms. Redress should always be open to the decisions taken in this regard by online platforms and they should be subject to oversight by the competent Digital Services Coordinator. The rules of this Regulation on misuse should not prevent online platforms from taking other measures to address the provision of illegal content by recipients of their service or other misuse of their services, in accordance with the applicable Union and national law. Those rules are without prejudice to any possibility to hold the persons engaged in misuse liable, including for damages, provided for in Union or national law.

Or. en

Justification

For measures against misuses to be effective, the sanctions available to hosting services should include the possibility for a permanent termination of the account of a repeated infringer. Otherwise, users that knowingly abuse the service to carry out illegal activities will not be prevented from doing so. In addition, the notion of manifestly illegal has no precedent and would reduce the effectiveness of the mechanism and create legal uncertainty.

Amendment 208
Irena Joveva

Proposal for a regulation
(47) The misuse of services of online platforms by frequently providing manifestly illegal content or by frequently submitting manifestly unfounded notices or complaints under the mechanisms and systems, respectively, established under this Regulation undermines trust and harms the rights and legitimate interests of the parties concerned. Therefore, there is a need to put in place appropriate and proportionate safeguards against such misuse. Information should be considered to be manifestly illegal content and notices or complaints should be considered manifestly unfounded where it is evident to a layperson, without any substantive analysis, that the content is illegal respectively that the notices or complaints are unfounded. Under certain conditions, online platforms should temporarily suspend their relevant activities in respect of the person engaged in abusive behaviour. This is without prejudice to the freedom by online platforms to determine their terms and conditions and establish stricter measures in the case of manifestly illegal content related to serious crimes. For reasons of transparency, this possibility should be set out, clearly and in sufficiently detail, in the terms and conditions of the online platforms. Redress should always be open to the decisions taken in this regard by online platforms and they should be subject to oversight by the competent Digital Services Coordinator.

The rules of this Regulation on misuse should not prevent online platforms from taking other measures to address the provision of illegal content by recipients of their service or other misuse of their services, in accordance with the applicable Union and national law. Those rules are without prejudice to any possibility to hold the persons engaged in misuse liable, including for damages, provided for in

(47) The misuse of services of online platforms by frequently providing manifestly illegal content or by frequently submitting manifestly unfounded notices or complaints under the mechanisms and systems, respectively, established under this Regulation undermines trust and harms the rights and legitimate interests of the parties concerned. Therefore, there is a need to put in place appropriate and proportionate safeguards against such misuse. Information should be considered to be manifestly illegal content and notices or complaints should be considered manifestly unfounded where it is evident to a layperson, without any substantive analysis, that the content is illegal or incompatible with an online platforms' terms and conditions respectively that the notices or complaints are unfounded or mechanisms established under this Regulation, abused. Under certain conditions, online platforms should temporarily suspend their relevant activities in respect of the person engaged in abusive behaviour. This is without prejudice to the freedom by online platforms to determine their terms and conditions and establish stricter measures in the case of manifestly illegal content related to serious crimes. For reasons of transparency, this possibility should be set out, clearly and in sufficiently detail, in the terms and conditions of the online platforms. Redress should always be open to the decisions taken in this regard by online platforms and they should be subject to oversight by the competent Digital Services Coordinator. The rules of this Regulation on misuse should not prevent online platforms from taking other measures to address the provision of illegal content by recipients of their service or other misuse of their services, in accordance with the applicable Union and
Union or national law. Those rules are without prejudice to any possibility to hold the persons engaged in misuse liable, including for damages, provided for in Union or national law.

Amendment 209
Victor Negrescu
Proposal for a regulation
Recital 47 a (new)

Text proposed by the Commission

(47 a) The Commission and the regulation should avoid any subjective interpretation of the current provisions. Further check and balances mechanisms designed to limit such risks, should be introduced.

Amendment

Or. en

Amendment 210
Irena Joveva
Proposal for a regulation
Recital 48

Text proposed by the Commission

(48) An online platform may in some instances become aware, such as through a notice by a notifying party or through its own voluntary measures, of information relating to certain activity of a recipient of the service, such as the provision of certain types of illegal content, that reasonably justify, having regard to all relevant circumstances of which the online platform is aware, the suspicion that the recipient may have committed, may be committing or is likely to commit a serious criminal

Amendment

(48) An online platform may in some instances become aware, such as through a notice by a notifying party or through its own voluntary measures, of information relating to certain activity of a recipient of the service, such as the provision of certain types of illegal content, that reasonably justify, having regard to all relevant circumstances of which the online platform is aware, the suspicion that the recipient have committed, a serious criminal offence involving a threat to the life or safety of
offence involving a threat to the life or safety of person, such as offences specified in Directive 2011/93/EU of the European Parliament and of the Council. In such instances, the online platform should inform without delay the competent law enforcement authorities of such suspicion, providing all relevant information available to it, including where relevant the content in question and an explanation of its suspicion. This Regulation does not provide the legal basis for profiling of recipients of the services with a view to the possible identification of criminal offences by online platforms. Online platforms should also respect other applicable rules of Union or national law for the protection of the rights and freedoms of individuals when informing law enforcement authorities.


Amendment 211
Marcel Kolaja
Proposal for a regulation
Recital 48

Text proposed by the Commission

(48) An online platform may in some instances become aware, such as through a notice by a notifying party or through its

Amendment

(48) An online platform may in some instances become aware, such as through a notice by a notifying party of information
own voluntary measures, of information relating to certain activity of a recipient of the service, such as the provision of certain types of illegal content, that reasonably justify, having regard to all relevant circumstances of which the online platform is aware, the suspicion that the recipient may have committed, may be committing or is likely to commit a serious criminal offence involving a threat to the life or safety of person, such as offences specified in Directive 2011/93/EU of the European Parliament and of the Council. In such instances, the online platform should inform without delay the competent law enforcement authorities of such suspicion, providing all relevant information available to it, including where relevant the content in question and an explanation of its suspicion. This Regulation does not provide the legal basis for profiling of recipients of the services with a view to the possible identification of criminal offences by online platforms. Online platforms should also respect other applicable rules of Union or national law for the protection of the rights and freedoms of individuals when informing law enforcement authorities.


Amendment 212
Martina Michels, Alexis Georgoulis

Proposal for a regulation
Recital 51
In view of the particular responsibilities and obligations of online platforms, they should be made subject to transparency reporting obligations, which apply in addition to the transparency reporting obligations applicable to all providers of intermediary services under this Regulation. For the purposes of determining whether online platforms may be very large online platforms that are subject to certain additional obligations under this Regulation, the transparency reporting obligations for online platforms should include certain obligations relating to the publication and communication of information on the average monthly active recipients of the service in the Union.

Online advertisement plays an important role in the online environment, including in relation to the provision of the services of online platforms. However, online advertisement can contribute to significant risks, ranging from advertisement that is itself illegal content, to contributing to financial incentives for the publication or amplification of illegal or otherwise harmful content and activities online, or the discriminatory display of advertising with an impact on the equal treatment and opportunities of citizens. In addition to the requirements resulting from Article 6 of Directive 2000/31/EC, online
platforms should therefore be required to ensure that the recipients of the service have certain individualised information necessary for them to understand when and on whose behalf the advertisement is displayed. In addition, recipients of the service should have information on the main parameters used for determining that specific advertising is to be displayed to them, providing meaningful explanations of the logic used to that end, including when this is based on profiling. The requirements of this Regulation on the provision of information relating to advertisement is without prejudice to the application of the relevant provisions of Regulation (EU) 2016/679, in particular those regarding the right to object, automated individual decision-making, including profiling and specifically the need to obtain consent of the data subject prior to the processing of personal data for targeted advertising. Similarly, it is without prejudice to the provisions laid down in Directive 2002/58/EC in particular those regarding the storage of information in terminal equipment and the access to information stored therein.

Amendment 214

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Martina Michels, Alexis Georgoulis

Proposal for a regulation
Recital 53

Text proposed by the Commission

(53) Given the importance of very large online platforms, due to their reach, in particular as expressed in number of recipients of the service, in facilitating public debate, economic transactions and the dissemination of information, opinions and ideas and in influencing how recipients obtain and communicate information online, it is necessary to impose specific obligations on those platforms, in addition to the obligations applicable to all online platforms. Those additional obligations on very large online platforms are necessary to address those public policy concerns, there being no alternative and less restrictive measures that would effectively achieve the same result.

Amendment

(53) Given the importance of very large online platforms, due to their reach - as a result in particular of the number of active recipients of the service - in facilitating public debate, economic transactions and the dissemination of information, opinions and ideas and in influencing how recipients obtain and communicate information online, it is necessary to impose specific due diligence obligations concerning the guarantee of rights of information and fundamental rights and the transparency of free, non-discriminatory communication and business performance for business customers on those platforms, in addition to the obligations applicable to all online platforms. Those additional obligations on very large online platforms are necessary to address those public policy concerns, there being no alternative and less restrictive measures that would effectively achieve the same result.

Or. de

Amendment 215
Irena Joveva

Proposal for a regulation
Recital 53

Text proposed by the Commission

(53) Given the importance of very large online platforms, due to their reach, in particular as expressed in number of recipients of the service, in facilitating public debate, economic transactions and the dissemination of information, opinions

Amendment

(53) Given the importance of very large online platforms, due to their reach, in particular as expressed in number of recipients of the service, in facilitating public debate, economic transactions and the dissemination of information, opinions
and ideas and in influencing how recipients obtain and communicate information online, it is necessary to impose specific obligations on those platforms, in addition to the obligations applicable to all online platforms. Those additional obligations on very large online platforms are necessary to address those public policy concerns, specifically regarding disinformation, online harassment, hate speech or any other types of harmful content, there being no alternative and less restrictive measures that would effectively achieve the same result.

Amendment 216
Irena Joveva

Proposal for a regulation
Recital 56

Text proposed by the Commission

(56) Very large online platforms are used in a way that strongly influences safety online, the shaping of public opinion and discourse, as well as on online trade. The way they design their services is generally optimised to benefit their often advertising-driven business models and can cause societal concerns. In the absence of effective regulation and enforcement, they can set the rules of the game, without effectively identifying and mitigating the risks and the societal and economic harm they can cause. Under this Regulation, very large online platforms should therefore assess the systemic risks stemming from the functioning and use of their service, as well as by potential misuses by the recipients of the service, and take appropriate mitigating measures.

Amendment

(56) Very large online platforms are used in a way that strongly influences safety online, the shaping of public opinion and discourse, as well as on online trade. The way they design their services is generally optimised to benefit their often advertising-driven business models and can cause societal concerns. In the absence of effective regulation and enforcement, they can set the rules of the game, without effectively identifying and mitigating the risks and the societal and economic harm they can cause. Under this Regulation, very large online platforms should therefore assess the systemic risks stemming from the functioning and use of their service, as well as by potential misuses by the recipients of the service, and take appropriate mitigating measures, including by adapting algorithmic recommender systems and online interfaces, in particular as regards their potential for
amplifying certain content including disinformation.

Amendment 217
Victor Negrescu

Proposal for a regulation
Recital 56

Text proposed by the Commission

(56) Very large online platforms are used in a way that strongly influences safety online, the shaping of public opinion and discourse, as well as on online trade. The way they design their services is generally optimised to benefit their often advertising-driven business models and can cause societal concerns. In the absence of effective regulation and enforcement, they can set the rules of the game, without effectively identifying and mitigating the risks and the societal and economic harm they can cause. Under this Regulation, very large online platforms should therefore assess the systemic risks stemming from the functioning and use of their service, as well as by potential misuses by the recipients of the service, and take appropriate mitigating measures.

Amendment

(56) Very large online platforms are used in a way that strongly influences safety online, the shaping of public opinion and discourse, as well as on online trade. The way they design their services is generally optimised to benefit their often advertising-driven business models and can cause societal concerns. In the absence of effective regulation and enforcement, they can set the rules of the game, without effectively identifying and mitigating the risks and the societal and economic harm they can cause. Under this Regulation, very large online platforms should therefore assess the systemic risks stemming from the functioning and use of their service, as well as by potential misuses by the recipients of the service, and increase transparency obligations for online advertising while taking appropriate mitigating measures.

Amendment 218
Marcel Kolaja

Proposal for a regulation
Recital 56

Text proposed by the Commission

Amendment
Very large online platforms are used in a way that strongly influences safety online, the shaping of public opinion and discourse, as well as on online trade. The way they design their services is generally optimised to benefit their often advertising-driven business models and can cause societal concerns. In the absence of effective regulation and enforcement, they can set the rules of the game, without effectively identifying and mitigating the risks and the societal and economic harm they can cause. Under this Regulation, very large online platforms should therefore assess the systemic risks stemming from the functioning and use of their service, as well as by potential misuses by the recipients of the service, and take appropriate mitigating measures.

Amendment 219
Marcel Kolaja

Proposal for a regulation
Recital 57

Text proposed by the Commission

Three categories of systemic risks should be assessed in-depth. A first category concerns the risks associated with the misuse of their service through the dissemination of illegal content, such as the dissemination of child sexual abuse material or illegal hate speech, and the conduct of illegal activities, such as the sale of products or services prohibited by Union or national law, including counterfeit products. For example, and without prejudice to the personal responsibility of the recipient of the service of very large online platforms for possible illegality of his or her activity under the applicable law, such dissemination or activities may constitute

Amendment

Three categories of adverse impact should be assessed in-depth. A first category concerns the risks associated with the misuse of their service through the dissemination of manifestly illegal content, such as the dissemination of child sexual abuse material. A second category concerns the impact of the service on the exercise of fundamental rights, as protected by the Charter of Fundamental Rights, including the freedom of expression and information, including freedom and pluralism of media, the right to private life, the right to non-discrimination and the rights of the child. Such risks may arise, for example, in relation to the design of the algorithmic systems used by the very large
A significant systematic risk where access to such content may be amplified through accounts with a particularly wide reach. A second category concerns the impact of the service on the exercise of fundamental rights, as protected by the Charter of Fundamental Rights, including the freedom of expression and information, the right to private life, the right to non-discrimination and the rights of the child. Such risks may arise, for example, in relation to the design of the algorithmic systems used by the very large online platform or the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition. A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform’s service, with a foreseeable impact on fundamental rights. Such risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or incompatible with an online platform’s terms and conditions.

Amendment 220
Irena Joveva

Proposal for a regulation
Recital 57

*Text proposed by the Commission*

(57) Three categories of systemic risks should be assessed in-depth. A first category concerns the risks associated with online platform or the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition. A third category concerns the malfunctioning or intentional and, oftentimes, coordinated manipulation of the platform’s service, with a foreseeable impact on fundamental rights. Such risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated exploitation of the service.

Or. en
the misuse of their service through the dissemination of illegal content, such as the dissemination of child sexual abuse material or illegal hate speech, and the conduct of illegal activities, such as the sale of products or services prohibited by Union or national law, including counterfeit products. For example, and without prejudice to the personal responsibility of the recipient of the service of very large online platforms for possible illegality of his or her activity under the applicable law, such dissemination or activities may constitute a significant systematic risk where access to such content may be amplified through accounts with a particularly wide reach. A second category concerns the impact of the service on the exercise of fundamental rights, as protected by the Charter of Fundamental Rights, including the freedom of expression and information, the right to private life, the right to non-discrimination and the rights of the child. Such risks may arise, for example, in relation to the design of the algorithmic systems used by the very large online platform or the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition. A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform’s service, with a foreseeable impact on health, civic discourse, electoral processes, public security and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or incompatible with an online platform’s terms and conditions.
risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or incompatible with an online platform’s terms and conditions.

Or. en

Amendment 221
Martina Michels, Alexis Georgoulis

Proposal for a regulation
Recital 57

Text proposed by the Commission

(57) Three categories of systemic risks should be assessed in-depth. A first category concerns the risks associated with the misuse of their service through the dissemination of illegal content, such as the dissemination of child sexual abuse material or illegal hate speech, and the conduct of illegal activities, such as the sale of products or services prohibited by Union or national law, including counterfeit products. For example, and without prejudice to the personal responsibility of the recipient of the service of very large online platforms for possible illegality of his or her activity under the applicable law, such dissemination or activities may constitute a significant systematic risk where access to such content may be amplified through accounts with a particularly wide reach. A second category concerns the impact of the service on the exercise of fundamental rights, as protected by the Charter of Fundamental Rights, including the freedom of expression and information, the right to private life, the right to non-discrimination and the rights of the child. Such risks may arise, for example, in relation to the

Amendment

(57) Three categories of systemic risks should be assessed in-depth. A first category concerns the risks associated with the misuse of their service through the dissemination of illegal content, such as the dissemination of child sexual abuse material or illegal hate speech, and the conduct of illegal activities, such as the sale of products or services prohibited by Union or national law, including counterfeit products. For example, and without prejudice to the personal responsibility of the recipient of the service of very large online platforms for possible illegality of his or her activity under the applicable law, such dissemination or activities may constitute a significant systematic risk where access to such content may be amplified through accounts with a particularly wide reach. A second category concerns the impact of the service on the exercise of fundamental rights, as protected and guaranteed by the Charter of Fundamental Rights, including the freedom of expression and information, the right to private life, the right to non-discrimination, the rights of the child and the protection of women from doxing and
design of the algorithmic systems used by the very large online platform or the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition. A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform’s service, with a foreseeable impact on health, civic discourse, electoral processes, public security and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or incompatible with an online platform’s terms and conditions.

gender-specific cybermobbing, which in many Member States are still not even classified as specific criminal offences. Such risks may, for example, be incorporated in the basic programming of the algorithms used by the very large online platform or arise from the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition and the freedom to exercise a profession.

A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform’s service, with a foreseeable impact on health, civic discourse, electoral processes, public security and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or incompatible with an online platform’s terms and conditions.

Or. de

Amendment 222
Laurence Farreng

Proposal for a regulation
Recital 57

Text proposed by the Commission

(57) Three categories of systemic risks should be assessed in-depth. A first category concerns the risks associated with the misuse of their service through the dissemination of illegal content, such as the dissemination of child sexual abuse material or illegal hate speech, and the conduct of illegal activities, such as the dissemination of illegal content or information that is illegal content or incompatible with an online platform’s terms and conditions.

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Amendment 223

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EN
Ibán García Del Blanco, Marcos Ros Sempere, Domèneç Ruiz Devesa

Proposal for a regulation
Recital 57

Text proposed by the Commission
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Justification

The Charter of Fundamental Rights of the European Union lists other fundamental rights that are relevant to the DSA, which should be mentioned as well. This is especially important as per the constant jurisprudence of the Court of Justice of the EU, no fundamental right ranks above the others, meaning that all of them must be taken into account and balanced between each other.