28.10.2021

OPINION

of the Committee on Economic and Monetary Affairs

for the Committee on the Internal Market and Consumer Protection


Rapporteur for opinion: Stéphanie Yon-Courtin

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

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

Amendment 1

Proposal for a regulation
Recital 1

Text proposed by the Commission

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

Amendment

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

Amendment 2

Proposal for a regulation
Recital 4

Text proposed by the Commission

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

Amendment

(4) The combination of those features of gatekeepers is likely to lead in many cases to serious imbalances in bargaining power and, consequently, to unfair practices and conditions for business users as well as end users of core platform services provided by gatekeepers, to the detriment of prices, quality, privacy, security standards, funding of traditional publishers, choice and innovation therein.
Amendment 3

Proposal for a regulation
Recital 6

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

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

Amendment 4

Proposal for a regulation
Recital 7

Text proposed by the Commission
(7) Therefore, business users and end-users of core platform services provided by gatekeepers should be afforded appropriate regulatory safeguards throughout the Union against the unfair behaviour of gatekeepers in order to facilitate cross-border business within the Union and thereby improve the proper functioning of the internal market and to address existing or likely emerging fragmentation in the

Amendment
(7) Therefore, the objective of this Regulation is to contribute to the proper functioning of the internal market, by increasing the level of consumer protection, by establishing rules that ensure contestability and fairness for the digital section in general, as well as for business users and end-users of core platform services provided by gatekeepers in particular. Business users and end-users
specific areas covered by this Regulation. Moreover, while gatekeepers tend to adopt global or at least pan-European business models and algorithmic structures, they can adopt, and in some cases have adopted, different business conditions and practices in different Member States, which is liable to create disparities between the competitive conditions for the users of core platform services provided by gatekeepers, to the detriment of integration within the internal market.

Amendment 5
Proposal for a regulation
Recital 9

Text proposed by the Commission

(9) A fragmentation of the internal market can only be effectively averted if Member States are prevented from applying national rules which are specific to the types of undertakings and services covered by this Regulation. At the same time, since this Regulation aims at complementing the enforcement of competition law, it should be specified that this Regulation is without prejudice to Articles 101 and 102 TFEU, to the corresponding national competition rules and to other national competition rules regarding unilateral behaviour that are based on an individualised assessment of market positions and behaviour, including its likely effects and the precise scope of the prohibited behaviour, and which provide for the possibility of undertakings

Amendment

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

Amendment 6
Proposal for a regulation
Recital 10

**Text proposed by the Commission**

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

**Amendment**

(10) Articles 101 and 102 TFEU and the corresponding national competition rules concerning anticompetitive multilateral and unilateral conduct have as their objective the protection of undistorted competition on the market. This Regulation pursues an objective that is complementary to, but different from that of protecting undistorted competition on any given market, as defined in competition-law terms, which is to ensure that markets where gatekeepers are present are and remain contestable and fair, and the respective rights of business users and end users are protected, independently from the actual, likely or presumed effects of the conduct of a given gatekeeper covered by this Regulation on competition on a given market. This Regulation therefore aims at protecting a different legal interest from those rules and **at**
complementing their application.

Amendment 7
Proposal for a regulation
Recital 13

Text proposed by the Commission

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

Amendment

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

Amendment 8
Proposal for a regulation
Recital 13 a (new)

Text proposed by the Commission

Amendment

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

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

Text proposed by the Commission

Amendment

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

Amendment 10
Proposal for a regulation
Recital 15

Text proposed by the Commission

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

Amendment

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

Amendment 11
Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) In order to ensure the effective application of this Regulation to providers of core platform services which are most likely to satisfy these objective requirements, and where unfair conduct

Amendment

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

Amendment 12
Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) A very significant turnover in the Union and the provision of a core platform service in at least three Member States constitute compelling indications that the provider of a core platform service has a significant impact on the internal market. This is equally true where a provider of a core platform service in at least three Member States has a very significant market capitalisation or equivalent fair market value. Therefore, a provider of a core platform service should be presumed to have a significant impact on the internal market where it provides a core platform service in at least three Member States and where either its group turnover realised in the EEA is equal to or exceeds a specific, high threshold or the market capitalisation of the group is equal to or exceeds a certain high absolute value. For providers of core platform services that belong to undertakings that are not publicly listed, the equivalent fair market value above a certain high absolute value should be referred to. The Commission should use its power to adopt delegated acts to develop an objective methodology to calculate that value. A high EEA group turnover in conjunction with the threshold of users in the Union of core platform services reflects

Amendment

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

Amendment 13
Proposal for a regulation
Recital 20 a (new)

Text proposed by the Commission

Amendment

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

Amendment 14
Proposal for a regulation
Recital 21

**Text proposed by the Commission**

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

**Amendment**

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

Amendment 15

Proposal for a regulation

Recital 23

**Text proposed by the Commission**

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

**Amendment**

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

Amendment 16
Proposal for a regulation
Recital 24

Text proposed by the Commission

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

Amendment

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

Amendment 17
Proposal for a regulation
Recital 26

Text proposed by the Commission

(26) A particular subset of rules should apply to those providers of core platform services that are foreseen to enjoy an entrenched and durable position in the near future. The same specific features of core

Amendment

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

Amendment 18
Proposal for a regulation
Recital 29

Text proposed by the Commission

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

Amendment

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

Amendment 19
Proposal for a regulation
Recital 30
(30) The very rapidly changing and complex technological nature of core platform services requires a regular review of the status of gatekeepers, including those that are foreseen to enjoy a durable and entrenched position in their operations in the near future. To provide all of the market participants, including the gatekeepers, with the required certainty as to the applicable legal obligations, a time limit for such regular reviews is necessary. It is also important to conduct such reviews on a regular basis and at least every two years.

Amendment

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

Amendment 20

Proposal for a regulation
Recital 31

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

Amendment

(31) To ensure the effectiveness of the review of gatekeeper status as well as the possibility to adjust the list of core platform services provided by a gatekeeper, the gatekeepers should inform the Commission and competent national authorities of all of their intended and concluded acquisitions prior to their implementation and provide evidence and comprehensible information to prove that the intended concentration would not endanger the contestability of the relevant markets. Such information should not only serve the review process mentioned above, regarding the status of individual gatekeepers, but will also provide information that is crucial to monitoring broader contestability trends in the markets.
foreseen by this Regulation. where gatekeepers operate, in particular in the digital sector and can therefore be a useful factor including for consideration in the context of the market investigations performed by the Commission as provided by this Regulation and under Council Regulation (EC) No 139/2004 (EC Merger Regulation), as well as trigger behavioural or structural remedies on gatekeepers to restore contestability and fairness on digital markets.

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

Text proposed by the Commission

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

Amendment 22
Proposal for a regulation
Recital 32

Text proposed by the Commission

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

(33) The obligations laid down in this Regulation are limited to what is necessary and justified to address the unfairness of the identified practices by gatekeepers and to ensure contestability in relation to core platform services provided by gatekeepers. Therefore, the obligations should

Amendment 23

Proposal for a regulation
Recital 33

Text proposed by the Commission

(33) The obligations laid down in this Regulation are limited to what is necessary and justified to address the unfairness of the identified practices by gatekeepers and to ensure contestability in relation to core platform services provided by gatekeepers.

Amendment

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

Amendment 24
Proposal for a regulation
Recital 36

Text proposed by the Commission

(36) The conduct of combining end user data from different sources or signing in users to different services of gatekeepers gives them potential advantages in terms of accumulation of data, thereby raising barriers to entry. To ensure that gatekeepers do not unfairly undermine the
correspond to those practices that are considered unfair by taking into account the features of the digital sector and where experience gained, for example in the enforcement of the EU competition rules, shows that they have a particularly negative direct impact on the business users and end users. The obligations laid down in this Regulation should take into account the specific nature of the core platform services provided. In addition, it is necessary to provide for the possibility of a regulatory dialogue with gatekeepers to tailor those obligations that are likely to require specific implementing measures in order to ensure their effectiveness and proportionality. The obligations should only be updated after a thorough investigation on the nature and impact of specific practices that may be newly identified, following an in-depth investigation, as unfair or limiting contestability in the same manner as the unfair practices laid down in this Regulation while potentially escaping the scope of the current set of obligations. In order to enhance the effectiveness of the updating process, the Commission should also use the reporting mechanism involving competitors, business users, end users and Member States to inform the Commission in the event of any of the identified practices.

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

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

Proposal for a regulation
Recital 37

Text proposed by the Commission

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

Amendment

(37) Because of their position, gatekeepers might in certain cases restrict the ability of business users of their online intermediation services to offer their goods or services to end users under more favourable conditions, including price or availability, through other distribution channels. Such restrictions have a significant deterrent effect on the business users of gatekeepers in terms of their use of alternative distribution channels, limiting inter-platform contestability, which in turn limits choice of alternative distribution channels for end users. To ensure that business users of online intermediation services of gatekeepers can freely choose alternative online intermediation services and differentiate the conditions under which they offer their products or services to their end users, it should be prohibited for gatekeepers to limit business users from choosing to differentiate commercial conditions, including price. Such a restriction should apply to any measure with equivalent effect, such as for example increased commission rates, de-listing or less favourable ranking of the offers of business users.

Amendment 26

Proposal for a regulation
Recital 37 a (new)

Text proposed by the Commission

(37a) Requiring business users or end users to subscribe or register with another

Amendment

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

Amendment 27

Proposal for a regulation

Recital 39

Text proposed by the Commission

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

Amendment

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

**Amendment 28**

**Proposal for a regulation**

Recital 40

*Text proposed by the Commission*

(40) Identification services are crucial for business users to conduct their business, as these can allow them not only to optimise services, to the extent allowed under Regulation (EU) 2016/679 and Directive 2002/58/EC of the European Parliament and of the Council\(^3^3\), but also to inject trust in online transactions, in compliance with Union or national law. Gatekeepers should therefore not use their position as provider of core platform services to require their dependent business users to include any identification services provided by the gatekeeper itself as part of the provision of services or products by these business users to their end users, where other identification services are available to such business users.

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**Amendment**

(40) Identification and payment services are crucial for the economic development of business users, as these can allow them not only to optimise services, to the extent allowed under Regulation (EU) 2016/679 and Directive 2002/58/EC of the European Parliament and of the Council\(^3^3\), but also to inject trust in online transactions, in compliance with Union or national law. Gatekeepers should therefore not use their position as provider of core platform services to require their dependent business users to include any payment and identification services provided by the gatekeeper itself as part of the provision of services or products by these business users to their end users, where other identification services are available to such business users.

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Proposal for a regulation
Recital 41

Text proposed by the Commission

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

Amendment

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

Amendment 30

Proposal for a regulation
Recital 42

Text proposed by the Commission

(42) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This opacity is partly linked to the practices of a few platforms, but is also due to the sheer complexity of modern day programmatic advertising. The sector is considered to have become more non-transparent after the introduction of new privacy legislation, and is expected to become even more opaque with the announced removal of third-party cookies. This often leads to a lack of information and knowledge for advertisers and publishers about the conditions of the advertising services they provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This opacity is partly linked to the practices of a few platforms, but is also due to the sheer complexity of modern day programmatic advertising. The sector is considered to have become more non-transparent after the introduction of new privacy legislation, and is expected to become even more opaque with the announced removal of third-party cookies and through unilateral decision-making by industry actors that are not representative of the entire advertising value chain. This often leads
purchased and undermines their ability to switch to alternative providers of online advertising services. Furthermore, the costs of online advertising are likely to be higher than they would be in a fairer, more transparent and contestable platform environment. These higher costs are likely to be reflected in the prices that end users pay for many daily products and services relying on the use of online advertising. Transparency obligations should therefore require gatekeepers to provide advertisers and publishers to whom they supply online advertising services, when requested and to the extent possible, with information that allows both sides to understand the price paid for each of the different advertising services provided as part of the relevant advertising value chain.

to a lack of information and knowledge for advertisers and publishers about the conditions of the advertising services they purchased and undermines their ability to switch to alternative providers of online advertising services. Furthermore, the costs of online advertising are likely to be higher than they would be in a fairer, more transparent and contestable platform environment. These higher costs are likely to be reflected in the prices that end users pay for many daily products and services relying on the use of online advertising. Transparency obligations should therefore require gatekeepers to provide advertisers and publishers to whom they supply online advertising services, when requested and to the extent possible, with free of charge, effective, high-quality, continuous and real-time information that allows both sides to understand the price paid for each of the different advertising services provided as part of the relevant advertising value chain, including any deductions and surcharges, as well as information on the availability and visibility of advertisements, on price-setting mechanisms and schemes for the calculation of those prices and remuneration and on all non-price criteria in the auction process. That should include comprehensive information regarding the methodology for calculating any prices and fees and its application in relation to the respective bids submitted by an advertiser or publisher for each of the advertising intermediation services provided. Furthermore, the gatekeeper should subject the auction-based matching of advertising demand and submit to regular independent audits to ascertain that the outcome of such auctions corresponds to the bids made and the fees charged reflect the pricing information provided by the gatekeeper.
Amendment 31
Proposal for a regulation
Recital 46

Text proposed by the Commission

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

Amendment

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

Amendment 32
Proposal for a regulation
Recital 46 a (new)

Text proposed by the Commission

(46a) Securing default positions across the main search access points of an operating system, such as the pre-installed browser, the home screen search bar, or the voice assistant, can entrench the dominant position of an established core platform service and prevent contestability of digital markets. Even where users can change the default manually, they rarely do so, due to behavioural bias. In order to ensure contestability, when they set up their device, end users should be able to select their preferred core platform service default through a preference menu of relevant available competing services based on a mix of criteria that enables new entrants to be shown on that menu. End users should be able to access that
Amendment 33

Proposal for a regulation
Recital 47

Text proposed by the Commission

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

Amendment

(47) The rules that the gatekeepers set for the distribution of software applications may in certain circumstances restrict the ability of end users to install and effectively use third party software applications or software application stores on operating systems or hardware of the relevant gatekeeper and restrict the ability of end users to access these software applications or software application stores outside the core platform services of that gatekeeper. Such restrictions may limit the ability of developers of software applications to use alternative distribution channels and the ability of end users to choose between different software applications from different distribution channels and should be prohibited as unfair and liable to weaken the contestability of core platform services. The end user should be able to decide which software application or software application store should become the default. Additionally, end users should be given the ability to easily change the default settings on their operating system when they download a new application. Such a change, once made, should apply on all pre-set access points through which the service provided via the application can be accessed or used. In order to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper the gatekeeper concerned may implement proportionate technical or contractual measures to achieve that goal if the gatekeeper demonstrates that such
measures are necessary and justified and that there are no less restrictive means to safeguard the integrity of the hardware or operating system.

Amendment 34
Proposal for a regulation
Recital 48

Text proposed by the Commission

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

Amendment

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

Amendment 35

Proposal for a regulation
Recital 50

**Text proposed by the Commission**

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

**Amendment**

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

Amendment 36

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

Amendment 37
Proposal for a regulation
Recital 51 a (new)

Text proposed by the Commission

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

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

Text proposed by the Commission

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

Amendment

Proposal for a regulation
Recital 52

Text proposed by the Commission

(52) Gatekeepers may also have a dual role as developers of operating systems and device manufacturers, including any technical functionality that such a device may have. For example, a gatekeeper that is a manufacturer of a device may restrict access to some of the functionalities in this device, such as near-field-communication technology and the software used to operate that technology, which may be required for the effective provision of an ancillary service by the gatekeeper as well as by any potential third party provider of such an ancillary service. Such access may equally be required by software applications related to the relevant ancillary services in order to effectively provide similar functionalities as those offered by gatekeepers. If such a dual role is used in a manner that prevents alternative providers of ancillary services or of software applications to have access under equal conditions to the same operating system, hardware or software...
features that are available or used in the provision by the gatekeeper of any ancillary services, this could significantly undermine innovation by providers of such ancillary services as well as choice for end users of such ancillary services. The gatekeepers should therefore be obliged to ensure access under equal conditions to, and interoperability with, the same operating system, hardware or software features that are available or used in the provision of any ancillary services by the gatekeeper.

Access under equal conditions comprises conditions of technical, legal, economic or any other nature. The gatekeeper should not be prevented from taking indispensable measures to ensure that third party ancillary services do not compromise the integrity of the operating system, hardware or software features it provides. The gatekeeper should however be obliged to duly justify such indispensable measures and provide, free of charge, an alternative access and interoperability solution to enable effective provision of ancillary services.

Amendment 40
Proposal for a regulation
Recital 53

Text proposed by the Commission

(53) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This often leads to a lack of information for advertisers and publishers about the effect of a given ad. To further enhance fairness, transparency and contestability of online advertising services designated under this Regulation as well as those that are fully integrated with other core platform services of the same provider, the designated gatekeepers should therefore provide advertisers and
publishers, when requested, with free of charge access to the performance measuring tools of the gatekeeper and the information necessary for advertisers, advertising agencies acting on behalf of a company placing advertising, as well as for publishers to carry out their own independent verification of the provision of the relevant online advertising services.
ability of business users to effectively port their data, business users and end users should be granted effective and immediate access to the data they provided or generated in the context of their use of the relevant core platform services of the gatekeeper, in a structured, commonly used and machine-readable format. This should apply also to any other data at different levels of aggregation that may be necessary to effectively enable such portability. It should also be ensured that business users and end users can port that data in real time effectively, such as for example through high quality application programming interfaces. Facilitating switching or multi-homing should lead, in turn, to an increased choice for business users and end users and an incentive for gatekeepers and business users to innovate.

Amendment 42
Proposal for a regulation
Recital 57

Text proposed by the Commission

(57) In particular gatekeepers which provide access to software application stores serve as an important gateway for business users that seek to reach end users. In view of the imbalance in bargaining power between those gatekeepers and business users of their software application stores, those gatekeepers should not be allowed to impose general conditions, including pricing conditions, that would be unfair or lead to unjustified differentiation. Pricing or other general access conditions should be considered unfair if they lead to an imbalance of rights and obligations imposed on business users or confer an advantage on the gatekeeper which is

Amendment

(57) Gatekeepers which provide access to core platform services serve as an important gateway for business users that seek to reach end users. In view of the imbalance in bargaining power between those gatekeepers on the one hand and business users of their core platform services, especially those that are SMEs on a given sectorial market, such as small press publishers, particularly when accessing online search engine and online social networks, on the other hand, those gatekeepers should not be allowed to impose general conditions, including pricing conditions, data usage conditions or conditions related to the licensing of
disproportionate to the service provided by the gatekeeper to business users or lead to a disadvantage for business users in providing the same or similar services as the gatekeeper. The following benchmarks can serve as a yardstick to determine the fairness of general access conditions: prices charged or conditions imposed for the same or similar services by other providers of software application stores; prices charged or conditions imposed by the provider of the software application store for different related or similar services or to different types of end users; prices charged or conditions imposed by the provider of the software application store for the same service in different geographic regions; prices charged or conditions imposed by the provider of the software application store for the same service the gatekeeper offers to itself. This obligation should not establish an access right and it should be without prejudice to the ability of providers of software application stores to take the required responsibility in the fight against illegal and unwanted content as set out in Regulation [Digital Services Act].

The following benchmarks can serve as a yardstick to determine the fairness of general access conditions: prices charged or conditions imposed for the same or similar services by other providers of software application stores; prices charged or conditions imposed by the provider of the software application store for different related or similar services or to different types of end users; prices charged or conditions imposed by the provider of the software application store for the same service in different geographic regions; prices charged or conditions imposed by the provider of the software application store for the same service the gatekeeper offers to itself. This obligation should not establish an access right and it should be without prejudice to the ability of providers of software application stores to take the required responsibility in the fight against illegal and unwanted content as set out in Regulation [Digital Services Act].

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

Amendment 43
Proposal for a regulation
Recital 58

Text proposed by the Commission

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

Amendment

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

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

Text proposed by the Commission

(58a) The Commission should also have the power to swiftly adopt decisions in case of non-compliance of a gatekeeper with the obligations laid down in this Regulation. In taking such decisions, the Commission should be allowed to specify the measures that would be needed to ensure full compliance with this Regulation and restore the contestability of digital markets when it has been
Amendment 45

Proposal for a regulation
Recital 59

Text proposed by the Commission

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

Amendment

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

Amendment 46

Proposal for a regulation
Recital 59 a (new)

Text proposed by the Commission

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

Amendment
Amendment 47

Proposal for a regulation
Recital 61

Text proposed by the Commission

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

Amendment

(61) The data protection and privacy interests of end users are relevant to any assessment of potential negative effects of the observed practice of gatekeepers to collect and accumulate large amounts of data from end users. \textbf{Artificial Intelligence could be used to nudge users to engage in certain actions or predict their actions without necessarily profiling them. The power of Big Data Artificial Intelligence that is exclusively developed or brought up by undertakings which engage with gatekeepers position and practices should not be neglected.}

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

Amendment 48
Proposal for a regulation
Recital 62

Text proposed by the Commission

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

Amendment

(62) In order to ensure the full and lasting achievement of the objectives of this Regulation, the Commission should be able to assess whether a provider of core platform services should be designated as a gatekeeper without meeting the quantitative thresholds laid down in this Regulation; whether systematic non-compliance by a gatekeeper warrants imposing additional remedies; and whether the list of obligations addressing unfair practices by gatekeepers should be reviewed and additional practices that are similarly unfair and limiting the contestability of digital markets should be identified. Such assessment should be based on market investigations to be run in an appropriate timeframe, by using clear procedures and legally binding deadlines, in order to support the ex ante effect of this Regulation on contestability and fairness in the digital sector, and to provide the requisite degree of legal certainty.
Amendment 49
Proposal for a regulation
Recital 63

Text proposed by the Commission

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

Amendment

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

Amendment 50
Proposal for a regulation
Recital 64

Text proposed by the Commission

(64) The Commission should investigate and assess whether additional behavioural, or, where appropriate, structural remedies are justified, in order to ensure that the gatekeeper cannot frustrate the objectives

Amendment

(64) The Commission should investigate and assess whether structural remedies or equally effective behavioural remedies are justified, in order to ensure that the gatekeeper cannot frustrate the objectives
of this Regulation by systematic non-compliance with one or several of the obligations laid down in this Regulation, which has further strengthened its gatekeeper position. This would be the case if the gatekeeper’s size in the internal market has further increased, economic dependency of business users and end users on the gatekeeper’s core platform services has further strengthened as their number has further increased and the gatekeeper benefits from increased entrenchment of its position. The Commission should therefore in such cases have the power to impose any remedy, whether behavioural or structural, having due regard to the principle of proportionality. Structural remedies, such as legal, functional or structural separation, including the divestiture of a business, or parts of it, should only be imposed either where there is no equally effective behavioural remedy or where any equally effective behavioural remedy would be more burdensome for the undertaking concerned than the structural remedy. Changes to the structure of an undertaking as it existed before the systematic non-compliance was established would only be proportionate where there is a substantial risk that this systematic non-compliance results from the very structure of the undertaking concerned.

Amendment 51

Proposal for a regulation
Recital 65 a (new)

Text proposed by the Commission  

Amendment

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

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

Text proposed by the Commission

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

Amendment 53
Proposal for a regulation
Recital 67

Text proposed by the Commission

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

gatekeeper concerned, where it finds that the commitments ensure effective compliance with the obligations of this Regulation. Before the adoption of such a decision, the Commission should be empowered, where appropriate, to require the commitments to be tested, including A/B testing in order to optimise their effectiveness. The commitments should be reviewed after they have been in place for an appropriate period. Should the review of the commitments by the Commission show ineffective compliance, the Commission should be empowered to require modification or revoke the ineffective remedies.

Amendment 54

Proposal for a regulation
Recital 68

Text proposed by the Commission

(68) In order to ensure effective implementation and compliance with this Regulation, the Commission should have strong investigative and enforcement powers, to allow it to investigate, enforce and monitor the rules laid down in this Regulation, while at the same time ensuring the respect for the fundamental right to be heard and to have access to the file in the context of the enforcement proceedings. The Commission should dispose of these investigative powers also for the purpose of carrying out market investigations for the purpose of updating and reviewing this Regulation.

Amendment

(68) In order to ensure effective implementation and compliance with this Regulation, the Commission should have strong investigative and enforcement powers, to allow it to investigate, enforce and monitor the rules laid down in this Regulation, while at the same time ensuring the respect for the fundamental right to be heard and to have access to the file in the context of the enforcement proceedings. The Commission should dispose of these investigative powers also for the purpose of carrying out market investigations for the purpose of updating and reviewing this Regulation. National competent authorities should assist the Commission in monitoring and enforcing obligations laid down in this Regulation by providing support and expertise to the Commission or by requesting the Commission to open a market investigation based on evidence collected.
Amendment 55

Proposal for a regulation
Recital 70

*Text proposed by the Commission*

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

*Amendment*

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

Amendment 56

Proposal for a regulation
Recital 71 a (new)

*Text proposed by the Commission*

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

*Amendment*

(71a) The Commission should be empowered to request the assistance of Member State authorities. The relevant national authorities might include competition authorities, consumer protection authorities, data protection authorities and other relevant national regulators. It should likewise be possible for those bodies in each Member State to forward to the Commission any information which might be relevant in this context.
Proposal for a regulation  
Recital 72

**Text proposed by the Commission**

(72) The Commission should be able to take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in this Regulation. Such actions should include the ability of the Commission to appoint independent external experts, such as and auditors to assist the Commission in this process, including where applicable from competent independent authorities, such as data or consumer protection authorities.

**Amendment**

(72) The Commission should be able to take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in this Regulation. Such actions should include the ability of the Commission to appoint independent external experts, such as and auditors to assist the Commission in this process, including where applicable from competent independent authorities, such as data or consumer protection authorities. 

*The experts may be embedded within the gatekeeper to ensure the monitoring process. Considering the large number of business and end users of gatekeepers’ core platform services might result in exponentially larger number of non-compliance practices, cases and scenarios, a reporting mechanism for business and end users would facilitate the Commission in the swift identification of systemic non-compliance by gatekeepers. Such a reporting practice would additionally reduce the need for formal litigation practices and thus reduce the burden in national courts as well as the European Court of Justice.*

**Amendment 58**

Proposal for a regulation  
Recital 72 a (new)

**Text proposed by the Commission**

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

Amendment 59
Proposal for a regulation
Recital 75

Text proposed by the Commission

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

Amendment

(75) In the context of proceedings carried out under this Regulation, the undertakings concerned should be accorded the right to be heard by the Commission and the decisions taken should be widely publicised. Parties that are directly affected by the obligations under Articles 5 and 6 should also have the right to be heard, as well as organisations representing consumers’ interests where the proceedings concern products or services provided to end users. While ensuring the rights to good administration and the rights of defence of the undertakings concerned, in particular, the right of access to the file and the right to be heard, it is essential that confidential information be protected. Furthermore, while respecting the confidentiality of the information, the Commission should ensure that any information relied on for the purpose of the decision is disclosed to an extent that allows the addressee of the decision to understand the facts and considerations that led up to the decision. Finally, under certain conditions certain business records, such as communication between lawyers and their clients, may be considered confidential if the relevant conditions are met.

Amendment 60
Proposal for a regulation
Recital 77
(77) The advisory committee established in accordance with Regulation (EU) No 182/2011 should also deliver opinions on certain individual decisions of the Commission issued under this Regulation. In order to ensure contestable and fair markets in the digital sector across the Union where gatekeepers are present, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to supplement this Regulation. In particular, delegated acts should be adopted in respect of the methodology for determining the quantitative thresholds for designation of gatekeepers under this Regulation and in respect of the update of the obligations laid down in this Regulation where, based on a market investigation the Commission has identified the need for updating the obligations addressing practices that limit the contestability of core platform services or are unfair. It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.


Amendment 61
Proposal for a regulation
Recital 78

Text proposed by the Commission

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

Amendment

(78) The Commission should periodically evaluate this Regulation and closely monitor its effects on the contestability and fairness of commercial relationships in the online platform economy, in particular with a view to determining the need for amendments in light of relevant technological or commercial developments. This evaluation should include the regular review of the list of core platform services and the obligations addressed to gatekeepers as well as enforcement of these, in view of ensuring that digital markets across the Union are contestable and fair. In order to obtain a broad view of developments in the sector, the evaluation should take into account the experiences of Member States and relevant stakeholders. The Commission may in this regard also consider the opinions and reports presented to it by the Observatory on the Online Platform Economy that was first established by Commission Decision C(2018)2393 of 26 April 2018. Following the evaluation, the Commission should take appropriate measures. The Commission should maintain a high level of protection and respect for the common EU rights and values, particularly equality and non-discrimination, as an objective when conducting the assessments and reviews of the practices and obligations provided in this Regulation. The Commission should also consider whether this Regulation should be added to the Annex of Directive (EU) 2020/1828 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC.
Amendment 62

Proposal for a regulation
Article 1 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 63

Proposal for a regulation
Article 1 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 64

Proposal for a regulation
Article 1 – paragraph 6

Text proposed by the Commission

6. This Regulation is without prejudice to the application of Articles 101 and 102 TFEU. It is also without prejudice to the application of: national rules prohibiting anticompetitive agreements, decisions by associations of undertakings,

Amendment

6. This Regulation is without prejudice to the application of Articles 101 and 102 TFEU. It is also without prejudice to the application of: national rules prohibiting anticompetitive agreements, decisions by associations of undertakings,
concerted practices and abuses of dominant positions; national competition rules prohibiting other forms of unilateral conduct insofar as they are applied to undertakings other than gatekeepers or amount to imposing additional obligations on gatekeepers; Council Regulation (EC) No 139/2004 and national rules concerning merger control; Regulation (EU) 2019/1150 and Regulation (EU) …/.. of the European Parliament and of the Council39.


Amendment 65

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

Text proposed by the Commission

Amendment

(ca) web browsers;

Amendment 66

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

Text proposed by the Commission

Amendment

(cb) virtual assistants;
Amendment 67
Proposal for a regulation
Article 2 – paragraph 1 – point 2 – point g

Text proposed by the Commission

(g) cloud computing services;

Amendment

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

Amendment 68
Proposal for a regulation
Article 2 – paragraph 1 – point 2 – point h

Text proposed by the Commission

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

Amendment

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

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

Text proposed by the Commission

(3a) ‘Virtual assistant’ means software that responds to oral or written commands expressed in non-technical natural language by end users and performs tasks or services, such as search queries or accessing and interacting with other digital services on behalf of the end user, independently or through IT systems including voice based apps and voice assistants;
Amendment 70

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

Text proposed by the Commission

Amendment

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

Amendment 71

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

Text proposed by the Commission

Amendment

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

Amendment 72

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

Text proposed by the Commission

Amendment

(14) ‘Ancillary service’ means services provided in the context of or together with core platform services, including payment services as defined in point 3 of Article 4 and technical services which support the provision of payment services as defined in Article 3(j) of Directive (EU) 2015/2366, fulfilment, identification or advertising services;
Amendment 73
Proposal for a regulation
Article 2 – paragraph 1 – point 14 a (new)

Text proposed by the Commission

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

Amendment 74
Proposal for a regulation
Article 2 – paragraph 1 – point 18

Text proposed by the Commission

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

Amendment

(18) ‘Ranking’ means the relative prominence given to goods or services offered or provided through online intermediation services, operating systems, video-sharing platform services, web browsers, including software application stores and virtual assistants, or online social networking services, or the relevance given to search results by online search engines, as presented, organised or communicated by the providers of such services respectively, whatever the technological means used for such presentation, organisation or communication;
Proposal for a regulation
Article 2 – paragraph 1 – point 18 a (new)

Text proposed by the Commission

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

Amendment 76

Proposal for a regulation
Article 2 – paragraph 1 – point 22 a (new)

Text proposed by the Commission

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

Amendment 77

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

Text proposed by the Commission

(23a) "Consent" of the data subject means any freely given, specific, informed and unambiguous indication of the data subject's wishes as defined in Article 4(11) of Regulation (EU) 2016/679;
Amendment 78
Proposal for a regulation
Article 2 – paragraph 1 – point 23 b (new)

Text proposed by the Commission

(23b) ‘Turnover’ means the amount derived by an undertaking as set out in Article 5(1) of Regulation (EC) No 139/2004;

Amendment

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

Text proposed by the Commission

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

Amendment

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

Amendment 80
Proposal for a regulation
Article 3 – paragraph 1 – point c

Text proposed by the Commission

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

Amendment

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

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

Text proposed by the Commission

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

Amendment

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

last three financial years, or where the average market capitalisation or the equivalent fair market value of the undertaking to which it belongs amounted to at least EUR 65 billion in the last financial year, and it provides a core platform service in at least two Member States;

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

*Text proposed by the Commission*

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

*Amendment*

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

Amendment 83
Proposal for a regulation
Article 3 – paragraph 2 – point b – subparagraph 2

*Text proposed by the Commission*

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

*Amendment*

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

Amendment 84
Proposal for a regulation
Article 3 – paragraph 2 – point c
(c) the requirement in paragraph 1 point (c) where the thresholds in point (b) were met in each of the last three financial years.

Amendment 85

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

Text proposed by the Commission

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

Amendment

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

Amendment 86

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

Text proposed by the Commission

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

Amendment

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

Amendment 87
Proposal for a regulation
Article 3 – paragraph 4 – subparagraph 1

**Text proposed by the Commission**

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

**Amendment**

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

Amendment 88
Proposal for a regulation
Article 3 – paragraph 4 – subparagraph 2

**Text proposed by the Commission**

Where the gatekeeper presents such sufficiently substantiated arguments to

**Amendment**

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

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

Amendment 89
Proposal for a regulation
Article 3 – paragraph 4 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

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

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

Text proposed by the Commission

Amendment

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

Amendment 91

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

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) the size, including turnover and market capitalisation, operations and position of the provider of core platform services;</td>
<td>(a) the size, including turnover and market capitalisation, operations and position of the provider of core platform services, as well as their share of the market relevant to their core platform services;</td>
</tr>
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</table>

Amendment 92

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

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(c) entry barriers derived from network effects and data driven advantages, in particular in relation to the provider’s access to and collection of personal and non-personal data or analytics capabilities;</td>
<td>(c) entry barriers derived from network effects and data driven advantages, in particular in relation to the provider’s access to and collection of personal and non-personal data or analytics capabilities; this would include the employment of data-intelligence to coordinate, organise and control the entire set of activities and actors involved, often described as digital ecosystems.</td>
</tr>
</tbody>
</table>

Amendment 93

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

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(e) business user or end user lock-in;</td>
<td>(e) entrenched lack of choice, business user or end user dependency or lock-in and users’ ability to use similar services simultaneously;</td>
</tr>
</tbody>
</table>
Amendment 94
Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 2 – point f

Text proposed by the Commission

(f) other structural market characteristics.

Amendment

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

Amendment 95
Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 4

Text proposed by the Commission

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

Amendment

Where the provider of a core platform service that satisfies the quantitative thresholds of paragraph 2 fails to comply with the investigative measures ordered by the Commission in within 2 months and the failure persists after the provider has been invited to comply within 3 months and to submit observations, the Commission shall be entitled to designate that provider as a gatekeeper based on the facts available.

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

Text proposed by the Commission

Where the provider of a core platform service that does not satisfy the quantitative thresholds of paragraph 2 fails

Amendment

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

to comply with the investigative measures ordered by the Commission and the failure persists after the provider has been invited to comply within 2 months and to submit observations, the Commission shall be entitled to designate that provider as a gatekeeper based on facts available.

Amendment 97

Proposal for a regulation
Article 3 – paragraph 7

Text proposed by the Commission

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

Amendment

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

Amendment 98

Proposal for a regulation
Article 3 – paragraph 8

Text proposed by the Commission

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

Amendment

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

**Amendment 99**

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

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 100**

Proposal for a regulation
Article 4 – paragraph 3

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 101**

Proposal for a regulation
Article 5 – paragraph 1 – point a
(a) **refrain from combining** personal data sourced from these core platform services with personal data from any other services offered by the gatekeeper or with personal data from third-party services, **and from signing in** end users to other services of the gatekeeper **in order to combine personal data**, unless the end user has been **presented with the specific choice and provided consent in the sense of** Regulation (EU) 2016/679.

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

**Amendment 102**

**Proposal for a regulation**

**Article 5 – paragraph 1 – point b**

**Text proposed by the Commission**

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

**Amendment**

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

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

Text proposed by the Commission

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

Amendment

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

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

Text proposed by the Commission

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

Amendment

(d) not directly or indirectly prevent, restrict or discourage, including by contractual obligations, business users or end users from raising issues with any relevant public authority relating to any practice of gatekeepers;
Amendment 105
Proposal for a regulation
Article 5 – paragraph 1 – point e

Text proposed by the Commission

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

Amendment

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

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

Text proposed by the Commission

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

Amendment

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

Amendment 107
Proposal for a regulation
Article 5 – paragraph 1 – point g

Text proposed by the Commission

(g) provide advertisers and publishers to which it supplies advertising services, upon their request, with information

Amendment

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

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

Amendment 108
Proposal for a regulation
Article 5 – paragraph 1 – point g a(new)

Text proposed by the Commission

Amendment

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

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

Amendment 109
Proposal for a regulation
Article 5 – paragraph 1 – point g b (new)
(gb) not use, directly or by any third party belonging to the same undertaking, in competition with business users and providers of ancillary services, any data not publicly available, which is generated through or in the context of activities by those business users, including by the end users of these business users, via its core platform services or ancillary services or provided by those business users of its core platform services or ancillary services or by the end users of those business users;

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

Amendment 110
Proposal for a regulation
Article 6 – paragraph 1 – point a

Text proposed by the Commission

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

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

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

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

Text proposed by the Commission

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

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

Amendment 112

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

Text proposed by the Commission

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

Amendment

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

Amendment 113
Proposal for a regulation
Article 6 – paragraph 1 – point d

Text proposed by the Commission

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

Amendment

(d) not treat differently, and in particular more favourably, in crawling, indexing, ranking, installation, activation, or equivalent in meaning and result, services and products offered by the gatekeeper itself or by any third party belonging to the same undertaking compared to similar services or products of another third party and apply fair and non-discriminatory conditions to such crawling, indexing, ranking or activation;

Amendment 114
Proposal for a regulation
Article 6 – paragraph 1 – point e

Text proposed by the Commission

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

Amendment

(e) not technically, commercially or operationally restrict the ability of business users or end users to switch between and subscribe to different software applications and services to be accessed, in particular when using the operating system or the cloud computing services of the gatekeeper or when using its virtual assistant, and including as regards the choice of Internet access provider for end users;
Amendment 115

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

Text proposed by the Commission

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

Amendment

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

Amendment 116

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

Text proposed by the Commission

(g) provide advertisers and publishers, upon their request and free of charge, with access to the performance measuring tools

Amendment

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

Amendment 117

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

Text proposed by the Commission

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

Amendment

(h) provide business users, end users or third parties authorised by such users, free of charge, including by implementing appropriate technical and organisational measures, with effective portability of data provided by or generated through or in the context of the activity of a business user or end user and shall, in particular, provide free of charge and technically accessible tools for business users, or third parties authorised by a business user, and end users to facilitate the exercise of data portability of personal data, in line with and building on Regulation EU 2016/679, and of non-personal data, including by the provision of continuous and real-time access;
Amendment 118

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

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

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

Amendment 119

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

Text proposed by the Commission
(j) provide to any third party providers of online search engines, upon their request, with access on fair, reasonable and

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

Amendment 120
Proposal for a regulation
Article 6 – paragraph 1 – point k

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

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

Amendment 121
Proposal for a regulation
Article 6 – paragraph 2

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

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

Amendment 122
Proposal for a regulation
Article 6 – paragraph 2 a (new)
2a. The Commission shall publish the technical specifications for individual gatekeepers, without prejudice to business secrets.

Amendment 123
Proposal for a regulation
Article 6 – paragraph 2 b (new)

Text proposed by the Commission

2b. Before implementing any change in fees or fee structure charged to business users and related to obligations pursuant to paragraph 1, the gatekeeper shall notify such change to the Commission and to the affected business users.

Amendment 124
Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission

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

Amendment

1. The measures implemented by the gatekeeper to ensure full compliance with the obligations laid down in Articles 5 and 6 shall be effective in achieving the objective of the relevant obligation and the objectives of this Regulation, namely safeguarding contestability and fairness for business users as well as end users. The gatekeeper shall be responsible for, and be able to demonstrate full compliance with those obligations (‘accountability’), in particular when defending its measures on the grounds of efficiency. Within six months after its designation and in application of Article 3(8), the gatekeeper shall notify those measures to the Commission and shall provide the Commission with a report describing those measures in a detailed and transparent manner and

Amendment 125

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

Text proposed by the Commission

1a. Within five months after its designation pursuant to Article 3, the gatekeeper shall publish and provide the Commission with a non-confidential summary of the report referred to in paragraph 1 of this Article. The Commission shall publish without delay the non-confidential summary of the report. This non-confidential summary shall be updated each time the report referred to in paragraph 1 of this Article is updated.

Amendment 126

Proposal for a regulation
Article 7 – paragraph 2

Text proposed by the Commission

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

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

Amendment 127

Proposal for a regulation
Article 7 – paragraph 3

Text proposed by the Commission

3. Paragraph 2 of this Article is without prejudice to the powers of the Commission under Articles 25, 26 and 27.

Amendment

3. Paragraph 2 of this Article is without prejudice to the powers of the Commission under Articles 25, 26 and 27. In case of a non-compliance decision under Article 25 resulting in fines and penalties under Article 26 or periodic penalty payments in accordance with Article 27, the period of non-compliance shall be presumed to start from the deadline set under Article 3(8).

Amendment 128

Proposal for a regulation
Article 7 – paragraph 4

Text proposed by the Commission

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

Amendment

4. In view of adopting the decision under paragraph 2, the Commission shall communicate its preliminary findings to the gatekeeper within two months from the opening of the proceedings. In the preliminary findings, the Commission shall explain the measures it considers to take or it considers that the provider of core platform services concerned should take in order to effectively address the preliminary findings. The Commission may consult interested third parties demonstrating sufficient interest when drafting the preliminary findings. The preliminary findings.
findings shall be made public.

Amendment 129
Proposal for a regulation
Article 7 – paragraph 6 a (new)

Text proposed by the Commission

6a. For the purposes of specifying the obligations under point (f) of Article 6(1) the gatekeeper shall, in cooperation with business users and end user representatives, define the open technologies, open standards and open protocols, including the technical interface (Application Programming Interface), that allows end users of competing software and services and business users to connect to the gatekeeper's core service and to interoperate with it, and shall inform the Commission of these technologies, standards and protocols. This is without prejudice to the right of the Commission to apply paragraph 2 of this Article in circumstances where there are concerns that such technologies, standards and protocols would not ensure effective compliance with the obligations laid down in point (f) of Article 6(1).

Amendment 130
Proposal for a regulation
Article 7 – paragraph 7

Text proposed by the Commission

7. A gatekeeper may request the opening of proceedings pursuant to Article 18 for the Commission to determine whether the measures that the gatekeeper intends to implement or has implemented under Article 6 are effective in achieving the objective of the relevant obligation in the specific circumstances. A gatekeeper

Amendment

7. To ensure effective compliance with the obligations laid down in this Regulation, within one month after its effective designation, a gatekeeper may, prior to the implementation deadline of Article 3(8), request the opening of proceedings pursuant to Article 18 for the Commission to determine whether the
may, with its request, provide a reasoned submission to explain in particular why the measures that it intends to implement or has implemented are effective in achieving the objective of the relevant obligation in the specific circumstances. A gatekeeper shall, with its request, provide a reasoned submission to explain in particular why the measures that it intends to implement or has implemented are proportionate and effective in complying with the relevant obligation in the specific circumstances. In the preparation of its position following the request of the gatekeeper, the Commission may consult third parties such as business users and competitors, civil society organisations, national competent authorities and others deemed relevant by the Commission for the respective core platform services which are the subject of the request of the gatekeeper. The Commission may specify the measures that the gatekeeper concerned shall implement and shall adopt its decision within three months after it has received the request of the gatekeeper. A gatekeeper shall continue to comply with all relevant obligations during the proceedings pursuant to Article 18.

Amendment 131

Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission

1. The Commission may, on a reasoned request by the gatekeeper, exceptionally suspend, in whole or in part, a specific obligation laid down in Articles 5 and 6 for a core platform service by decision adopted in accordance with the advisory procedure referred to in Article 32(4), where the gatekeeper demonstrates that compliance with that specific obligation would endanger, due to exceptional circumstances beyond the

Amendment

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

**Amendment 132**

**Proposal for a regulation**

**Article 8 – paragraph 3 – subparagraph 1**

**Text proposed by the Commission**

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

**Amendment**

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

**Amendment 133**

**Proposal for a regulation**

**Article 9 – paragraph 1**

**Text proposed by the Commission**

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

**Amendment**

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

Amendment 134

Proposal for a regulation

Article 9 – paragraph 1 a (new)

Text proposed by the Commission

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

Amendment 135

Proposal for a regulation

Article 10 – paragraph 1

Text proposed by the Commission

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

Amendment 136

Proposal for a regulation

Article 10 – paragraph 1 a (new)

Text proposed by the Commission

1. The Commission is empowered to adopt delegated acts in accordance with Article 37 to supplement the obligations laid down in Articles 5 and 6 where, based on a market investigation pursuant to Article 17, it has identified the need for new obligations addressing practices that limit the contestability of core platform services or are unfair in the same way as the practices addressed by the obligations laid down in Articles 5 and 6.
1a. The delegated acts that supplement the obligations set out in Articles 5 and 6 in accordance with paragraph 1 shall be limited to:

(a) extending any obligation that applies to a certain core platform service or to any other core platform service listed in point (2) of Article 2;

(b) specifying the manner in which the obligations of the gatekeepers under Articles 5 and 6 are to be implemented, including through incorporating the specifications set out in Article 7(2) into the obligations;

(c) extending any obligation that identifies a certain subset of users as beneficiaries to any other subset of users as beneficiaries;

(d) supplementing the obligations with a view to improving the effectiveness of their application.

Amendment 137

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

Text proposed by the Commission

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

Amendment

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

Amendment 138

Proposal for a regulation
Article 11 – paragraph 1
1. A gatekeeper shall ensure that the obligations of Articles 5 and 6 are fully and effectively complied with. While the obligations of Articles 5 and 6 apply in respect of core platform services designated pursuant to Article 3, their implementation shall not be undermined by any behaviour of the undertaking to which the gatekeeper belongs, regardless of whether this behaviour is of a contractual, commercial, technical or any other nature.

Amendment
1. A gatekeeper shall ensure that the obligations of Articles 5 and 6 are fully and effectively complied with. While the obligations of Articles 5 and 6 apply in respect of core platform services designated pursuant to Article 3, their implementation shall not be undermined by any behaviour of the undertaking to which the gatekeeper belongs. *Neither the gatekeeper nor the undertaking to which it belongs shall engage in any behaviour, regardless of whether this behaviour is of a contractual, commercial, technical or any other nature, including product or interface design, structure, function or manner of operation or behavioural techniques, capable of influencing user choice and autonomy or through agreements with third party business partners of the gatekeepers, which is able to have an equivalent object or effect to a behaviour prohibited pursuant to Articles 5 and 6.*

Amendment 139

Proposal for a regulation
Article 11 – paragraph 2

Text proposed by the Commission

2. Where consent for collecting and processing of personal data is required to ensure compliance with this Regulation, a gatekeeper shall take the necessary steps to either enable business users to directly obtain the required consent to their processing, where required under Regulation (EU) 2016/679 and Directive 2002/58/EC, or to comply with Union data protection and privacy rules and principles in other ways including by providing business users with duly anonymised data where appropriate. The gatekeeper shall not make the obtaining of this consent by the business user more burdensome than

Amendment

2. Where consent for collecting, processing and sharing of personal data is required to ensure compliance with this Regulation, a gatekeeper shall take the necessary steps to either enable business users to directly obtain the required consent to their processing and retrieval, where required under Regulation (EU) 2016/679 and Directive 2002/58/EC, or, if such consent is not obtained, to comply with Union data protection and privacy rules and principles in other ways including by providing business users with duly anonymised data. The gatekeeper shall not make the obtaining of this consent
for its own services. by the business user more burdensome than for its own services, including through product design, structure, function or manner of operation capable of influencing user choice and autonomy or through agreements with third party business partners of the gatekeepers, and shall offer users a choice in a neutral way, safeguarding the autonomous decision-making of business users or end users via form, function or operation of the user interface.

In the event that the business user or end user has been presented with the choice of giving consent to the combination of data for a specific processing purpose and has not provided consent, or has withdrawn consent, or the business user’s or end user’s terminal equipment signals his or her objection to the processing of personal data pursuant to Article 21(5) of Regulation (EU) 2016/679, the gatekeeper shall not prompt again a consent request and shall not exclude access to the services nor offer different or degraded services compared to the services offered to a business user or end user that provided consent.

Amendment 140
Proposal for a regulation
Article 11 – paragraph 3

Text proposed by the Commission

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

Amendment

3. A gatekeeper shall not degrade the conditions or quality of any of the core platform services provided to business users or end users who avail themselves of the rights or choices laid down in Articles 5 and 6, or obstruct or make discriminatory the exercise of those rights or choices or make such exercise unduly difficult, including through the use of manipulative choice architectures. The gatekeeper shall not subvert or impair
consumers’ autonomy, decision-making, or choice via the structure, function or manner of operation of their online interface or any part thereof while those consumers are exercising those rights or specific choices.

Amendment 141
Proposal for a regulation
Article 11 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a.  A gatekeeper shall not obstruct or dissuade end users from switching to other software applications and services nor directly or indirectly circumvent any of the obligations laid down in Articles 5 and 6, including through the use of manipulative choice architectures.

Amendment 142
Proposal for a regulation
Article 12 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

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

Justification

This information obligation should apply to any proposed concentration of the gatekeepers.
Amendment 143

Proposal for a regulation
Article 12 – paragraph 2

*Text proposed by the Commission*

2. The notification pursuant to paragraph 1 shall at least describe for the acquisition targets their EEA and worldwide annual turnover, for any relevant core platform services their respective EEA annual turnover, their number of yearly active business users and the number of monthly active end users, as well as the rationale of the intended concentration.

*Amendment*

2. The information delivered pursuant to paragraph 1 shall explicitly explain that the intended concentration would not endanger the contestability of the relevant markets but promote competition and innovation and at least describe for the acquisition targets their EEA and worldwide annual turnover, for any services their respective EEA annual turnover, their number of yearly active business users and the number of monthly active end users, the categories of personal data they process, as well as the rationale of the intended concentration, and its potential impact on the rights and interests of business users and end users.

In addition to the information specified in the first subparagraph, the gatekeeper shall provide to the Commission:

(a) a study undertaken by an independent ISO 17020 certified auditor to confirm the correctness of the provided documentation to substantiate that the intended concentration would not hamper competition and innovation; and

(b) an opinion on the relevance of datasets for the intended concentration requested from the European Data Protection Board (EDPB).

Amendment 144

Proposal for a regulation
Article 12 – paragraph 3

*Text proposed by the Commission*

3. If, following any concentration as provided in paragraph 1, additional core platform services individually satisfy the

*Amendment*

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

individually satisfy the thresholds in point (b) of Article 3(2), the gatekeeper concerned shall inform the Commission thereof within three months from the implementation of the concentration and provide the Commission with the information referred to in Article 3(2).

Amendment 145
Proposal for a regulation
Article 12 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The information gathered pursuant to this Article may be used in parallel competition cases, especially for purposes of merger control.

Amendment 146
Proposal for a regulation
Article 12 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

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

Amendment 147
Proposal for a regulation
Article 13 – paragraph 1

Text proposed by the Commission

Amendment

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

Within six months after its designation pursuant to Article 3, a gatekeeper shall submit to the Commission an independently audited description of any techniques for profiling of business users and end users and the personalisation of their service and any other digital technology technique used to entice users.
at least annually. To engage in certain actions or predict their actions that the gatekeeper applies to or across its core platform services identified pursuant to Article 3, and make that description publicly available. This description shall be updated at least annually.

Amendment 148
Proposal for a regulation
Article 13 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

An audit performed pursuant to paragraph 1 shall be performed by organisations which:

(a) is independent from the gatekeeper concerned and has not provided any other service to the undertaking to which the gatekeeper belongs in the previous 12 months;

(b) has proven expertise in the area of risk management, technical competence and capabilities in the area of digital technologies;

(c) has proven objectivity and professional ethics, based in particular on adherence to codes of practice or appropriate standards; and

(d) has not provided such an audit to the same gatekeeper for more than 3 consecutive years.

Amendment 149
Proposal for a regulation
Article 14 – paragraph 3 – point b a (new)

Text proposed by the Commission

Amendment

(ba) there have been alerts about unfair practices raised by national authorities through the reporting mechanism.
Amendment 150

Proposal for a regulation
Article 15 – paragraph 1

*Text proposed by the Commission*

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

*Amendment*

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

Amendment 151

Proposal for a regulation
Article 15 – paragraph 2

*Text proposed by the Commission*

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

*Amendment*

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

Amendment 152

Proposal for a regulation
Article 15 – paragraph 3
3. Where the provider of core platform services satisfies the thresholds set out in Article 3(2), but has presented significantly substantiated arguments in accordance with Article 3(4), the Commission shall **endeavour to conclude the market investigation within five months from the opening of the market investigation by a decision pursuant to paragraph 1.** In that case the Commission shall endeavour to communicate its preliminary findings pursuant to paragraph 2 to the provider of core platform services within three months from the opening of the investigation.

**Amendment 153**

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

**Text proposed by the Commission**

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

**Amendment**

4. When the Commission pursuant to Article 3(6) designates as a gatekeeper a provider of core platform services that does not yet enjoy an entrenched and durable position in its operations, but it is foreseeable that it will enjoy such a position, it shall declare applicable to that gatekeeper **specific** obligations laid down in **this Regulation** as specified in the designation decision. The Commission shall only declare applicable those obligations that are appropriate and necessary to prevent that the gatekeeper concerned achieves by unfair means an entrenched and durable position in its operations. The Commission shall review such a designation in accordance with the procedure laid down in Article 4.
Amendment 154

Proposal for a regulation
Article 16 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Where the market investigation shows that a gatekeeper has systematically infringed the obligations laid down in Articles 5 and 6 and has further strengthened or extended its gatekeeper position in relation to the characteristics under Article 3(1), or where the Commission is informed under Article 12 that any intended concentration has an adverse impact on the contestability of markets, the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) impose on such gatekeeper any behavioural or structural remedies which are proportionate to the infringement committed and necessary to ensure compliance with this Regulation. The Commission shall conclude its investigation by adopting a decision within twelve months from the opening of the market investigation.

Amendment 155

Proposal for a regulation
Article 16 – paragraph 2

Text proposed by the Commission

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

Amendment

2. The Commission may also impose structural remedies pursuant to paragraph 1 where it considers them more effective than behavioural remedies in ensuring compliance with the obligations laid down in Articles 5 and 6. Such structural remedies may include:

(a) separation of business units;
(b) unbundling and horizontal division of services;
(c) changes to the gatekeeper’s financing model;
(d) disgorging financial benefits to end-users.

Amendment 156

Proposal for a regulation
Article 16 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 157

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

Text proposed by the Commission

6a. In order to ensure effective compliance by the gatekeeper with its obligations laid down in Articles 5 or 6, the Commission shall regularly review the remedies imposed in accordance with paragraph 1 or commitments made binding in accordance with paragraph 6. The Commission shall be entitled to require changes to the imposed remedies if, following an assessment, it finds that the remedies are not effective.

Amendment

6a. In order to ensure effective compliance by the gatekeeper with its obligations laid down in Articles 5 or 6, the Commission shall regularly review the remedies imposed in accordance with paragraph 1 or commitments made binding in accordance with paragraph 6. The Commission shall be entitled to require changes to the imposed remedies if, following an assessment, it finds that the remedies are not effective.
Amendment 158
Proposal for a regulation
Article 17 – paragraph 1

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

Amendment
The Commission may conduct a market investigation with the purpose of examining whether one or more services within the digital sector should be added to the list of core platform services or to detect types of practices that may limit the contestability of core platform services or may be unfair and which are not effectively addressed by this Regulation. It shall issue a public report at the latest within 20 months from the opening of the market investigation.

Amendment 159
Proposal for a regulation
Article 18

Text proposed by the Commission
Where the Commission intends to carry out proceedings in view of the possible adoption of decisions pursuant to Article 7, 25 and 26, it shall adopt a decision opening a proceeding.

Amendment
Where the Commission intends to carry out proceedings in view of the possible adoption of decisions pursuant to Article 7, 25 and 26, it shall adopt and make publicly available a decision opening a proceeding.

Amendment 160
Proposal for a regulation
Article 19 – paragraph 1

Text proposed by the Commission
1. The Commission may by simple request or by decision require information from undertakings and associations of undertakings to provide all necessary information, including for the purpose of monitoring, implementing and enforcing the rules laid down in this Regulation. The

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

Commission may also request access to data bases, algorithms and A/B testing of undertakings and request explanations on those by a simple request or by a decision. Where the information required by simple request is not provided within a period of three weeks, the Commission may require that information by decision.

Amendment 161

Proposal for a regulation
Article 21 – paragraph 1

Text proposed by the Commission

1. The Commission may conduct on-site inspections at the premises of an undertaking or association of undertakings.

Amendment

1. The Commission may conduct on-site inspections at the premises of an undertaking or association of undertakings for the purposes of investigations under Articles 14 to 17 of this Regulation.

Amendment 162

Proposal for a regulation
Article 21 – paragraph 3

Text proposed by the Commission

3. During on-site inspections the Commission and auditors or experts appointed by it may require the undertaking or association of undertakings to provide access to and explanations on its organisation, functioning, IT system, algorithms, data-handling and business conducts. The Commission and auditors or experts appointed by it may address questions to key personnel.

Amendment

3. During on-site inspections the Commission and auditors or experts appointed by it may require the undertaking or association of undertakings to provide access to and explanations on its organisation, functioning, IT system, algorithms, data-handling and business conducts. They may run behavioural experiments to evaluate the algorithm and use of the data. The Commission and auditors or experts appointed by it may address questions to key personnel.

Amendment 163

Proposal for a regulation
Article 21 a (new)
Article 21a

Reporting mechanism for business users and end users

1. Business users, competitors and end users of core platform services may report to the Commission or national regulators any practice or behaviour by gatekeepers that falls within the scope of this Regulation, including non-compliance. The Commission and Member States shall inform each other of such reports.

2. The Commission shall set its priorities for the task of examining the reports referred to paragraph 1. Subject to the provisions of paragraph 5 of this Article and of Article 33, the Commission may choose not to examine a report on the grounds that it does not consider such a report to be an enforcement priority.

3. When the Commission considers that a report is an enforcement priority, it may open a proceeding pursuant to Article 18 or a market investigation pursuant to Article 14.

4. Without prejudice to Article 33, a Member State may request the Digital Markets Advisory Committee to adopt an opinion in order to determine whether one or several reports should be considered an enforcement priority. In its opinion the Digital Markets Advisory Committee may request the Commission to open a proceeding pursuant to Article 18 or a market investigation pursuant to Article 14. The Advisory Committee shall adopt an opinion within 1 month of receiving the request. In its opinion, it shall state the reasons why the report is considered to be, or not to be, an enforcement priority. If the report is considered to be an enforcement priority, the Commission shall, within four months of receiving the opinion, examine whether there are
reasonable grounds for opening such a proceeding or investigation. Where the Commission does not comply with the request of the Advisory Committee, it shall state the reasons for not initiating a proceeding under Article 18 or a market investigation under Article 14.

Amendment 164
Proposal for a regulation
Article 22 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 165
Proposal for a regulation
Article 22 – paragraph 2 a (new)

Text proposed by the Commission

2a. In case of urgency, due to the risk of serious and immediate damage for business users or end users resulting from new practices implemented by one or several gatekeepers, that may undermine the contestability of core platform services or may be unfair pursuant to Article 10(2), the Commission may, by decision adopted in accordance with the advisory procedure referred to in Article 32(4), order interim measures against the gatekeepers concerned in order to avoid the materialisation of such risk.

Amendment

2a. In case of urgency, due to the risk of serious and immediate damage for business users or end users resulting from new practices implemented by one or several gatekeepers, that may undermine the contestability of core platform services or may be unfair pursuant to Article 10(2), the Commission may, by decision adopted in accordance with the advisory procedure referred to in Article 32(4), order interim measures against the gatekeepers concerned in order to avoid the materialisation of such risk.
Amendment 166

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

Text proposed by the Commission

2b. A decision pursuant to paragraph 2a may only be adopted in the context of a market investigation pursuant to Article 17 and within 6 months of the opening of such an investigation. The interim measures shall apply for a specified period and, in any case, shall be replaced by new obligations that may result from the final decision of the market investigation pursuant to Article 17.

Amendment 167

Proposal for a regulation
Article 23 – paragraph 1

Text proposed by the Commission

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

Amendment 168

Proposal for a regulation
Article 23 – paragraph 2 – introductory part

Text proposed by the Commission

1. If during proceedings under Articles 16 or 25 the gatekeeper concerned offers commitments for the relevant core platform services to ensure compliance with the obligations laid down in Articles 5 and 6, the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) make those commitments binding on that gatekeeper and declare that there are no further grounds for action. The Commission shall, where appropriate, be entitled to require the commitments to be tested to optimise their effectiveness.
2. The Commission may, upon request or on its own initiative, reopen by decision the relevant proceedings, where:

Amendment 169

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

Text proposed by the Commission

Amendment

(aa) the measures proposed by the gatekeeper have proven ineffective to ensure compliance with the obligations set out in Articles 5 and 6;

Amendment 170

Proposal for a regulation
Article 23 – paragraph 3

Text proposed by the Commission

Amendment

3. Should the Commission consider that the commitments submitted by the gatekeeper concerned cannot ensure effective compliance with the obligations laid down in Articles 5 and 6, it shall explain the reasons for not making those commitments binding in the decision concluding the relevant proceedings and, following an investigation pursuant to Article 16 or 17, require changes to the commitments in order to make them effective.

Amendment 171

Proposal for a regulation
Article 24 – paragraph 1

Text proposed by the Commission

Amendment

1. The Commission may take the

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

Amendment 172
Proposal for a regulation
Article 24 – paragraph 1 a (new)

Text proposed by the Commission

1a. The Commission shall establish and maintain a publicly accessible and user-friendly website containing at least the following information:
(a) the number of non-compliance decisions adopted pursuant to Article 25;
(b) the number of fines imposed pursuant to Article 26;
(c) the names of the companies that have been subject to the non-compliance decisions;
(d) the names of the companies on which fines were imposed.

Amendment 173
Proposal for a regulation
Article 24 – paragraph 2

Text proposed by the Commission

2. The actions pursuant to paragraph 1 may include the appointment of independent external experts and auditors to assist the Commission to monitor the obligations and measures and to provide specific expertise or knowledge to the Commission.

Amendment

2. The actions pursuant to paragraph 1 may include the appointment of independent external experts and auditors to assist the Commission to monitor the obligations and measures and to provide specific expertise or knowledge to the Commission. Those external experts and auditors must not have had any contractual relations with the undertaking providing the core platform services referred to in paragraph 1 during the 12
Amendment 174

Proposal for a regulation
Article 24 – paragraph 2 a (new)

*Text proposed by the Commission*

**Amendment**

2a. To ensure direct involvement on a daily basis, the Commission shall appoint a compliance officer, to be funded by the relevant gatekeeper, to oversee the implementation of and compliance with the obligations and measures. The officer shall carry out its tasks under the supervision of the Commission and shall follow any orders or instructions given by the Commission.

Amendment 175

Proposal for a regulation
Article 24 – paragraph 2 b (new)

*Text proposed by the Commission*

**Amendment**

2b. The Commission is empowered to adopt a delegated act in accordance with Article 37 to supplement this Regulation by specifying the mandate which compliance officers shall fulfil and the obligations of gatekeepers to provide information to and to cooperate with compliance officers.

Amendment 176

Proposal for a regulation
Article 25 – paragraph 1 – introductory part

*Text proposed by the Commission*

**Amendment**

1. The Commission shall adopt a non-compliance decision in accordance with the months preceding the appointment by the Commission.

1. The Commission shall, within six months from the opening of a proceeding
advisory procedure referred to in Article 32(4) where it finds that a gatekeeper does not comply with one or more of the following:

in accordance with Article 18, adopt a non-compliance decision in accordance with the advisory procedure referred to in Article 32(4) where it finds that a gatekeeper does not comply with one or more of the following:

Amendment 177
Proposal for a regulation
Article 25 – paragraph 2

Text proposed by the Commission

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

Amendment

2. Before adopting the decision pursuant to paragraph 1, the Commission shall communicate its preliminary findings to the gatekeeper concerned. In the preliminary findings, the Commission shall explain the measures it considers to take or it considers that the gatekeeper should take in order to effectively address the preliminary findings. The Commission shall take into account the views of third parties affected by the conduct of the gatekeeper concerned before adopting a decision.

Amendment 178
Proposal for a regulation
Article 25 – paragraph 3

Text proposed by the Commission

3. In the non-compliance decision adopted pursuant to paragraph 1, the Commission shall order the gatekeeper to cease and desist with the non-compliance within an appropriate deadline and to provide explanations on how it plans to comply with the decision.

Amendment

3. In the non-compliance decision adopted pursuant to paragraph 1, the Commission shall order the gatekeeper to cease and desist with the non-compliance within an appropriate deadline, which shall not be longer than three months and to provide explanations on how it plans to comply with the decision. The Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) impose on such gatekeeper any behavioural
remedies which are proportionate to the infringement committed and necessary to ensure compliance with this Regulation.

Amendment 179

Proposal for a regulation
Article 25 – paragraph 4

Text proposed by the Commission

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

Amendment

4. The gatekeeper shall provide the Commission with the description of the measures it took to ensure compliance with the decision adopted pursuant to paragraph 1. If the Commission, following an investigation pursuant to Article 16 or 17, finds that the measures are not effective to ensure compliance by the gatekeeper with its obligations under Articles 5 and 6, the Commission shall be entitled to require changes to those measures.

Amendment 180

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

Text proposed by the Commission

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

Amendment

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

Amendment 181

Proposal for a regulation
Article 26 – paragraph 1 – point e a (new)
**Text proposed by the Commission**

(ea) the obligation to provide within a time-limit, which shall not be less than three months, information that is required for assessing an undertaking’s designation as a gatekeeper pursuant to Article 3(2) or supplies incorrect, or misleading information;

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**Amendment 182**

**Proposal for a regulation**

**Article 26 – paragraph 2 – introductory part**

2. The Commission may by decision impose on undertakings and associations of undertakings fines not exceeding 1% of the total turnover in the preceding financial year where they intentionally or negligently:

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**Amendment 183**

**Proposal for a regulation**

**Article 26 – paragraph 2 – point a**

(a) fail to provide within the time-limit information *that is required for assessing their designation as gatekeepers* pursuant to Article 3(2) or supply incorrect, incomplete or misleading information;

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Amendment 184
Proposal for a regulation
Article 26 – paragraph 4 – subparagraph 5

Text proposed by the Commission
The financial liability of each undertaking in respect of the payment of the fine shall not exceed 10 % of its total turnover in the preceding financial year.

Amendment
The financial liability of each undertaking in respect of the payment of the fine shall not exceed 10 % of its total worldwide turnover in the preceding financial year.

Amendment 185
Proposal for a regulation
Article 28 – paragraph 1

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

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

Amendment 186
Proposal for a regulation
Article 29 – paragraph 1

Text proposed by the Commission
1. The power of the Commission to enforce decisions taken pursuant to Articles 26 and 27 shall be subject to a limitation period of five years.

Amendment
1. The power of the Commission to enforce decisions taken pursuant to Articles 26 and 27 shall be subject to a limitation period of seven years.

Amendment 187
Proposal for a regulation
Article 30 – paragraph 1 – introductory part

Text proposed by the Commission
1. Before adopting a decision pursuant to Article 7, Article 8(1), Article 9(1),

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

Amendment 188

Proposal for a regulation
Article 30 – paragraph 2

*Text proposed by the Commission*

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

*Amendment*

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

Amendment 189

Proposal for a regulation
Article 30 – paragraph 3

*Text proposed by the Commission*

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

*Amendment*

3. The Commission shall base its decisions only on objections on which gatekeepers, undertakings and associations of undertakings concerned, including third parties affected by the conduct of the gatekeeper concerned have been able to comment.

Amendment 190

Proposal for a regulation
Article 31 – paragraph 1
1. The information collected pursuant to Articles 3, 12, 13, 19, 20 and 21 shall be used only for the purposes of this Regulation.

Amendment 191
Proposal for a regulation
Article 31 – paragraph 2

Text proposed by the Commission

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

Amendment 192
Proposal for a regulation
Article 31 a (new)

Text proposed by the Commission

Article 31a
Cooperation and coordination with Member States

1. In accordance with the principles
laid down in Article 1 and subject to Article 32a, the Commission shall be the sole decision-maker with regard to the correct application of this Regulation. To ensure effective enforceability and coherent implementation, national competent authorities shall fully support the Commission with their expertise.

2. The Commission and Member States shall work in close cooperation to ensure coherent, effective and complementary enforcement of available legal instruments applied to gatekeepers within the meaning of this Regulation.

3. National authorities shall not take decisions which are inconsistent with any decision adopted by the Commission under this Regulation.

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

5. Information exchanged pursuant to paragraph 3 of this Article shall only be exchanged and used for the purposes of coordinating the enforcement of this Regulation and the rules referred to in Article 1(6).

6. National competent authorities may report to the Commission any practice or behaviour of gatekeepers that falls within the scope of this Regulation. The Commission and Member States shall inform each other of such reports.

7. The national competent authorities enforcing the rules referred to in Article 1(6) may consult the Commission on any matter relating to the application of this Regulation.
Amendment 193
Proposal for a regulation
Article 32 – paragraph 1

Text proposed by the Commission

1. The Commission shall be assisted by the Digital Markets Advisory Committee. That Committee shall be a Committee within the meaning of Regulation (EU) No 182/2011.

Amendment

1. The Commission shall be assisted by the Digital Markets Advisory Committee. That Committee shall be a Committee within the meaning of Regulation (EU) No 182/2011. The Digital Markets Advisory Committee may establish one or more technical expert groups that can be consulted on an ad hoc basis and that will include relevant national authorities and regulators including representatives of the national competent authorities for competition, electronic communications audio-visual services, electoral oversight, and consumer protection, representatives of the European Data Protection Board established in accordance with Article 68 of Regulation (EU) 2016/679 of the European Parliament and of the Council.

Amendment 194
Proposal for a regulation
Article 32 a (new)

Text proposed by the Commission

Article 32a
Cooperation with national competition authorities

1. The Commission shall apply the provisions of this Regulation in close cooperation with national competition authorities, acting within the European Competition Network as defined in point (5) of Article 2 of Directive (EU)2019/1 of the European Parliament and of the Council, in accordance with the provisions of this Article. It shall, in particular and as appropriate, make use
of the European Competition Network System referred to in Article 33 of that Directive for the exchange of information, in particular as regards concentrations as referred to in Article 12 of this Regulation, decisions relating to the opening of a market investigation pursuant to Article 14 of this Regulation or proceedings pursuant to Article 18 of this Regulation.

2. At the request of the Commission, national competition authorities shall cooperate in the application of Articles 12, 15, 16 and 17.

3. Where requested by the Commission to assist in any investigation pursuant to paragraph 2 of this Article, the national competition authorities shall have the power to apply, mutatis mutandis, the powers of the Commission set out in Articles 19, 20 and 21.

4. The national competition authorities shall have the power to exercise the powers conferred on the Commission by Article 24.

5. When requesting a national competition authority to cooperate in accordance with paragraph 2, the Commission shall transmit, to that competition authority, copies of the most important documents it has collected with a view to applying Articles 15, 16 and 17. At the request of the national competition authority, the Commission shall provide it with a copy of other existing documents necessary for the assessment of the case. When deciding on whether to request a competition authority to cooperate, the Commission may take into account the importance of the national market for the respective gatekeeper.

6. When acting in accordance with paragraph 3, the national competition authority shall inform the Commission in writing before and without delay after commencing the first formal investigative measure. This information may also be
made available to the national competition authorities of other Member States.

7. The national competition authority shall make available to the Commission any information it receives in the exercise of powers as set out in paragraph 3. The information supplied to the Commission may be made available to the national competition authorities of other Member States. National competition authorities may also exchange information necessary for the assessment of a case that they are dealing with under this Regulation.

8. National competition authorities of the Member States may consult the Commission on any case involving the application of Union law.

Amendment 195

Proposal for a regulation

Article 33 – title

Text proposed by the Commission

Request for a market investigation

Amendment

Request for a market investigation and non-compliance proceedings

Amendment 196

Proposal for a regulation

Article 33 – paragraph 1

Text proposed by the Commission

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

Amendment

1. When competent authorities in one Member State request the Commission to:
grounds to open such an investigation.

(a) open an investigation pursuant to Articles 15 because they consider that there are reasonable grounds to suspect that a provider of core platform services should be designated as a gatekeeper;

(b) open an investigation pursuant to Article 16 because they consider that there are reasonable grounds to suspect that a gatekeeper has been in a position of systemic non-compliance with Articles 5 and 6;

(c) open an investigation pursuant to Article 17 because they consider that one or more services should be added to the list of core platform services as defined in Article 2 (2) of this Regulation; or

(d) carry out proceedings in view of the possible adoption of a decision pursuant to Article 25 because they consider that a gatekeeper is not complying with its obligations, the Commission shall within four months examine and decide whether there are reasonable grounds to open such an investigation or carry out such proceedings. The Commission shall add to this decision a detailed argumentation of its choice of action. The decision shall be publicly available and communicated to all national competent authorities.

Amendment 197

Proposal for a regulation
Article 38 – paragraph 1

Text proposed by the Commission

1. By DD/MM/YYYY, and subsequently every three years, the Commission shall evaluate this Regulation and report to the European Parliament, the Council and the European Economic and Social Committee.

Amendment

1. By three years after the entry into force of this Regulation, and subsequently every three years, the Commission shall evaluate this Regulation and report to the European Parliament, the Council and the European Economic and Social Committee. With respect to the obligations
set out in Article 5 and 6, the Commission shall carry out an evaluation by twelve months after the entry into force of this Regulation, and subsequently every twelve months.

Amendment 198
Proposal for a regulation
Article 38 – paragraph 2

Text proposed by the Commission

2. The evaluations shall establish whether additional rules, including regarding the list of core platform services laid down in point 2 of Article 2, the obligations laid down in Articles 5 and 6 and their enforcement, may be required to ensure that digital markets across the Union are contestable and fair. Following the evaluations, the Commission shall take appropriate measures, which may include legislative proposals.

Amendment

2. The evaluations shall establish whether it is required to modify, add or remove rules, including regarding the list of core platform services laid down in point 2 of Article 2, the obligations laid down in Articles 5 and 6 and their enforcement, in order to ensure that digital markets across the Union are contestable and fair;

Following the evaluations, the Commission shall take appropriate measures, which may include legislative proposals.

Amendment 199
Proposal for a regulation
Article 38 – paragraph 2 a (new)

Text proposed by the Commission

2a. The review referred to in the first sentence of paragraph 1 shall consider whether this Regulation should be added to the Annex to Directive (EU) 2020/1828.

Amendment

2a. The review referred to in the first sentence of paragraph 1 shall consider whether this Regulation should be added to the Annex to Directive (EU) 2020/1828.

Amendment 200
Proposal for a regulation
Article 38 – paragraph 3 a (new)
**Text proposed by the Commission**

3a. The Commission shall report on the implementation of this Regulation in its annual report on Competition Policy.

**Amendment**

**Amendment 201**

**Proposal for a regulation**

**Article 39 – paragraph 2 – subparagraph 1**

<table>
<thead>
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<th>Text proposed by the Commission</th>
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<tr>
<td>This Regulation shall apply from <em>six</em> months after its entry into force.</td>
<td>This Regulation shall apply from <em>three</em> months after its entry into force.</td>
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## PROCEDURE – COMMITTEE ASKED FOR OPINION

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<tr>
<th>Title</th>
<th>Contestable and fair markets in the digital sector (Digital Markets Act)</th>
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| Committee responsible | IMCO  
Date announced in plenary  
8.2.2021 |
| Opinion by | ECON  
Date announced in plenary  
8.2.2021 |
| Associated committees - date announced in plenary | 20.5.2021 |
| Rapporteur for the opinion | Stéphanie Yon-Courtin  
Date appointed  
10.5.2021 |
| Discussed in committee | 1.9.2021 |
| Date adopted | 26.10.2021 |
| Result of final vote | +: 55  
 -: 3  
 0: 2 |
| Substitutes present for the final vote | Janusz Lewandowski, Mikuláš Peksa, Mick Wallace |
### FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

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Key to symbols:
+ : in favour
- : against
0 : abstention