DRAFT OPINION

of the Committee on Economic and Monetary Affairs

for the Committee on the Internal Market and Consumer Protection


Rapporteur for opinion: Mikuláš Peksa
PA_Legam
SHORT JUSTIFICATION

The Digital Services Act aims at setting a common set of rules on intermediaries’ obligations and accountability. It is part of the ambition to make the EU fit for the digital age. The purpose of this proposal is three-fold:

- To better protect citizens and their fundamental rights online;
- To provide legal certainty to online platforms by setting a clear accountability framework;
- To foster innovation and competitiveness within the Single Market.

The Rapporteur welcomes the Commission’s proposal as a necessary step to protect citizens’ fundamental rights and create an open and safe online environment. Nonetheless, the Rapporteur has identified certain possibilities of improvement. The draft report pursues four main objectives:

1. Strengthening the consumer protection, including privacy, data protection and fundamental rights;
2. Enhancing the oversight framework, notably by ensuring a proper coordination and exchange of information across authorities;
3. Applying the proportionality principle by adding more requirements to VLOPs;
4. Increasing market competition and fostering growth through ensuring interoperability of very large online platforms (VLOPs).

The draft report focuses on the following key areas:

Protection of fundamental rights

The Rapporteur proposes several amendments aimed at regulating the use of automated content moderation tools (Article 7). The Regulation should make clear that there is no obligation for intermediary service providers to use such tools. Where a service provider uses these tools, it should ensure a human oversight of the decisions to remove or modify in any way the information content. Considering the difficult working conditions and sensitivity of their task, the Rapporteur deems crucial that content moderators receive appropriate training and psychological support from their employers (Articles 13 (1c), 17(5)).

In line with other EU legislation, in particular GDPR, the Rapporteur believes that the personal data should be further protected. A dedicated article (2a) has been added in this regard. The Rapporteur also proposes that online platforms clearly state how and for what purpose they collect data from users of the service and how, to whom and for what purpose they disseminate data collected further (article 23).

Consumer protection

In order to further strengthen consumer protection, the Rapporteur proposes to develop the requirements related to the terms and conditions to be established by the intermediary service providers (Article 12). In particular, VLOP terms and conditions should be transmitted for approval to the Digital Service Coordinator (Article 12 (2e)).
By setting an accountability framework for online platforms, one risk is to incentivise platforms to be excessively prudent and to excessively remove information content. To counterbalance this side effect, and to ensure a proper protection of consumer rights, the Rapporteur proposes to establish a financial compensation right for consumers whose fundamental rights have been violated by the platform, especially if the recipient of service has been prevented from making benefits from the use of the platform (Article 17(3)).

Although some online business models heavily rely on targeted advertising and recommender systems, the Rapporteur considers that additional safeguards for consumers should be set. For instance, the draft report proposes an opt-in system for the use of the recommender systems and alternative possibilities for them (Article 29 (2a)).

Fostering competition and open access to the market

One important proposal made by the Rapporteur on this front is to introduce interoperability requirements for VLOPs. The new article 33a would make mandatory for VLOPs to ensure that their core functionalities are interoperable with other platforms. The Commission would be mandated to further specify this obligation.

Clear liability for intermediary service providers

The rapporteur proposes to delete article 6 as there is no valid reason to bring more immunity to intermediary service providers for their “voluntary actions”. Besides, this article can be understood as incentivising pro-active removal of contents, which could contravene the freedom of expression.

Additional requirements for VLOP

Besides stringent transparency requirements, the Rapporteur suggests strengthening audit requirements for VLOPs (article 28) by setting a list of minimum topics on which the audit should be performed.

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 5

<table>
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<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tr>
<td>(5) This Regulation should apply to providers of certain information society</td>
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</table>
services as defined in Directive (EU) 2015/1535 of the European Parliament and of the Council\textsuperscript{26}, that is, any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient.

Specifically, this Regulation should apply to providers of intermediary services, and in particular intermediary services consisting of services known as ‘mere conduit’, ‘caching’ and ‘hosting’ services, given that the exponential growth of the use made of those services, mainly for legitimate and socially beneficial purposes of all kinds, has also increased their role in the intermediation and spread of unlawful or otherwise harmful information and activities.


Amendment 2

Proposal for a regulation

Recital 5 a (new)

\textit{Text proposed by the Commission

(5a) Given the cross-border nature of the services concerned, Union action to harmonise accessibility requirements for intermediary services across the internal market is vital to avoid market fragmentation and to ensure that equal right of access to and choice of those services by all consumers and other recipients of services, including by persons with disabilities, is protected
throughout the Union. Lack of harmonised accessibility requirements for digital services and platforms would also create barriers for the implementation of existing Union legislation on accessibility, as many of the services falling under those laws rely on intermediary services to reach end-users. Therefore, accessibility requirements for intermediary services, including their online interfaces, should be consistent with existing Union accessibility legislation, such as the European Accessibility Act and the Web Accessibility Directive, so that no one is left behind as result of digital innovation. That aim is in line with the Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030 and the Union’s commitment to the United Nations’ Sustainable Development Goals.

Amendment 3

Proposal for a regulation
Recital 12

Text proposed by the Commission

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

Amendment

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

Amendment 4
Proposal for a regulation
Recital 14

_Text proposed by the Commission_

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

_Text amended by the Commission_

(14) The concept of ‘dissemination to the public’, as used in this Regulation, should entail the making available of information to a potentially unlimited number of persons, that is, making the information easily accessible to users in general without further action by the recipient of the service providing the information being required, irrespective of whether those persons actually access the information in question. _Accordingly, where access to information requires registration or admittance to a group of users, that information should be considered to be disseminated to the public only where users seeking to access the information are automatically registered or admitted without a human decision or selection of whom to grant access._ Interpersonal communication services, as defined in Directive (EU) 2018/1972 of the European Parliament and of the Council, such as emails or private messaging services, fall outside the scope of this Regulation, _as they are not considered to be disseminated to the public._ Information
disseminated to the public within the meaning of this Regulation only where that occurs upon the direct request by the recipient of the service that provided the information.


Amendment 5
Proposal for a regulation
Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) The general collection of personal data concerning the use of digital services interferes disproportionately with the right to privacy in the digital age. In line with the principle of data minimisation and in order to prevent unauthorised disclosure, identity theft and other forms of abuse of personal data, recipients should have the possibility to access information society services and the right to use and pay for information society services anonymously wherever technically possible. Similarly users have a right not to be subject to tracking when using information society services. To that end, the processing of personal data concerning the use of digital services should be limited to the extent strictly necessary to provide the service and to bill the users.

Or. en
Amendment 6
Proposal for a regulation
Recital 15 b (new)

Text proposed by the Commission

Amendment

(15b) Applying effective end-to-end encryption to data is essential for trust in and security on the Internet, as it effectively prevents unauthorised third party access and ensures the confidentiality of communications.

Or. en

Amendment 7
Proposal for a regulation
Recital 18

Text proposed by the Commission

Amendment

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

Or. en
Amendment 8

Proposal for a regulation
Recital 25

Text proposed by the Commission

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

Amendment 9

Proposal for a regulation
Recital 27
(27) Since 2000, new technologies have emerged that improve the availability, efficiency, speed, reliability, capacity and security of systems for the transmission and storage of data online, leading to an increasingly complex online ecosystem. In this regard, it should be recalled that providers of services establishing and facilitating the underlying logical architecture and proper functioning of the internet, including technical auxiliary functions, can also benefit from the exemptions from liability set out in this Regulation, to the extent that their services qualify as ‘mere conduits’, ‘caching’ or hosting services. Such services include, as the case may be, wireless local area networks, domain name system (DNS) services, top–level domain name registries, certificate authorities that issue digital certificates, or content delivery networks, that enable or improve the functions of other providers of intermediary services. Likewise, services used for communications purposes, and the technical means of their delivery, have also evolved considerably, giving rise to online services such as Voice over IP, messaging services and web-based e-mail services, where the communication is delivered via an internet access service. Those services, too, can benefit from the exemptions from liability, to the extent that they qualify as ‘mere conduit’, ‘caching’ or hosting service.

Or. en

Amendment 10
Proposal for a regulation
Recital 28
(28) Providers of intermediary services should not be subject to a monitoring obligation with respect to obligations of a general nature. This does not concern monitoring obligations in a specific case and, in particular, does not affect orders by national authorities in accordance with national legislation, in accordance with the conditions established in this Regulation. Nothing in this Regulation should be construed as an imposition of a general monitoring obligation or active fact-finding obligation, or as a general obligation for providers to take proactive measures to relation to illegal content.

(28) Providers of intermediary services should not be subject to a monitoring obligation with respect to obligations of a general nature nor should they use automated tools for content moderation. This does not concern monitoring obligations in a specific case and, in particular, does not affect orders by national authorities in accordance with national legislation, in accordance with the conditions established in this Regulation. Nothing in this Regulation should be construed as an imposition of a general monitoring obligation or active fact-finding obligation, or as a general obligation for providers to take proactive measures to relation to illegal content.

Amendment 11

Proposal for a regulation
Recital 39

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

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

Amendment 12
Proposal for a regulation
Recital 42

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

Amendment
(42) Where a hosting service provider decides to remove or disable information provided by a recipient of the service, for instance following receipt of a notice or acting on its own initiative, that provider should inform the recipient of its decision, the reasons for its decision and the available redress possibilities to contest the decision, in view of the negative consequences that such decisions may have for the recipient, including as regards the exercise of its fundamental right to freedom of expression. That obligation should apply irrespective of the reasons for the decision, in particular whether the action has been taken because the information notified is considered to be illegal content or incompatible with the applicable terms and conditions. Available recourses to challenge the decision of the hosting service provider should always include judicial redress.
(47) The misuse of services of online platforms by frequently provider 
manifestly illegal content or by frequently submitting manifestly unfounded notices or 
complaints under the mechanisms and systems, respectively, established under 
this Regulation undermines trust and harms the rights and legitimate interests of the 
parties concerned. Therefore, there is a 
need to put in place appropriate and proportionate safeguards against such 
misuse. Information should be considered 
to be manifestly illegal content and 
notices or complaints should be 
considered manifestly unfounded where it 
is evident to a layperson, without any 
substantive analysis, that the content is 
illegal respectively that the notices or 
complaints are unfounded. Under certain 
conditions, online platforms should 
temporarily suspend their relevant 
activities in respect of the person engaged 
in abusive behaviour. This is without 
prejudice to the freedom by online 
platforms to determine their terms and 
conditions and establish stricter measures 
in the case of manifestly illegal content 
related to serious crimes. For reasons of 
transparency, this possibility should be set 
out, clearly and in sufficiently detail, in 
the terms and conditions of the online 
platforms. Redress should always be open 
to the decisions taken in this regard by 
online platforms and they should be subject 
to oversight by the competent Digital 
Services Coordinator. The rules of this 
Regulation on misuse should not prevent 
online platforms from taking other 
measures to address the provision of 
illegal content by recipients of their 
service or other misuse of their services, in 
accordance with the applicable Union and
national law. Those rules are without prejudice to any possibility to hold the persons engaged in misuse liable, including for damages, provided for in Union or national law.

Amendment 14
Proposal for a regulation
Recital 49 a (new)

Text proposed by the Commission

(49a) In order to contribute to a transparent online environment for consumers that supports green transition, very large online platforms that allow consumers to conclude distant contracts with traders should provide consumers with clear and unambiguous information in real time on the environmental impact of its products and services, such as the use of sustainable and efficient delivery methods, sustainable and ecological packaging, as well as the environmental costs of returning goods in the event of withdrawal.

Or. en

Amendment 15
Proposal for a regulation
Recital 50 a (new)

Text proposed by the Commission

(50a) To ensure data minimisation, occasional traders that are natural persons should not be subject to disproportionate identification requirements on platforms that offer a marketplace. Platforms should not ask for
data from natural persons that goes beyond the basic registration of the platform users.

Amendment 16

Proposal for a regulation
Recital 52

Text proposed by the Commission

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

Amendment

(52) Online advertisement plays an important role in the online environment, including in relation to the provision of the services of online platforms. However, online advertisement can contribute to significant risks, ranging from advertisement that is itself illegal content, to contributing to financial incentives for the publication or amplification of illegal or otherwise harmful content and activities online, or the discriminatory display of advertising with an impact on the equal treatment and opportunities of citizens. The advertisement led model has generated deep changes in the way information is presented and has created new data collection patterns and business models that are not always positive. In addition to the requirements resulting from Article 6 of Directive 2000/31/EC, online platforms should therefore be required to ensure data collection is kept to a minimum, the maximisation of revenue from advertising does not limit the quality of the service and that the recipients of the service have extensive individualised information necessary for them to understand when and on whose behalf the advertisement is displayed. In addition, recipients of the service should have information on the main parameters used for determining that specific advertising is to be displayed to them, providing
automated individual decision-making, including profiling and specifically the need to obtain consent of the data subject prior to the processing of personal data for targeted advertising. Similarly, it is without prejudice to the provisions laid down in Directive 2002/58/EC in particular those regarding the storage of information in terminal equipment and the access to information stored therein.

meaningful explanations of the logic used to that end, including when this is based on profiling. The requirements of this Regulation on the provision of information relating to advertisement is without prejudice to the application of the relevant provisions of Regulation (EU) 2016/679, in particular those regarding the right to object, automated individual decision-making, including profiling and specifically the need to obtain consent of the data subject prior to the processing of personal data for targeted advertising. Similarly, it is without prejudice to the provisions laid down in Directive 2002/58/EC in particular those regarding the storage of information in terminal equipment and the access to information stored therein.

Amendment 17

Proposal for a regulation
Recital 53

Text proposed by the Commission

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

Amendment

(53) Given the importance of very large online platforms, due to their reach, in particular as expressed in number of recipients of the service, in facilitating public debate, economic transactions and the dissemination of information, opinions and ideas and in influencing how recipients obtain and communicate information online, it is necessary to impose specific obligations on those platforms, in addition to the obligations applicable to all online platforms. Those additional obligations on very large online platforms are necessary to address challenges to fundamental rights, there being no alternative and less restrictive measures that would effectively achieve the same result.
Amendment 18
Proposal for a regulation
Recital 62

Text proposed by the Commission

(62) A core part of a very large online platform’s business is the manner in which information is prioritised and presented on its online interface to facilitate and optimise access to information for the recipients of the service. This is done, for example, by algorithmically suggesting, ranking and prioritising information, distinguishing through text or other visual representations, or otherwise curating information provided by recipients. Such recommender systems can have a significant impact on the ability of recipients to retrieve and interact with information online. They also play an important role in the amplification of certain messages, the viral dissemination of information and the stimulation of online behaviour. Consequently, very large online platforms should ensure that recipients are appropriately informed, and can influence the information presented to them. They should clearly present the main parameters for such recommender systems in an easily comprehensible manner to ensure that the recipients understand how information is prioritised for them. They should also ensure that the recipients enjoy alternative options for the main parameters, including options that are not based on profiling of the recipient.

Amendment

(62) A core part of online platform’s business is the manner in which information is prioritised and presented on its online interface to facilitate and optimise access to information for the recipients of the service. This is done, for example, by algorithmically suggesting, ranking and prioritising information, distinguishing through text or other visual representations, or otherwise curating information provided by recipients. Such recommender systems can have a significant impact on the ability of recipients to retrieve and interact with information online. They also play an important role in the amplification of certain messages, the viral dissemination of information and the stimulation of online behaviour. Consequently, online platforms should ensure that recipients are appropriately informed of the use of recommender systems, and that recipients can influence the information presented to them. They should clearly present the main parameters for such recommender systems in an easily comprehensible manner to ensure that the recipients understand how information is prioritised for them. Very large online platforms should also ensure that the recipients enjoy alternative options for the main parameters, including options that are not based on profiling of the recipient.
Amendment 19
Proposal for a regulation
Recital 65 a (new)

Text proposed by the Commission

Amendment

(65a) Interoperability requirements for very large online platforms are desirable as they can create new opportunities for the development of innovative services, overcome the lock-in effect of closed platforms and ensure competition and user choice. Those requirements should allow recipients to access cross-platform interaction. Very large online platforms should provide an application programming interface through which third-party platforms and their recipients can interoperate with the main functionalities and recipients of the core services offered by the platform. The main functionalities can include the ability to receive information from certain accounts, to share provided content and react to it. The interoperability requirements do not prevent platforms from offering non-core additional features to their recipients.

Or. en

Amendment 20
Proposal for a regulation
Recital 69

Text proposed by the Commission

Amendment

(69) The rules on codes of conduct under this Regulation could serve as a basis for already established self-regulatory efforts at Union level, including the Product Safety Pledge, the Memorandum of Understanding against counterfeit goods, the Code of Conduct against illegal hate speech as well as the

deleted
Code of practice on disinformation. In particular for the latter, the Commission will issue guidance for strengthening the Code of practice on disinformation as announced in the European Democracy Action Plan.

Amendment 21
Proposal for a regulation
Recital 71 a (new)

Text proposed by the Commission

(71a) In order to ensure that the systemic role of very large online platforms does not endanger the internal market by unfairly excluding innovative new entrants, including SMEs, entrepreneurs and start-ups, additional rules are needed to allow recipients of a service to switch or connect and interoperate between online platforms or internet ecosystems. Therefore, interoperability obligations should require very large online platforms to share appropriate tools, data, expertise, and resources. As part of those measures, the Commission should explore different technologies and open standards and protocols, including the possibility of technical interfaces (Application Programming Interface), that would allow recipients of service or other market participants to benefit from the key functionalities of very large online platforms to exchange information.

Or. en
Amendment 22
Proposal for a regulation
Article 1 – paragraph 2 – point a

Text proposed by the Commission
(a) contribute to the proper functioning of the internal market for intermediary services;

Amendment
(a) contribute to the proper functioning of the internal market for intermediary services and encourage competition;

Or. en

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

Text proposed by the Commission

Amendment
(ba) achieve a high level of consumer protection in the Digital Single Market;

Or. en

Amendment 24
Proposal for a regulation
Article 1 – paragraph 5 a (new)

Text proposed by the Commission

Amendment
5a. This Regulation shall not apply to matters relating to information society services covered by Regulation (EU) 2016/679 and Directive 2002/58/EC.

Or. en

Amendment 25
Proposal for a regulation
Article 2 – paragraph 1 – point g
(g) ‘illegal content’ means any information, which, in itself or by its reference to an activity, including the sale of products or provision of services is not in compliance with Union law or the law of a Member State, irrespective of the precise subject matter or nature of that law;

(g) ‘illegal content’ means any information, which, in itself or by its reference to an activity, including the sale of products or provision of services is not in compliance with Union law or the law of the Member State of origin, irrespective of the precise subject matter or nature of that law;

Amendment 26

Proposal for a regulation

Article 2 a (new)

Text proposed by the Commission

Amendment

Article 2a

Protection of consumer rights in a data based economy

1. Where technically possible and in accordance with Union law, a provider of an information society service shall enable the use of and payment for that service without collecting the personal data of the recipient.

2. A provider of an information society service shall process personal data concerning the use of the service by a recipient only to the extent strictly necessary to enable the recipient to use the service or to charge the recipient for the use of the service. An operator of an online platform shall only be allowed to process personal data concerning the use of the service by a recipient for the sole purpose of operating a recommender system where the recipient has given his or her explicit consent, as defined in Article 4(11) of Regulation (EU) 2016/679. Member States shall not require a provider of information society
services to retain personal data concerning the use of the service by all recipients.

3. A provider of an information society service shall have the right to provide and support end-to-end encryption services.

4. User profiling carried out by the information society service providers shall only be conducted on the basis of the data provided with the user’s clear consent. Any profiling shall only be carried out on consenting users of the service. Information society service providers are explicitly prohibited from carrying out profiling on third persons who are not users of the service.

Amendment 27
Proposal for a regulation
Article 6

Text proposed by the Commission

Amendment

Article 6

Voluntary own-initiative investigations and legal compliance

Providers of intermediary services shall not be deemed ineligible for the exemptions from liability referred to in Articles 3, 4 and 5 solely because they carry out voluntary own-initiative investigations or other activities aimed at detecting, identifying and removing, or disabling of access to, illegal content, or take the necessary measures to comply with the requirements of Union law, including those set out in this Regulation.
**Justification**

*This Article is not needed, since up until now, courts have never considered that for instance, the use of YouTube's Content ID led to YouTube playing an active role in the provision of its users' content. Companies should be encouraged to innovate their content moderation practices, however we should rule out that private companies are given even more impunity in deciding over the legality of content online.*

**Amendment 28**

Proposal for a regulation  
Article 7 – title

<table>
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<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>No general monitoring or active fact-finding obligations</td>
<td>No general monitoring or active fact-finding or <strong>automated content moderation</strong> obligations</td>
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</table>

**Amendment 29**

Proposal for a regulation  
Article 7 – paragraph 1

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>No general obligation to monitor the information which providers of intermediary services transmit or store, nor actively to seek facts or circumstances indicating illegal activity shall be imposed on those providers.</td>
<td>No general obligation to monitor the information which providers of intermediary services transmit or store, nor actively to seek facts or circumstances indicating illegal activity shall be imposed on those providers. <strong>Providers of intermediary services should not, under any circumstances, be obliged to use automated content moderation. When using moderation content automated tools, intermediary services should always ensure a human oversight of the decision to remove, disable, restrict or modify in any way the information content.</strong></td>
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Or. en
Amendment 30
Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission
1. Providers of intermediary services shall, upon the receipt of an order to act against a specific item of illegal content, issued by the relevant national judicial or administrative authorities, on the basis of the applicable Union or national law, in conformity with Union law, inform the authority issuing the order of the effect given to the orders, without undue delay, specifying the action taken and the moment when the action was taken.

Amendment
1. Providers of intermediary services shall, upon the receipt of an order to act against a specific item of illegal content, issued by the relevant national judicial or administrative authorities, on the basis of the applicable Union or national law, in conformity with Union law, execute that order immediately and inform the authority issuing the order of the effect given to the orders, without undue delay and in any event no later than 10 working days after the receipt of an order to act, specifying the action taken and the moment when the action was taken.

Or. en

Amendment 31
Proposal for a regulation
Article 8 – paragraph 2 – point a – indent 3

Text proposed by the Commission
— information about redress available to the provider of the service and to the recipient of the service who provided the content;

Amendment
— information about redress mechanisms available to the provider of the service and to the recipient of the service who provided the content;

Or. en

Amendment 32
Proposal for a regulation
Article 10 – paragraph 3 a (new)
Amendment 33

Proposal for a regulation
Article 12 – paragraph 1

Text proposed by the Commission

1. Providers of intermediary services shall include information on any restrictions that they impose in relation to the use of their service in respect of information provided by the recipients of the service, in their terms and conditions. That information shall include information on any policies, procedures, measures and tools used for the purpose of content moderation, including algorithmic decision-making and human review. It shall be set out in clear and unambiguous language and shall be publicly available in an easily accessible format.

Amendment

1. Providers of intermediary services shall include information on any restrictions that they impose in relation to the use of their service in respect of information provided by the recipients of the service, in their terms and conditions. That information shall include information on any policies, procedures, measures and tools used for the purpose of content moderation, including algorithmic decision-making and human review. It shall be set out in clear and unambiguous language and shall be publicly available in an easily accessible and machine-readable format.

Amendment 34

Proposal for a regulation
Article 12 – paragraph 2
2. Providers of intermediary services shall act in a diligent, **objective** and proportionate manner in applying and enforcing the restrictions referred to in paragraph 1, with due regard to the rights and legitimate interests of all parties involved, including the applicable fundamental rights of the recipients of the service as enshrined in the Charter.

Amendment 35

Proposal for a regulation
Article 12 – paragraph 2 a (new)

Text proposed by the Commission

2a. **Terms and conditions of providers of intermediary services shall respect the essential principles of fundamental rights as enshrined in the Charter and in international law.**

Or. en

Amendment 36

Proposal for a regulation
Article 12 – paragraph 2 b (new)

Text proposed by the Commission

2b. **Terms and conditions that do not comply with this Article shall not be binding on recipients in accordance with Directive 93/13/EC.**

Or. en
Amendment 37

Proposal for a regulation
Article 12 – paragraph 2 c (new)

Text proposed by the Commission

2c. All changes in terms and conditions should be fully in accordance with this Article. Intermediary service providers should inform the users of all changes in terms and conditions at least one month before their implementation.

Or. en

Amendment 38

Proposal for a regulation
Article 12 – paragraph 2 d (new)

Text proposed by the Commission

2d. To preserve and strengthen the internal market and the transparency of the services provided, the provider shall, as much as possible, use similar terms and conditions across the whole internal market, with divergences being clearly marked and justified.

Or. en

Amendment 39

Proposal for a regulation
Article 12 – paragraph 2 e (new)

Text proposed by the Commission

2e. The very large online platforms shall consult their terms of service with the Digital Services Coordinator and such terms shall only enter into force after
Amendment 40

Proposal for a regulation
Article 13 – paragraph 1 – introductory part

Text proposed by the Commission

1. Providers of intermediary services shall publish, at least once a year, clear, easily comprehensible and detailed reports on any content moderation they engaged in during the relevant period. Those reports shall include, in particular, information on the following, as applicable:

Amendment

1. Providers of intermediary services shall publish in a standardised and machine-readable format, at least once a year, clear, easily comprehensible and detailed reports on any content moderation they engaged in during the relevant period. Those reports shall include, in particular, information on the following, as applicable:

Amendment 41

Proposal for a regulation
Article 13 – paragraph 1 – point c

Text proposed by the Commission

(c) the content moderation engaged in at the providers’ own initiative, including the number and type of measures taken that affect the availability, visibility and accessibility of information provided by the recipients of the service and the recipients’ ability to provide information, categorised by the type of reason and basis for taking those measures;

Amendment

(c) the content moderation engaged in at the providers’ own initiative, including the number and type of measures taken that affect the availability, visibility and accessibility of information provided by the recipients of the service and the recipients’ ability to provide information, categorised by the type of reason and basis for taking those measures, as well as the measures taken to qualify content moderators and the safeguards to ensure that non-infringing content is not affected;
Amendment 42
Proposal for a regulation
Article 13 – paragraph 2

Text proposed by the Commission

2. Paragraph 1 shall not apply to providers of intermediary services that qualify as micro or small enterprises within the meaning of the Annex to Recommendation 2003/361/EC.

Amendment

2. Points (b), (c) and (d) of paragraph 1 shall not apply to providers of intermediary services that qualify as micro or small enterprises within the meaning of the Annex to the Commission Recommendation 2003/361/EC.

Amendment 43
Proposal for a regulation
Article 14 – paragraph 2 – point c a (new)

Text proposed by the Commission

(c) where an alleged infringement of an intellectual property right is notified, evidence that the entity submitting the notice is the holder of the intellectual property right that is allegedly infringed or is authorised to act on behalf of the holder of that right;

Amendment

Or. en

Amendment 44
Proposal for a regulation
Article 14 – paragraph 3

Text proposed by the Commission

3. Notices that include the elements referred to in paragraph 2 shall be deleted

Amendment

Or. en
considered to give rise to actual knowledge or awareness for the purposes of Article 5 in respect of the specific item of information concerned.

Or. en

Amendment 45

Proposal for a regulation
Article 14 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Upon receipt of the notice of alleged copyright infringement, the service provider shall notify the information providers, using available contact details, of the elements referred to in paragraph 2 and give them the opportunity to reply, within a minimum of 5 working days, before taking a decision and, if applicable, before disabling access to the referred content.

Or. en

Amendment 46

Proposal for a regulation
Article 14 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4b. The provider shall ensure that decisions on notices are taken by qualified staff to whom adequate training as well as appropriate working conditions are to be provided, including professional support and qualified psychological assistance.

Or. en
Amendment 47

Proposal for a regulation
Article 14 – paragraph 5

Text proposed by the Commission

5. The provider shall also, without undue delay, notify that individual or entity of its decision in respect of the information to which the notice relates, providing information on the redress possibilities in respect of that decision.

Amendment

5. The provider shall also, without undue delay, notify the individual or entity who submitted the notice and the information provider of its decision in respect of the information to which the notice relates, providing information on the redress possibilities in respect of that decision.

Or. en

Amendment 48

Proposal for a regulation
Article 14 – paragraph 6

Text proposed by the Commission

6. Providers of hosting services shall process any notices that they receive under the mechanisms referred to in paragraph 1, and take their decisions in respect of the information to which the notices relate, in a timely, diligent and objective manner. Where they use automated means for that processing or decision-making, they shall include information on such use in the notification referred to in paragraph 4.

Amendment

6. Providers of hosting services shall process any notices that they receive under the mechanisms referred to in paragraph 1, and take their decisions in respect of the information to which the notices relate, in a timely, diligent and non-arbitrary manner. Where they use automated means for that processing, they shall include information on such use in the notification referred to in paragraph 4.

Or. en

Amendment 49

Proposal for a regulation
Article 15 – paragraph 4
Text proposed by the Commission

4. Providers of hosting services shall publish the decisions and the statements of reasons, referred to in paragraph 1 in a publicly accessible database managed by the Commission. That information shall not contain personal data.

Amendment

4. Providers of hosting services shall publish the decisions and the statements of reasons, referred to in paragraph 1 in a publicly accessible, machine-readable and reusable database managed and published by the Commission. That information shall not contain personal data.

Amendment 50

Proposal for a regulation
Article 15 – paragraph 4 a (new)

Text proposed by the Commission

4a. Micro and small enterprises as defined in the Annex to the Commission Recommendation 2003/361/EC shall be exempt from the obligations set out in this Article.

Amendment

4a. Micro and small enterprises as defined in the Annex to the Commission Recommendation 2003/361/EC shall be exempt from the obligations set out in this Article.

Amendment 51

Proposal for a regulation
Article 17 – paragraph 1 – introductory part

Text proposed by the Commission

1. Online platforms shall provide recipients of the service, for a period of at least six months following the decision referred to in this paragraph, the access to an effective internal complaint-handling system, which enables the complaints to be lodged electronically and free of charge, against the following decisions taken by the online platform on the ground that the information provided by the recipients is

Amendment

1. Online platforms shall provide recipients of the service and qualified entities as defined in Article 3, point (4) of Directive (EU) 2020/1828, for a period of at least six months following the decision referred to in this paragraph, the access to an effective internal complaint-handling system, which enables the complaints to be lodged electronically and free of charge, against the following decisions taken by
illegal content or incompatible with its terms and conditions:

the online platform on the ground that the information provided by the recipients is illegal content or incompatible with its terms and conditions:

Or. en

Amendment 52
Proposal for a regulation
Article 17 – paragraph 1 – point a

Text proposed by the Commission

(a) decisions to remove or disable access to the information;

Amendment

(a) decisions to remove, disable, restrict or in any other way modify access to the information;

Or. en

Amendment 53
Proposal for a regulation
Article 17 – paragraph 2

Text proposed by the Commission

2. Online platforms shall ensure that their internal complaint-handling systems are easy to access, user-friendly and enable and facilitate the submission of sufficiently precise and adequately substantiated complaints.

Amendment

2. Online platforms shall ensure that their internal complaint-handling systems are easy to access, user-friendly and enable and facilitate the submission of sufficiently precise and adequately substantiated complaints. Online platforms shall set out the rules of procedure of their internal complaint handling system in their terms and conditions in a clear, user-friendly and easily accessible manner, including for persons with disabilities.

Or. en
Amendment 54
Proposal for a regulation
Article 17 – paragraph 3

Text proposed by the Commission

3. Online platforms shall handle complaints submitted through their internal complaint-handling system in a timely, diligent and **objective** manner. Where a complaint contains sufficient grounds for the online platform to consider that the information to which the complaint relates is not illegal and is not incompatible with its terms and conditions, or contains information indicating that the complainant’s conduct does not warrant the suspension or termination of the service or the account, it shall reverse its decision referred to in paragraph 1 without undue delay.

Amendment

3. Online platforms shall handle complaints submitted through their internal complaint-handling system in a timely, diligent and **non-arbitrary** manner. Where a complaint contains sufficient grounds for the online platform to consider that the information to which the complaint relates is not illegal and is not incompatible with its terms and conditions, or contains information indicating that the complainant’s conduct does not warrant the suspension or termination of the service or the account, it shall reverse its decision referred to in paragraph 1 without undue delay. **If desired by the complainant, the online platform shall also publicly inform of the reversal of the decision. Where the decision referred to in paragraph 1 is manifestly wrong and infringes the fundamental rights of the recipient of the service, the online platform shall provide financial compensation. When determining the amount of the financial compensation the online platform shall also take into account whether the decision referred to in paragraph 1 prevented the recipient of the service from benefitting from the use of the platform.**

Or. en

Amendment 55
Proposal for a regulation
Article 17 – paragraph 5

Text proposed by the Commission

5. Online platforms shall ensure that the decisions, referred to in paragraph 4,

Amendment

5. Online platforms shall ensure that the decisions, referred to in paragraph 4,
are not solely taken on the basis of automated means.

are not solely taken on the basis of automated means and are reviewed by qualified staff to whom adequate initial and ongoing training on the applicable legislation and international human rights standards as well as appropriate working conditions are to be provided, including, where relevant, professional support, qualified psychological assistance and legal advice.

Or. en

Amendment 56
Proposal for a regulation
Article 18 – paragraph 1 – introductory part

Text proposed by the Commission

1. Recipients of the service addressed by the decisions referred to in Article 17(1), shall be entitled to select any out-of-court dispute that has been certified in accordance with paragraph 2 in order to resolve disputes relating to those decisions, including complaints that could not be resolved by means of the internal complaint-handling system referred to in that Article. Online platforms shall engage, in good faith, with the body selected with a view to resolving the dispute and shall be bound by the decision taken by the body.

Amendment

1. Recipients of the service addressed by the decisions referred to in Article 17(1) and qualified entities as defined in Article 3, point (4) of Directive (EU) 2020/1828, shall be entitled to select any out-of-court dispute settlement body that has been certified in accordance with paragraph 2 in order to resolve disputes relating to those decisions, including complaints that could not be resolved by means of the internal complaint-handling system referred to in that Article. Online platforms shall engage, in good faith, with the body selected by the recipient with a view to resolving the dispute and shall be bound by the decision taken by the body.

Or. en

Amendment 57
Proposal for a regulation
Article 19 – paragraph 1
1. Online platforms shall take the necessary technical and organisational measures to ensure that notices submitted by trusted flaggers through the mechanisms referred to in Article 14, are processed and decided upon with priority and without delay.

The use of automated notices by trusted flaggers without effective human review shall not be accepted as a valid means of submission.

Amendment 58
Proposal for a regulation
Article 19 – paragraph 2 – introductory part

2. The status of trusted flaggers under this Regulation shall be awarded, upon application by any entities, by the Digital Services Coordinator of the Member State in which the applicant is established, where the applicant has demonstrated to meet all of the following conditions:

Amendment
Proposal for a regulation
Article 19 – paragraph 2 – point c a (new)

(c) it is operationally independent from government and public authorities and is not guided by commercial and industry interests.
Amendment 60
Proposal for a regulation
Article 19 – paragraph 2 – point c b (new)

Text proposed by the Commission

Amendment

(cb) it publishes, at least once a year, a clear and easily comprehensible report on notices submitted in accordance with Article 14 during the relevant period covered by the report. The report shall contain:

- a summary of notices categorised by the identity of the provider of hosting services;
- the type of content notified;
- the specific legal provisions allegedly breached by the content notified;
- the action taken by the provider;
- any potential conflicts of interest and sources of funding, and
- an explanation of the procedures in place to ensure the trusted flagger maintains its independence.

Amendment 61
Proposal for a regulation
Article 19 – paragraph 3

Text proposed by the Commission

Amendment

3. Digital Services Coordinators shall communicate to the Commission and the Board the names, addresses and electronic mail addresses of the entities to which they have awarded the status of the trusted
flagger in accordance with paragraph 2.

Amendment 62
Proposal for a regulation
Article 19 – paragraph 4

Text proposed by the Commission

4. The Commission shall publish the information referred to in paragraph 3 in a publicly available database and keep the database updated.

Amendment

4. The Commission shall publish the information referred to in paragraph 3 in a publicly available database in an easily accessible and machine-readable format and keep the database updated.

Amendment 63
Proposal for a regulation
Article 19 – paragraph 5

Text proposed by the Commission

5. Where an online platform has information indicating that a trusted flagger submitted a significant number of insufficiently precise or inadequately substantiated notices through the mechanisms referred to in Article 14, including information gathered in connection to the processing of complaints through the internal complaint-handling systems referred to in Article 17(3), it shall communicate that information to the Digital Services Coordinator that awarded the status of trusted flagger to the entity concerned, providing the necessary explanations and supporting documents.

Amendment

5. Where an online platform has information indicating that a trusted flagger submitted a significant number of insufficiently precise or inadequately substantiated notices or notices regarding legal content through the mechanisms referred to in Article 14, including information gathered in connection to the processing of complaints through the internal complaint-handling systems referred to in Article 17(3), it shall communicate that information to the Digital Services Coordinator that awarded the status of trusted flagger to the entity concerned, providing the necessary explanations and supporting documents.
**Amendment 64**

**Proposal for a regulation**
**Article 19 – paragraph 6**

*Text proposed by the Commission*

6. The Digital Services Coordinator that awarded the status of trusted flagger to an entity shall revoke that status if it determines, following an investigation either on its own initiative or on the basis of information received by third parties, including the information provided by an online platform pursuant to paragraph 5, that the entity no longer meets the conditions set out in paragraph 2. Before revoking that status, the Digital Services Coordinator shall afford the entity an opportunity to react to the findings of its investigation and its intention to revoke the entity’s status as trusted flagger.

*Amendment*

6. The authority that awarded the status of trusted flagger to an entity shall revoke that status if it determines, following an investigation either on its own initiative or on the basis of information received by third parties, including the information provided by an online platform pursuant to paragraph 5, that the entity no longer meets the conditions set out in paragraph 2. Before revoking that status, the Digital Services Coordinator shall afford the entity an opportunity to react to the findings of its investigation and its intention to revoke the entity’s status as trusted flagger.

Or. en

**Amendment 65**

**Proposal for a regulation**
**Article 19 – paragraph 7 a (new)**

*Text proposed by the Commission*

7a. The Commission shall have the right to award financial compensation to trusted flaggers with high ethical and transparency standards and whose work significantly contributes to the protection of fundamental rights. That compensation mechanism should be set up in consultation with the Board.

*Amendment*

7a. The Commission shall have the right to award financial compensation to trusted flaggers with high ethical and transparency standards and whose work significantly contributes to the protection of fundamental rights. That compensation mechanism should be set up in consultation with the Board.

Or. en
Amendment 66

Proposal for a regulation
Article 20 – paragraph 1

Text proposed by the Commission

1. Online platforms shall suspend, for a reasonable period of time and after having issued a prior warning, the provision of their services to recipients of the service that frequently provide manifestly illegal content.

Amendment

1. Online platforms shall suspend, only for a reasonable short period of time and after having issued a prior warning and provided a comprehensive explanation, the provision of their services to recipients of the service that frequently provide manifestly illegal content.

Or. en

Amendment 67

Proposal for a regulation
Article 22 – paragraph 1 – point a

Text proposed by the Commission

(a) the name, address, telephone number and electronic mail address of the trader;

Amendment

(a) the name, address and electronic mail address of the trader;

Or. en

Amendment 68

Proposal for a regulation
Article 22 – paragraph 1 – point b

Text proposed by the Commission

(b) a copy of the identification document of the trader or any other electronic identification as defined by Article 3 of Regulation (EU) No 910/2014 of the European Parliament and of the Council;

Amendment

deleted

Or. en
Amendment 69
Proposal for a regulation
Article 22 – paragraph 1 – point c

Text proposed by the Commission
(c) the bank account details of the trader, where the trader is a natural person;

Amendment
deleted

Or. en

Amendment 70
Proposal for a regulation
Article 22 – paragraph 4

Text proposed by the Commission
4. The online platform shall store the information obtained pursuant to paragraph 1 and 2 in a secure manner for the duration of their contractual relationship with the trader concerned. They shall subsequently delete the information.

Amendment
4. The online platform shall store the information obtained pursuant to paragraph 1 and 2 in a secure manner for the duration of their contractual relationship, including the period for redress, with the trader concerned. They shall subsequently delete the information.

Or. en
Amendment 71

Proposal for a regulation
Article 22 a (new)

Text proposed by the Commission

Amendment

Article 22a

Transparency for sustainable consumption

Where a very large online platform allows consumers to conclude distance contracts with traders, it shall ensure that it provides consumers in a clear and unambiguous manner with information in real time on the environmental impact of its products and services, such as the use of sustainable and efficient delivery methods, sustainable and ecological packaging, as well as the environmental costs of returning goods in the event of withdrawal.

Or. en

Amendment 72

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

Text proposed by the Commission

Amendment

(aa) the number of complaints received through the internal complaint-handling system referred to in Article 17, the basis for those complaints, decisions taken in respect of those complaints, the average time needed for taking those decisions and the number of instances where those decisions were reversed.

Or. en
Amendment 73

Proposal for a regulation
Article 23 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Online platforms shall clearly state how and for what purpose they collect data from users of the service and how, to whom and for what purpose they further disseminate the data collected.

Or. en

Amendment 74

Proposal for a regulation
Article 24 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) meaningful information about the \textit{main} parameters used to determine the recipient to whom the advertisement is displayed.

Or. en

Amendment 75

Proposal for a regulation
Article 24 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) when the online platform is subleasing part of its online presentation to a third party, the platform shall ensure that all the transparency requirements set out in this Article are fulfilled.

Or. en
Amendment 76

Proposal for a regulation
Article 26 – paragraph 1 – point b

Text proposed by the Commission

(b) any negative effects for the exercise of the fundamental rights to respect for private and family life, freedom of expression and information, the prohibition of discrimination and the rights of the child, as enshrined in Articles 7, 11, 21 and 24 of the Charter respectively;

Amendment

(b) any negative effects for the exercise of fundamental rights, in particular the rights to respect for private and family life, freedom of expression and information, the prohibition of discrimination, including through algorithmic biases, and the rights of the child, as enshrined in the Charter;

Or. en

Amendment 77

Proposal for a regulation
Article 26 – paragraph 1 – point c

Text proposed by the Commission

(c) intentional manipulation of their service, including by means of inauthentic use or automated exploitation of the service, with an actual or foreseeable negative effect on the protection of public health, minors, civic discourse, or actual or foreseeable effects related to electoral processes and public security.

Amendment

(c) malfunctioning or intentional manipulation of their service, including by means of automated exploitation of the service, with an actual or foreseeable negative effect on fundamental rights.

Or. en

Amendment 78

Proposal for a regulation
Article 26 – paragraph 2

Text proposed by the Commission

2. When conducting risk assessments, very large online platforms shall take into account, in particular, how their content

Amendment

2. When conducting risk assessments, very large online platforms shall take into account, in particular, the effects of their
moderation systems, recommender systems and systems for selecting and displaying advertisement influence any of the systemic risks referred to in paragraph 1, including the potentially rapid and wide dissemination of illegal content and of information that is incompatible with their terms and conditions.

Amendment 79
Proposal for a regulation
Article 26 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. To ensure a high level of public control and transparency, those yearly risk assessments should be made as transparent as possible, by means of open access data.

Amendment 80
Proposal for a regulation
Article 26 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. The outcome of the risk assessment and the supporting documents shall be communicated to the Board and to the Digital Services Coordinator of establishment. A summary version of the risk assessment shall be made publicly available in an easily accessible format.
Amendment 81

Proposal for a regulation
Article 27 – paragraph 1 – point a (new)

Text proposed by the Commission

Amendment

(aa) appropriate staffing to deal with notices and complaints;

Or. en

Amendment 82

Proposal for a regulation
Article 27 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) initiating or adjusting cooperation with other online platforms through the codes of conduct and the crisis protocols referred to in Article 35 and 37 respectively.

deleted

Or. en

Amendment 83

Proposal for a regulation
Article 27 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) targeted measures aimed at reducing electricity and water consumption, heat production and CO2 emissions related to the provision of the service and to the technical infrastructure.

Or. en
Amendment 84
Proposal for a regulation
Article 27 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Those reports should be disseminated to the general public and include standardised, open data describing the systemic risks, especially risks to fundamental rights.

Or. en

Amendment 85
Proposal for a regulation
Article 27 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission, in cooperation with the Digital Services Coordinators, may issue general guidelines on the application of paragraph 1 in relation to specific risks, in particular to present best practices and recommend possible measures, having due regard to the possible consequences of the measures on fundamental rights enshrined in the Charter of all parties involved. When preparing those guidelines the Commission shall organise public consultations.

3. The Commission, in cooperation with the Digital Services Coordinators, may issue general recommendations on the application of paragraph 1 in relation to specific risks, in particular to present best practices and recommend possible measures, having due regard to the possible consequences of the measures on fundamental rights enshrined in the Charter of all parties involved. When preparing those recommendations the Commission shall organise public consultations.

Or. en

Amendment 86
Proposal for a regulation
Article 28 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Very large online platforms shall be

1. Very large online platforms shall be
subject, at their own expense and at least once a year, to audits to assess compliance with the following: 

Amendment 87
Proposal for a regulation
Article 28 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Audits should be performed on at least:

i. the clarity, coherence and predictable enforcement of terms of service with particular regard to the applicable fundamental rights as enshrined in the Charter;

ii. the completeness, methodology and consistency of the transparency reporting obligations as set out in Articles 13, 23, 24 and 30 as well as on respect for the highest possible standards on transparency reporting;

iii. accuracy, predictability and clarity of the provider’s follow-up for recipients of the service and notice providers to notices of illegal content and violations of terms of service and the accuracy of classification (illegal or violation of terms and conditions) of removed information;

iv. internal and third-party complaint handling mechanisms;

v. interaction with trusted flaggers and independent assessment of accuracy, response times, efficiency and whether there are indications of abuse;

vi. diligence with regard to verification of the traceability of traders;

vii. the effectiveness of and compliance with codes of conduct;
viii. data sufficiency, aiming to reduce data generation, in general, and traffic, wherever possible, including, in particular, the reduction of associated electricity consumption and resources from data centres, as referred to in Article 27;

ix. readiness to participate in the crisis protocols referred to in Article 37.

Audits on the subjects referred to in points (i) to (vii) may be combined where the organisation performing the audits has subject-specific expertise on the subject matter in question.

Amendment 88
Proposal for a regulation
Article 28 – paragraph 2 – introductory part

Text proposed by the Commission

2. Audits performed pursuant to paragraph 1 shall be performed by organisations which:

Amendment

2. Audits performed pursuant to the paragraphs above shall be performed by organisations which:

Amendment 89
Proposal for a regulation
Article 28 – paragraph 4 a (new)

Text proposed by the Commission

4a. The audits should be submitted to the Digital Services Coordinators, the European Union Agency for Fundamental Rights and to the Commission immediately after their completion. Audit findings, that do not include sensitive information, shall be
made public. Digital Services Coordinators, European Union Agency for Fundamental Rights and the Commission may provide a public comment on the audits.

Or. en

Amendment 90

Proposal for a regulation
Article 29 – paragraph 1

Text proposed by the Commission

1. **Very large** online platforms that use recommender systems shall set out in their terms and conditions, in a clear, accessible and easily comprehensible manner, the main parameters used in their recommender systems, as well as any options for the recipients of the service to modify or influence those main parameters that they may have made available, including at least one option which is not based on profiling, within the meaning of Article 4 (4) of Regulation (EU) 2016/679.

Amendment

1. Online platforms that use recommender systems shall set out in their terms and conditions, in a clear, accessible and easily comprehensible manner, the main parameters used in their recommender systems, as well as any options for the recipients of the service to modify or influence those main parameters that they may have made available. **Very large online platform shall include** at least one option which is not based on profiling, within the meaning of Article 4 (4) of Regulation (EU) 2016/679, **as well as keep a log of all the significant changes implemented to the recommender system.**

Or. en

Amendment 91

Proposal for a regulation
Article 29 – paragraph 2 a (new)

Text proposed by the Commission

2a. Only data provided by the user voluntarily and with clear consent can be used in recommender systems.

Amendment

2a. Only data provided by the user voluntarily and with clear consent can be used in recommender systems.

Or. en
Amendment 92

Proposal for a regulation
Article 30 – paragraph 2 – point d

Text proposed by the Commission
(d) whether the advertisement was intended to be displayed specifically to one or more particular groups of recipients of the service and if so, the main parameters used for that purpose;

Amendment
(d) whether the advertisement was intended to be displayed specifically to one or more particular groups of recipients of the service and if so, the main parameters used for that purpose, including decisions concerning the parameters used to exclude particular groups;

Or. en

Amendment 93

Proposal for a regulation
Article 30 – paragraph 2 – point e a (new)

Text proposed by the Commission
(ea) the size of financial compensation expressed in euros or in the currency of the Member State where the platform is established, received by the platform for the dissemination of each advertisement.

Amendment

Or. en

Amendment 94

Proposal for a regulation
Article 31 – paragraph 1

Text proposed by the Commission
1. Very large online platforms shall provide the Digital Services Coordinator of establishment or the Commission, upon their reasoned request and within a reasonable period, specified in the request,

Amendment
1. Very large online platforms shall provide the Digital Services Coordinator of establishment or the Commission, upon their reasoned request and within a reasonable period, specified in the request,
access to data that are necessary to monitor and assess compliance with this Regulation. That Digital Services Coordinator and the Commission shall only use that data for those purposes.

Or. en

Amendment 95
Proposal for a regulation
Article 31 – paragraph 2

Text proposed by the Commission
2. Upon a reasoned request from the Digital Services Coordinator of establishment or the Commission, very large online platforms shall, within a reasonable period, as specified in the request, provide access to data to vetted researchers who meet the requirements in paragraphs 4 of this Article, for the sole purpose of conducting research that contributes to the identification and understanding of systemic risks as set out in Article 26(1).

Amendment
2. Upon a reasoned request from the Digital Services Coordinator of establishment or the Commission, very large online platforms shall, within a reasonable period, as specified in the request, provide access to data to vetted researchers who meet the requirements in paragraphs 4 of this Article.

Or. en

Amendment 96
Proposal for a regulation
Article 31 – paragraph 2 a (new)

Text proposed by the Commission
2a. Upon reasoned request, very large online platforms shall provide access to data, in particular aggregated and anonymised data, to vetted researchers, who meet the requirements set out in paragraph 4, for the purpose of scientific and academic research. Very large online platform may deny access to the data if
such access would compromise trade secrets or the security of the service. Such refusal shall be duly justified.

Amendment 97

Proposal for a regulation
Article 31 – paragraph 3

Text proposed by the Commission

3. Very large online platforms shall provide access to data pursuant to paragraphs 1 and 2 through online databases or application programming interfaces, as appropriate.

Amendment

3. Very large online platforms shall provide access to data pursuant to paragraphs 1 and 2 through online databases or application programming interfaces, as appropriate. That shall include personal data only where it is lawfully accessible to the public.

Amendment 98

Proposal for a regulation
Article 31 – paragraph 4

Text proposed by the Commission

4. In order to be vetted, researchers shall be affiliated with academic institutions, be independent from commercial interests, have proven records of expertise in the fields related to the risks investigated or related research methodologies, and shall commit and be in a capacity to preserve the specific data security and confidentiality requirements corresponding to each request.

Amendment

4. In order to be vetted, researchers shall be affiliated with academic institutions, be independent from commercial interests, have proven records of knowledge in the fields related to the investigation, and shall commit to preserve the specific data security and confidentiality requirements corresponding to each request.

Or. en
Amendment 99
Proposal for a regulation
Article 31 – paragraph 6 – introductory part

Text proposed by the Commission

6. Within 15 days following receipt of a request as referred to in paragraph 1 and 2, a very large online platform may request the Digital Services Coordinator of establishment or the Commission, as applicable, to amend the request, where it considers that it is unable to give access to the data requested because one of following two reasons:

Amendment

6. Within 15 days following receipt of a request as referred to in paragraph 1 and 2, a very large online platform may request the Digital Services Coordinator of establishment or the Commission or the vetted researchers, as applicable, to amend the request, where it considers that it is unable to give access to the data requested because one of following two reasons:

Or. en

Amendment 100
Proposal for a regulation
Article 31 – paragraph 7 – subparagraph 1

Text proposed by the Commission

The Digital Services Coordinator of establishment or the Commission shall decide upon the request for amendment within 15 days and communicate to the very large online platform its decision and, where relevant, the amended request and the new time period to comply with the request.

Amendment

The Digital Services Coordinator of establishment or the Commission or the vetted researchers shall decide upon the request for amendment within 15 days and communicate to the very large online platform its decision and, where relevant, the amended request and the new time period to comply with the request.

Or. en

Amendment 101
Proposal for a regulation
Article 31 – paragraph 7 a (new)

Text proposed by the Commission

7a. Research conducted under that
regime should always be built on open access principles and use standardised data sets to ensure a high level of transparency and accountability with regard to the proper use of provided data.

Amendment 102
Proposal for a regulation
Article 31 – paragraph 7 b (new)

Text proposed by the Commission

Amendment

7b. Upon completion of their research, the vetted researchers that have been granted access to data shall publish their findings without disclosing personal data.

Amendment 103
Proposal for a regulation
Article 33 – paragraph 1

Text proposed by the Commission

Amendment

1. Very large online platforms shall publish the reports referred to in Article 13 within six months from the date of application referred to in Article 25(4), and thereafter every six months.

Amendment 104
Proposal for a regulation
Article 33 a (new)
Text proposed by the Commission

Amendment

Article 33a

Interoperability

1. Very large online platforms shall make the core functionalities of their services interoperable with other online platforms to enable cross-platform communication. That obligation shall not limit, hinder or delay their ability to solve security issues and should be in compliance with all their responsibilities, especially regarding fundamental rights and protection of privacy.

2. Very large online platforms shall publicly document all application programming interfaces they make available and update them continuously.

3. The Commission shall adopt implementing measures specifying the nature and scope of the obligations set out in paragraphs 1 and 2, taking into account, not only the individual cases of different very large online providers, but also the market as a whole.

Or. en

Amendment 105

Proposal for a regulation
Article 34 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) interoperability of the core functions of very large online platforms pursuant to article 33a.

Or. en
Amendment 106
Proposal for a regulation
Article 35 – paragraph 1

Text proposed by the Commission

1. The Commission and the Board shall encourage and facilitate the drawing up of codes of conduct at Union level to contribute to the proper application of this Regulation, taking into account in particular the specific challenges of tackling different types of illegal content and systemic risks, in accordance with Union law, in particular on competition and the protection of personal data.

Amendment

1. The Commission and the Board shall encourage and facilitate the drawing up of codes of conduct at Union level to contribute to the proper application of this Regulation, taking into account in particular the specific challenges of tackling different types of systemic risks, in accordance with Union law, in particular on competition and the protection of personal data.

Or. en

Amendment 107
Proposal for a regulation
Article 36 – paragraph 2 – point b a (new)

Text proposed by the Commission

(ba) the different types of data that can be used.

Amendment

Or. en

Amendment 108
Proposal for a regulation
Article 37 – paragraph 1

Text proposed by the Commission

1. The Board may recommend the Commission to initiate the drawing up, in accordance with paragraphs 2, 3 and 4, of crisis protocols for addressing crisis situations strictly limited to extraordinary circumstances affecting public security or

Amendment

1. The Board may recommend the Commission to initiate the drawing up, in accordance with paragraphs 2, 3 and 4, of crisis protocols for addressing crisis situations strictly limited to extraordinary circumstances affecting public security or
public health. The Commission shall be responsible for drafting, implementation and scrutiny of the crisis protocols and shall annually report on them to the European Parliament.

Or. en

Amendment 109

Proposal for a regulation
Article 37 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. All crisis protocols are to be subjected to scrutiny by the appropriate committees of the European Parliament.

Or. en

Amendment 110

Proposal for a regulation
Article 37 – paragraph 5 b (new)

Text proposed by the Commission

Amendment

5b. Readiness to participate in already existing crisis protocols should be assessed in a risk assessment outlined in Article 26.

Or. en

Amendment 111

Proposal for a regulation
Article 42 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall lay down the 1. The Commission shall lay down
rules on penalties applicable to infringements of this Regulation by providers of intermediary services **under their jurisdiction** and shall take all the necessary measures to ensure that they are implemented in accordance with Article 41.

**Amendment 112**

Proposal for a regulation  
Article 42 – paragraph 2

*Text proposed by the Commission*  
2. Penalties shall be effective, proportionate and dissuasive. **Member States shall notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendments affecting them.**

*Amendment*  
2. Penalties shall be effective, proportionate and dissuasive.

**Amendment 113**

Proposal for a regulation  
Article 42 – paragraph 3

*Text proposed by the Commission*  
3. **Member States** shall ensure that the maximum amount of penalties imposed for a failure to comply with the obligations laid down in this Regulation shall not exceed 6% of the annual income or turnover of the provider of intermediary services concerned. Penalties for the supply of incorrect, incomplete or misleading information, failure to reply or rectify incorrect, incomplete or misleading information and to submit to an on-site inspection shall not exceed 1% of the

*Amendment*  
3. **The Commission** shall ensure that the maximum amount of penalties imposed for a failure to comply with the obligations laid down in this Regulation shall not exceed 6% of the annual income or turnover of the provider of intermediary services concerned. Penalties for the supply of incorrect, incomplete or misleading information, failure to reply or rectify incorrect, incomplete or misleading information and to submit to an on-site inspection shall not exceed 1% of the
4. **Member States** shall ensure that the maximum amount of a periodic penalty payment shall not exceed 5% of the average daily turnover of the provider of intermediary services concerned in the preceding financial year per day, calculated from the date specified in the decision concerned.

4. **The Commission** shall ensure that the maximum amount of a periodic penalty payment shall not exceed 5% of the average daily turnover of the provider of intermediary services concerned in the preceding financial year per day, calculated from the date specified in the decision concerned.

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**Amendment 115**

Proposal for a regulation  
Article 42 – paragraph 4 a (new)

4a. **The Commission** shall, after consulting the Board, adopt delegated acts laying down the rules and methodology to impose penalties on providers of intermediary services infringing this Regulation by ... [12 months after the entry into force of this Regulation].
Amendment 116

Proposal for a regulation
Article 44 – paragraph 1

Text proposed by the Commission

1. Digital Services Coordinators shall draw up an annual report on their activities under this Regulation. They shall make the annual reports available to the public, and shall communicate them to the Commission and to the Board.

Amendment

1. Digital Services Coordinators shall draw up an annual report on their activities under this Regulation. They shall make the annual reports available to the public in a standardised and machine-readable format, and shall communicate them to the Commission and to the Board.

Or. en

Amendment 117

Proposal for a regulation
Article 45 – paragraph 1 – introductory part

Text proposed by the Commission

1. Where a Digital Services Coordinator has reasons to suspect that a provider of an intermediary service, not under the jurisdiction of the Member State concerned, infringed this Regulation, it shall request the Digital Services Coordinator of establishment to assess the matter and take the necessary investigatory and enforcement measures to ensure compliance with this Regulation.

Amendment

1. Where a Digital Services Coordinator has reasons to suspect that a provider of an intermediary service, not under the jurisdiction of the Member State concerned, infringed this Regulation, it shall request the Digital Services Coordinator of establishment to assess the matter and take the necessary investigatory and enforcement measures to ensure compliance with this Regulation. The Digital Services Coordinator of establishment shall acknowledge the receipt of the request and confirm that it will assess the matter and take the necessary investigatory and enforcement measures within 5 working days following the receipt of the request. In the absence of confirmation, the requesting Digital Services Coordinator may require the service provider to submit, within a reasonable period of time, any information relating to the relevant conduct. That information shall be shared.
with the Digital Services Coordinator of establishment.

Where the Digital Services Coordinator of establishment initiates proceedings, it shall share with the requesting Digital Services Coordinator all the information gathered during the proceedings related to the case.

Or. en

Amendment 118
Proposal for a regulation
Article 45 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The Digital Service Coordinator of establishment shall make available to any Digital Services Coordinator in the territory where the service provider operates, the data collected for the purpose of the supervision of that provider and which relates to the territory of the requesting Digital Service Coordinator.

Or. en

Amendment 119
Proposal for a regulation
Article 45 – paragraph 3

Text proposed by the Commission

Amendment

3. The Digital Services Coordinator of establishment shall take into utmost account the request or recommendation pursuant to paragraph 1. Where it considers that it has insufficient information to act upon the request or recommendation and has reasons to consider that the Digital Services Coordinator that sent the request,
or the Board, could provide additional information, it may request such information. The time period laid down
in paragraph 4 shall be suspended until that additional information is provided.

Amendment 120
Proposal for a regulation
Article 45 – paragraph 4

Text proposed by the Commission

4. The Digital Services Coordinator of establishment shall, without undue delay and in any event not later than two months following receipt of the request or recommendation, communicate to the Digital Services Coordinator that sent the request, or the Board, its assessment of the suspected infringement, or that of any other competent authority pursuant to national law where relevant, and an explanation of any investigatory or enforcement measures taken or envisaged in relation thereto to ensure compliance with this Regulation.

Amendment

4. The Digital Services Coordinator of establishment shall, without undue delay and in any event not later than two months following receipt of the request or recommendation, communicate to the Digital Services Coordinator that sent the request, or the Board, its assessment of the suspected infringement, or that of any other competent authority pursuant to national law where relevant, and an explanation of any investigatory or enforcement measures taken or envisaged in relation thereto to ensure compliance with this Regulation, or where appropriate the reasons why it considers that the case should not be investigated.

Or. en

Amendment 121
Proposal for a regulation
Article 45 – paragraph 7

Text proposed by the Commission

7. Where, pursuant to paragraph 6, the Commission concludes that the assessment or the investigatory or enforcement measures taken or envisaged pursuant to

Amendment

7. Where, pursuant to paragraph 6, the Commission concludes that the assessment or the investigatory or enforcement measures taken or envisaged pursuant to
paragraph 4 are incompatible with this Regulation, it shall request the Digital Service Coordinator of establishment to further assess the matter and take the necessary investigatory or enforcement measures to ensure compliance with this Regulation, and to inform it about those measures taken within two months from that request.

Amendment 122
Proposal for a regulation
Article 45 a (new)

Text proposed by the Commission

Amendment

Article 45a
Interim measures in case of urgency
Where serious harm is or is likely to be caused to the recipient of the services due to manifest infringements of this Regulation, any Digital Services Coordinator may take the necessary interim measures against the service provider. The Digital Services Coordinator shall immediately inform the Board, the Commission and all the Digital Services Coordinators of Member States in which the services provider operates.

Amendment 123
Proposal for a regulation
Article 47 – paragraph 1

Text proposed by the Commission

Amendment
1. An independent advisory group of Digital Services Coordinators on the coordination group of Digital Services
supervision of providers of intermediary services named ‘European Board for Digital Services’ (the ‘Board’) is established.

Coordinators on the supervision of providers of intermediary services named ‘European Board for Digital Services’ (the ‘Board’) is established.

Amendment 124
Proposal for a regulation
Article 47 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) facilitating communication between multiple Digital Service Coordinators and creating a safe space for open information exchange.

Amendment 125
Proposal for a regulation
Article 52 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Upon request, the Commission shall transmit the information obtained to the Digital Services Coordinator of establishment and to the Board.

Amendment 126
Proposal for a regulation
Article 55 – paragraph 2

Text proposed by the Commission

Amendment

2. A decision under paragraph 1 shall
apply for a specified period of time and may be renewed in so far this is necessary and appropriate. When adopting such a decision, the Commission shall immediately inform the Board and the Digital Service Coordinator of establishment.

**Amendment 127**

**Proposal for a regulation**

**Article 58 – 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 very large online platform concerned. In the preliminary findings, the Commission shall explain the measures that it considers taking, or that it considers that the very large online platform concerned 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 very large online platform concerned, to the Board and to the Digital Service Coordinator of establishment. In the preliminary findings, the Commission shall explain the measures that it considers taking, or that it considers that the very large online platform concerned should take, in order to effectively address the preliminary findings.

**Amendment 128**

**Proposal for a regulation**

**Article 58 – paragraph 5**

*Text proposed by the Commission*

5. Where the Commission finds that the conditions of paragraph 1 are not met, it shall close the investigation by a decision.

*Amendment*

5. Where the Commission finds that the conditions of paragraph 1 are not met, it shall close the investigation by a decision and inform the Board and the Digital Service Coordinator of establishment.
Amendment 129
Proposal for a regulation
Article 67 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Relevant committees of the European Parliament should be given access to that information sharing system to provide democratic oversight.

Or. en