



**2020/0361(COD)**

29.9.2021

## **OPINION**

of the Committee on Industry, Research and Energy

for the Committee on the Internal Market and Consumer Protection

on the proposal for a regulation of the European Parliament and of the Council on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC  
(COM(2020)0825 – C9-0418/2020 – 2020/0361(COD))

Rapporteur for opinion: Henna Virkkunen

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

PA\_Legam

## SHORT JUSTIFICATION

In its proposal for the Digital Services Act, the European Commission has set out a number of ways to improve the protection of fundamental human rights online and to create a stronger obligation of transparency and accountability for online platforms.

The aim of this new Regulation should be to strengthen democracy, increase fair competition and accelerate innovation. The digital world must adhere to the same European values as the rest of our societies: democracy, freedom of speech and human rights. What is illegal in offline should also be illegal online. It is also vitally important for European business, especially SMEs, that companies based in third countries but operating in the internal market follow the same rules as European companies.

In the draft opinion, I have limited myself to parts of the Regulation that fall under ITRE competence. This has been a conscious choice, which I encourage all Rapporteurs and other colleagues to follow, when they analyse and propose changes to the Commission proposal. As the industry, research, energy, ICT and SME committee of the Parliament, we have a keen interest and a clear competence for many parts of the Regulation, but should also recognize the important role played by other associated committees and the lead committee.

The proposal includes obligations to remove illegal content from platforms, traceability of business users, ways to challenge moderation decisions, and researchers' access to data. In many parts of the Regulation, we need to strike the right balance between different legitimate interests and arguments. After carefully analysing the Commission proposal, I have found that in many of these cases, the choice made by the Commission in their proposal has been a justified and well-reasoned one. For these Articles, I am not proposing changes, even if I consider many of them to fall under ITRE competence.

The focus of my draft opinion is on the amount of administrative burden and requirements we are setting, not only for the big companies, but especially for the small. In the draft opinion, I have identified several requirements that due to their nature, level of detail or expected amount of compliance cost should not apply to micro and small enterprises. This, I believe, is also well in line with the input I have received from different political groups before the publication of this draft opinion.

In addition to the focus on micro and small enterprises, I have introduced certain clarifications and changes that are more technical in their nature. We should ensure that the standards we set in this Regulation are clear and provide businesses and consumers the required legal certainty. We should also ensure that the mechanisms we are introducing in this legislation are efficient and fulfil the role that they have been assigned.

## AMENDMENTS

The Committee on Industry, Research and Energy calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to take into account the following amendments:

**Amendment 1**  
**Proposal for a regulation**  
**Recital 2**

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 2**

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

*Text proposed by the Commission*

(3) Responsible and diligent behaviour by providers of intermediary services is essential for a safe, predictable and trusted online environment and for allowing Union citizens and other persons to exercise their fundamental rights guaranteed in the Charter of Fundamental Rights of the European Union ('Charter'), in particular

*Amendment*

(3) Responsible and diligent behaviour by providers of intermediary services is essential for a safe, predictable and trusted online environment and for allowing Union citizens and other persons to exercise their fundamental rights guaranteed in the Charter of Fundamental Rights of the European Union ('Charter'), in particular

the freedom of expression and information and the freedom to conduct a business, and the right to non-discrimination.

the ***right to privacy, the right to protection of personal data***, freedom of expression and information and the freedom to conduct a business, and the right to non-discrimination.

### Amendment 3

#### Proposal for a regulation

##### Recital 4

###### *Text proposed by the Commission*

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

###### *Amendment*

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

### Amendment 4

#### Proposal for a regulation

##### Recital 5

###### *Text proposed by the Commission*

(5) This Regulation should apply to providers of certain information society services as defined in Directive (EU) 2015/1535 of the European Parliament and of the Council<sup>26</sup>, that is, any service normally provided for remuneration, at a

###### *Amendment*

(5) This Regulation should apply to providers of certain information society services as defined in Directive (EU) 2015/1535 of the European Parliament and of the Council<sup>26</sup>, 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***.

---

<sup>26</sup> Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

## Amendment 5

### Proposal for a regulation

#### Recital 8

##### *Text proposed by the Commission*

(8) Such a substantial connection to the Union should be considered to exist where the service provider has an establishment in the Union or, in its absence, on the basis of ***the existence of a significant number of users in one or more Member States, or the*** targeting of activities towards one or more Member States. The targeting of activities towards one or more Member States can be determined on the basis of all relevant circumstances, including factors such as the use of a language or a currency generally used in that Member State, or the possibility of ordering products or services, or using a national top level domain. The targeting of activities towards a Member State could also be derived from the

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 ***responsibility for upholding fundamental rights***.

---

<sup>26</sup> Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

##### *Amendment*

(8) Such a substantial connection to the Union should be considered to exist where the service provider has an establishment in the Union or, in its absence, on the basis of ***its*** targeting of activities towards one or more Member States. The targeting of activities towards one or more Member States can be determined on the basis of all relevant circumstances, including factors such as the use of a language or a currency generally used in that Member State, or the possibility of ordering products or services, or using a national top level domain. The targeting of activities towards a Member State could also be derived from the availability of an application in the relevant national application store, from the

availability of an application in the relevant national application store, from the provision of local advertising or advertising in the language used in that Member State, or from the handling of customer relations such as by providing customer service in the language generally used in that Member State. A substantial connection should also be assumed where a service provider directs its activities to one or more Member State as set out in Article 17(1)(c) of Regulation (EU) 1215/2012 of the European Parliament and of the Council<sup>27</sup>. On the other hand, mere technical accessibility of a website from the Union cannot, on that ground alone, be considered as establishing a substantial connection to the Union.

---

<sup>27</sup> Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L351, 20.12.2012, p.1).

provision of local advertising or advertising in the language used in that Member State, or from the handling of customer relations such as by providing customer service in the language generally used in that Member State. A substantial connection should also be assumed where a service provider directs its activities to one or more Member State as set out in Article 17(1)(c) of Regulation (EU) 1215/2012 of the European Parliament and of the Council<sup>27</sup>. On the other hand, mere technical accessibility of a website from the Union cannot, on that ground alone, be considered as establishing a substantial connection to the Union.

---

<sup>27</sup> Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L351, 20.12.2012, p.1).

## Amendment 6

### Proposal for a regulation

#### Recital 9

##### *Text proposed by the Commission*

(9) This Regulation should **complement, yet** not affect the application of rules resulting from other acts of Union law regulating certain aspects of the provision of intermediary services, in particular Directive 2000/31/EC, with the exception of those changes introduced by this Regulation, Directive 2010/13/EU of the European Parliament and of the Council as amended,<sup>28</sup> and Regulation (EU) .../.. of the European Parliament and of the Council<sup>29</sup> – proposed Terrorist Content Online Regulation. Therefore, this Regulation leaves those other acts, which

##### *Amendment*

(9) This Regulation should not affect the application of rules resulting from other acts of Union law regulating certain aspects of the provision of intermediary services, in particular Directive 2000/31/EC, with the exception of those changes introduced by this Regulation, Directive 2010/13/EU of the European Parliament and of the Council as amended<sup>28</sup>, and Regulation (EU) .../.. of the European Parliament and of the Council<sup>29</sup> – proposed Terrorist Content Online Regulation. Therefore, this Regulation leaves those other acts, which are to be

are to be considered *lex specialis* in relation to the generally applicable framework set out in this Regulation, unaffected. ***However, the rules of this Regulation apply in respect of issues that are not or not fully addressed by those other acts as well as issues on which those other acts leave Member States the possibility of adopting certain measures at national level.***

---

<sup>28</sup> Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (Text with EEA relevance), OJ L 95, 15.4.2010, p. 1 .

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

considered *lex specialis* in relation to the generally applicable framework set out in this Regulation, unaffected. ***In the event of a conflict between lex specialis legislation, including national implementing measures, and this Regulation, the lex specialis provisions will prevail.***

---

<sup>28</sup> Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (Text with EEA relevance), OJ L 95, 15.4.2010, p. 1 .

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

## Amendment 7

### Proposal for a regulation Recital 11

*Text proposed by the Commission*

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

*Amendment*

(11) It should be clarified that this Regulation is without prejudice to the rules of Union law on copyright and related rights, ***and to any provisions of national law on copyright and related rights adopted in compliance with Union law so as to ensure the highest level of protection of those rights***, which establish specific rules and procedures that should remain unaffected.

## Amendment 8



**Proposal for a regulation**  
**Recital 12**

*Text proposed by the Commission*

(12) In order to achieve the objective of ensuring a safe, predictable and trusted online environment, for the purpose of this Regulation the concept of “illegal content” should be defined ***broadly and also covers*** information relating to illegal content, products, services and activities. In particular, that concept should be understood to refer to information, irrespective of its form, that under the applicable law is either itself illegal, such as illegal hate speech or terrorist content and unlawful discriminatory content, or that relates to activities that are illegal, such as the sharing of images depicting child sexual abuse, unlawful non-consensual sharing of private images, online stalking, the sale of non-compliant or counterfeit products, the non-authorised use of copyright protected material or activities involving infringements of consumer protection law. In this regard, it 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 9**

**Proposal for a regulation**  
**Recital 13**

*Text proposed by the Commission*

(13) Considering the particular characteristics of the services concerned and the corresponding need to make the providers thereof subject to certain specific obligations, it is necessary to distinguish,

*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 ***as covering*** 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 ***Union or national*** law is either itself illegal, such as illegal hate speech or terrorist content and unlawful discriminatory content, or that relates to activities that are illegal, such as the sharing of images depicting child sexual abuse, unlawful non-consensual sharing of private images, online stalking, the sale of non-compliant, ***dangerous*** or counterfeit products, ***illegally-traded animals***, 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. ***The Commission should provide guidance on how to identify illegal content.***

*Amendment*

(13) Considering the particular characteristics of the services concerned and the corresponding need to make the providers thereof subject to certain specific obligations, it is necessary to distinguish,

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

within the broader category of providers of hosting services as defined in this Regulation, the subcategory of online platforms. Online platforms, such as social networks, *content-sharing platforms, livestreaming platforms* or online marketplaces, should be defined as providers of hosting services that not only store information provided by the recipients of the service at their request, but that also disseminate that information to the public, again at their request, *or otherwise play an active role in the dissemination of user-generated content. Search engines and equivalent services may also be considered to be online platforms, if these services meet the definition of online platform set out in this Regulation.* However, in order to avoid imposing overly broad obligations, providers of hosting services should not be considered as online platforms, *for the entirety or for part of their service*, where the dissemination to the public is merely a minor and purely ancillary feature of *the principal* service and that feature cannot, for objective technical reasons, be used without that other, principal service, and the integration of that feature is not a means to circumvent the applicability of the rules of this Regulation applicable to online platforms. For example, the comments section in an online newspaper could constitute such a feature, where it is clear that it is ancillary to the main service represented by the publication of news under the editorial responsibility of the publisher. *Similarly, link-sharing options or similar features of cloud-based solutions for storing user-generated content could constitute such a feature, where the possibility of disseminating content to the public is clearly an ancillary feature to the principal service of storing information and content.*

## Amendment 10

### 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,<sup>39</sup> such as emails or private messaging services, fall outside the scope of this Regulation. Information should be considered disseminated to the public within the meaning of this Regulation only where that occurs upon the direct request by the recipient of the service that provided the information.

#### *Amendment*

(14) The concept of ‘dissemination to the public’, as used in this Regulation, should entail the making available of information to a potentially unlimited 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.*** 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 *limited* number of pre-determined persons, ***taking into account the potential for groups to become tools for wide dissemination of content to the public.*** Interpersonal communication services, as defined in Directive (EU) 2018/1972 of the European Parliament and of the Council,<sup>39</sup> such as emails or private messaging services, fall outside the scope of ***the definition of online platform in this Regulation. To the extent that they qualify as ‘mere conduit’, ‘caching’ or ‘hosting’ services, those services should be able to benefit from liability exemptions provided for by this Regulation.*** Information should be

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

---

<sup>39</sup> Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (Recast), OJ L 321, 17.12.2018, p. 36

---

<sup>39</sup> Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (Recast), OJ L 321, 17.12.2018, p. 36.

## Amendment 11

### Proposal for a regulation Recital 15 a (new)

*Text proposed by the Commission*

*Amendment*

***(15a) 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 helps to ensure the confidentiality of communications.***

## Amendment 12

### 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

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

available in respect of liability relating to information provided not by the recipient of the service but by the provider of intermediary service itself, including where the information has been developed under the editorial responsibility of that provider.

available in respect of liability relating to information provided not by the recipient of the service but by the provider of intermediary service itself, including where the information has been developed under the editorial responsibility of that provider ***or where the provider intermediary service promotes or references such content.***

## Amendment 13

### Proposal for a regulation Recital 20

*Text proposed by the Commission*

(20) A provider of intermediary services ***that*** deliberately collaborates with a recipient of the services in order to undertake illegal activities ***does not provide its*** service neutrally and should therefore not be able to benefit from the exemptions from liability provided for in this Regulation.

*Amendment*

(20) ***Where the main purpose of the information society service is to engage in or facilitate illegal activities or where a*** provider of intermediary services deliberately collaborates with a recipient of the services in order to undertake illegal activities, ***the service should be deemed not to have been provided*** neutrally and should therefore not be able to benefit from the exemptions from liability provided for in this Regulation.

## Amendment 14

### Proposal for a regulation Recital 21

*Text proposed by the Commission*

(21) A provider should be able to benefit from the exemptions from liability for ‘mere conduit’ and for ‘caching’ services when it is in no way involved ***with*** the information transmitted. This requires, among other things, that the provider does not modify the information that it transmits. However, this requirement should not be understood to cover manipulations of a technical nature which take place in the course of the transmission, as such manipulations do not

*Amendment*

(21) A provider should be able to benefit from the exemptions from liability for ‘mere conduit’ and for ‘caching’ services when it is in no way involved ***in the content of*** the information transmitted. This requires, among other things, that the provider does not modify the information that it transmits. However, this requirement should not be understood to cover manipulations of a technical nature which take place in the course of the transmission, as such manipulations do not

alter the integrity of the information transmitted.

alter the integrity of the information transmitted.

## Amendment 15

### Proposal for a regulation

#### Recital 22

##### *Text proposed by the Commission*

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

##### *Amendment*

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

## Amendment 16

### Proposal for a regulation

#### Recital 23

##### *Text proposed by the Commission*

(23) In order to ensure the effective protection of consumers when engaging in intermediated commercial transactions online, certain providers of hosting services, namely, online **platforms that allow consumers to conclude distance**

##### *Amendment*

(23) In order to ensure the effective protection of consumers when engaging in intermediated commercial transactions online, certain providers of hosting services, namely, online **marketplaces**, should not be able to benefit from the

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

## Amendment 17

### Proposal for a regulation Recital 24

#### *Text proposed by the Commission*

(24) The exemptions from liability established in this Regulation should not affect the possibility of injunctions of different kinds against providers of intermediary services, **even** where they meet the conditions set out as part of those exemptions. Such injunctions could, in particular, consist of orders by courts or administrative authorities requiring the termination or prevention of any infringement, including the removal of illegal content specified in such orders, issued in compliance with Union law, or the disabling of access to it.

exemption from liability for hosting service providers established in this Regulation, in so far as those online platforms present the relevant information relating to the transactions at issue in such a way that it leads consumers to believe that the information was provided by those online platforms themselves or by recipients of the service acting under their authority or control, and that those online platforms thus have knowledge of or control over the information, even if that may in reality not be the case. In that regard, it should be determined objectively, on the basis of all relevant circumstances, whether the presentation could lead to such a belief on the side of an average consumer.

#### *Amendment*

(24) The exemptions from liability established in this Regulation should not affect the possibility of injunctions of different kinds against providers of intermediary services, where they meet the conditions set out as part of those exemptions. Such injunctions could, in particular, consist of orders by courts or administrative authorities requiring the termination or prevention of any infringement, including the removal of illegal content specified in such orders, issued in compliance with Union law, or the disabling of access to it. ***As a general rule, injunctions addressed to intermediary services should be considered as a last resort, where any other reasonable and proportionate action closer to the content owner is not***

*available.*

## Amendment 18

### 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*

(25) In order to create legal certainty and not to discourage **automated or non-automated** 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 a diligent manner **for the purpose of detecting, identifying and acting against illegal content. Such activities should be accompanied by additional safeguards.** 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 **or national** law, including those set out in this Regulation as regards the implementation of their terms and conditions, should not lead to the unavailability of **the** exemptions from liability **set out in this Regulation.** 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 19

### Proposal for a regulation Recital 26

#### *Text proposed by the Commission*

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

#### *Amendment*

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

*content, including all the necessary information for localising as precisely as possible the illegal content.*

## Amendment 20

### Proposal for a regulation

#### Recital 27

##### *Text proposed by the Commission*

(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.

##### *Amendment*

(27) *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, content delivery networks *or providers of services deeper in the internet stack, such as IT infrastructure services (on-premise, cloud-based and hybrid hosting solutions)*, 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. *Services deeper in the internet stack acting as online intermediaries could be required to take proportionate action where the customer fails to remove the illegal content, unless this is technically impracticable.*

## Amendment 21

### Proposal for a regulation Recital 28

#### *Text proposed by the Commission*

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

#### *Amendment*

(28) Providers of intermediary services should not be subject to a monitoring obligation with respect to obligations of a general nature, *nor should they be required to 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. *Such orders referred should not consist in requiring a service provider to introduce, exclusively at its own expense, a screening system which entails general and permanent monitoring in order to prevent any future infringement. However, such orders could require a host provider to remove information which it stores, the content of which is identical or equivalent to the content of information which was previously declared to be unlawful, or to block access to that information, irrespective of who requested the storage of that information, provided that the monitoring of and search for the information concerned is limited to information properly identified in the injunction, such as the name of the person concerned by the infringement determined previously, the circumstances in which that infringement was determined and equivalent content to that which was declared to be illegal, and does*

*not require the host provider to carry out an independent assessment of that content.* Nothing in this Regulation should be construed as an imposition of a general monitoring obligation. *The Regulation should not be considered to be impeding the ability of providers to undertake proactive measures to identify and remove illegal content and to prevent its reappearance.*

## Amendment 22

### Proposal for a regulation

#### Recital 30

##### *Text proposed by the Commission*

(30) Orders to act against illegal content or to provide information should be issued in compliance with Union law, in particular Regulation (EU) 2016/679 and the prohibition of general obligations to monitor information or to actively seek facts or circumstances indicating illegal activity laid down in this Regulation. The conditions and requirements laid down in this Regulation which apply to orders to act against illegal content are without prejudice to other Union acts providing for similar systems for acting against specific types of illegal content, such as Regulation (EU) .../.... [proposed Regulation addressing the dissemination of terrorist content online], or Regulation (EU) 2017/2394 that confers specific powers to order the provision of information on Member State consumer law enforcement authorities, whilst the conditions and requirements that apply to orders to provide information are without prejudice to other Union acts providing for similar relevant rules for specific sectors. Those conditions and requirements should be without prejudice to retention and preservation rules under applicable national law, in conformity with Union law and confidentiality requests by law

##### *Amendment*

(30) Orders to act against illegal content or to provide information should be issued in compliance with Union law, in particular Regulation (EU) 2016/679 and the prohibition of general obligations to monitor information or to actively seek facts or circumstances indicating illegal activity laid down in this Regulation. *It should be possible for orders to act against illegal content to require providers of intermediary services to take steps, in specific cases, to remove identical or equivalent illegal content, within the same context. It should also be possible for them to require providers of intermediary services to take steps to prevent the reappearance of the illegal content.* The conditions and requirements laid down in this Regulation which apply to orders to act against illegal content are without prejudice to other Union acts providing for similar systems for acting against specific types of illegal content, such as Regulation (EU) .../.... [proposed Regulation addressing the dissemination of terrorist content online], or Regulation (EU) 2017/2394 that confers specific powers to order the provision of information on Member State consumer law enforcement authorities, whilst the conditions and

enforcement authorities related to the non-disclosure of information.

requirements that apply to orders to provide information are without prejudice to other Union acts providing for similar relevant rules for specific sectors. Those conditions and requirements should be without prejudice to retention and preservation rules under applicable national law, in conformity with Union law and confidentiality requests by law enforcement authorities related to the non-disclosure of information.

## Amendment 23

### Proposal for a regulation

#### Recital 31

##### *Text proposed by the Commission*

(31) The territorial scope of such orders to act against illegal content should be clearly set out on the basis of the applicable Union or national law enabling the issuance of the order and should not exceed what is strictly necessary to achieve its objectives. In that regard, the national judicial or administrative authority issuing the order should balance the objective that the order seeks to achieve, in accordance with the legal basis enabling its issuance, with the rights and legitimate interests of all third parties that may be affected by the order, in particular their fundamental rights under the Charter. In addition, where the order referring to the specific information may have effects beyond the territory of the Member State of the authority concerned, the authority should assess whether the information at issue is likely to constitute illegal content in other Member States concerned and, where relevant, take account of the relevant rules of Union law or international law and the interests of international comity.

##### *Amendment*

(31) The territorial scope of such orders to act against illegal content should be clearly set out on the basis of the applicable Union or national law enabling the issuance of the order and should not exceed what is strictly necessary to achieve its objectives. In that regard, the national judicial or administrative authority issuing the order should balance the objective that the order seeks to achieve, in accordance with the legal basis enabling its issuance, with the rights and legitimate interests of all third parties that may be affected by the order, in particular their fundamental rights under the Charter. In addition, where the order referring to the specific information may have effects beyond the territory of the Member State of the authority concerned, the authority should assess whether the information at issue is likely to constitute illegal content in other Member States concerned and, where relevant, take account of the relevant rules of Union law, ***national law*** or international law and the interests of international comity.

## Amendment 24

### Proposal for a regulation Recital 33

*Text proposed by the Commission*

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

## Amendment 25

### Proposal for a regulation Recital 34

*Text proposed by the Commission*

(34) In order to achieve the objectives of this Regulation, and in particular to improve the functioning of the internal market and ensure a safe and transparent online environment, it is necessary to establish a clear and balanced set of

*Amendment*

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

*Amendment*

(34) In order to achieve the objectives of this Regulation, and in particular to improve the functioning of the internal market and ensure a safe and transparent online environment, it is necessary to establish a clear, ***effective*** and balanced set

harmonised due diligence obligations for providers of intermediary services. Those obligations should aim in particular to guarantee ***different public policy objectives*** such as the safety and trust of the recipients of the service, including minors ***and vulnerable users***, protect the relevant fundamental rights enshrined in the Charter, to ensure meaningful accountability of those providers and to empower recipients and other affected parties, whilst facilitating the necessary oversight by competent authorities.

of harmonised due diligence obligations for providers of intermediary services. Those obligations should aim in particular to ***reinforce and*** guarantee ***legislation and rights***, such as the safety and trust of the recipients of the service, including minors, protect the relevant fundamental rights enshrined in the Charter, to ensure meaningful accountability of those providers and to empower recipients and other affected parties, whilst facilitating the necessary oversight by competent authorities.

## **Amendment 26**

### **Proposal for a regulation**

#### **Recital 36**

##### *Text proposed by the Commission*

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

##### *Amendment*

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

## **Amendment 27**

### **Proposal for a regulation**

#### **Recital 37**

##### *Text proposed by the Commission*

(37) Providers of intermediary services

##### *Amendment*

(37) Providers of intermediary services

that are established in a third country that offer services in the Union should designate a sufficiently mandated legal representative in the Union and provide information relating to their legal representatives, so as to allow for the effective oversight and, where necessary, enforcement of this Regulation in relation to those providers. It should be possible for the legal representative to also function as point of contact, provided the relevant requirements of this Regulation are complied with.

that are established in a third country that offer services in the Union should designate a sufficiently mandated legal representative in the Union and provide information relating to their legal representatives, so as to allow for the effective oversight and, where necessary, enforcement of this Regulation in relation to those providers. It should be possible for the legal representative to also function as point of contact, provided the relevant requirements of this Regulation are complied with. ***Nothing in this Regulation prohibits providers of intermediary services from establishing collective representation or obtaining the services of a legal representative by other means, including contractual ones, provided that the legal representative can fulfill the role assigned to it in this Regulation. Providers of intermediary services that qualify as micro, small or medium-sized enterprises within the meaning of the Annex to Recommendation 2003/361/EC, and who have been unsuccessful in obtaining the services of a legal representative after reasonable effort, should be able to request that the Digital Service Coordinator of the Member State where the enterprise intends to establish a legal representative facilitates further cooperation and recommends possible solutions, including possibilities for collective representation.***

## Amendment 28

### Proposal for a regulation

#### Recital 40

##### *Text proposed by the Commission*

(40) Providers of hosting services play a particularly important role in tackling illegal content online, as they store information provided by and at the request of the recipients of the service and typically give other recipients access

##### *Amendment*

(40) Providers of hosting services play a particularly important role in tackling illegal content online, as they store information provided by and at the request of the recipients of the service and typically give other recipients access



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

thereto, sometimes on a large scale. It is important that all providers of hosting services, regardless of their size, put in place **easy to access and** user-friendly notice and action mechanisms that facilitate the notification of specific items of information that the notifying party considers to be illegal content to the provider of hosting services concerned ('**notification**'), pursuant to which that provider **should assess the illegality of the identified content and, on the basis of that assessment**, can decide whether or not it agrees with **the notification of illegal content** and wishes to remove or disable access to that content ('**action**'). **In the event that provider of hosting services considers, on the basis of an assessment, that the notice of illegal content is positive and consequently decides to remove or disable access to it, it shall ensure that such content remains inaccessible after take down.** Provided the requirements on notices are met, it should be possible for individuals or entities to notify multiple specific items of allegedly illegal content through a single notice. The obligation to put in place notice and action mechanisms should apply, for instance, to file storage and sharing services, web hosting services, advertising servers and paste bins, in as far as they qualify as providers of hosting services covered by this Regulation.

## Amendment 29

### Proposal for a regulation Recital 41

#### *Text proposed by the Commission*

(41) The rules on such notice and action mechanisms should be harmonised at Union level, so as to provide for the timely, diligent and objective processing of notices on the basis of rules that are uniform, transparent and clear and that provide for robust safeguards to protect the right and

#### *Amendment*

(41) The rules on such notice and action mechanisms should be harmonised at Union level, so as to provide for the timely, diligent and objective processing of notices on the basis of rules that are uniform, transparent and clear and that provide for robust safeguards to protect the right and

legitimate interests of all affected parties, in particular their fundamental rights guaranteed by the Charter, irrespective of the Member State in which those parties are established or reside and of the field of law at issue. The fundamental rights include, as the case may be, the right to freedom of expression and information, the right to respect for private and family life, the right to protection of personal data, the right to non-discrimination and the right to an effective remedy of the recipients of the service; the freedom to conduct a business, including the freedom of contract, of service providers; as well as the right to human dignity, the rights of the child, the right to protection of property, including intellectual property, and the right to non-discrimination of parties affected by illegal content.

legitimate interests of all affected parties, in particular their fundamental rights guaranteed by the Charter, irrespective of the Member State in which those parties are established or reside and of the field of law at issue. The fundamental rights include, as the case may be, the right to freedom of expression and information, the right to respect for private and family life, the right to protection of personal data, the right to non-discrimination and the right to an effective remedy of the recipients of the service; the freedom to conduct a business, including the freedom of contract, of service providers; as well as the right to human dignity, the rights of the child, the right to protection of property, including intellectual property, and the right to non-discrimination of parties affected by illegal content. ***While an absolute hierarchy between those rights does not exist, freedom of expression should be recognised as a cornerstone of a democratic society.***

### Amendment 30

#### Proposal for a regulation Recital 42 a (new)

*Text proposed by the Commission*

*Amendment*

***(42a) Providers of hosting services should not be subject to the obligation to provide a statement of reasons when doing so would cause unintended safety concerns for the recipient of the service. Specifically in cases of one-to-one interface platforms, such as dating applications and other, similar services, providing a statement of reasons should be considered as likely to cause unintended safety concerns for the reporting party. As a result of this, those services should, by default, refrain from providing statements of reasons. Additionally, other providers of hosting services should make reasonable efforts to***

*assess whether providing a statement of reasons could cause unintended safety concerns to the reporting party and, if this is the case, should refrain from providing a statement of reasons.*

## **Amendment 31**

### **Proposal for a regulation Recital 42 b (new)**

*Text proposed by the Commission*

*Amendment*

*(42b) The service provider should ensure that a member of staff who takes a decision based on or is otherwise frequently subjected to illegal content receives adequate training as well as appropriate working conditions, including, where necessary, the opportunity to seek professional support and qualified psychological assistance.*

## **Amendment 32**

### **Proposal for a regulation Recital 43 a (new)**

*Text proposed by the Commission*

*Amendment*

*(43a) The additional obligations imposed on online platforms under this Regulation should not apply to not-for-profit scientific or educational repositories or to online platforms offering products and services from third-party traders, which are established in the European Union, where the access of those traders is exclusive, curated and entirely controlled by the providers of the online platform and their products and services are reviewed and pre-approved by the providers of the online platform before they are offered on the platform.*

## Amendment 33

### Proposal for a regulation Recital 43 b (new)

*Text proposed by the Commission*

*Amendment*

***(43b) To avoid unnecessary regulatory burden, certain obligations should not apply to online marketplaces offering products and services from third-party traders which are established in the European Union, where the access of those traders is exclusive, curated and entirely controlled by the providers of the online marketplace and their products and services are reviewed and pre-approved by the providers of the online marketplace before they are offered on the marketplace. These online platforms are often referred to as closed online platforms. As the products and services offered are reviewed and pre-approved by the online platforms, the prevalence of illegal content and products on these platforms is low, and these platforms cannot, in most cases, benefit from relevant liability exemptions outlined in this Regulation. These online platforms should subsequently not be subjected to the obligations that are necessary for platforms with different operational models where the prevalence of illegal content is more frequent and the relevant liability exemptions are available.***

## Amendment 34

### Proposal for a regulation Recital 44

*Text proposed by the Commission*

*Amendment*

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

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

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

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

## Amendment 35

### Proposal for a regulation Recital 44 a (new)

*Text proposed by the Commission*

*Amendment*

***(44a) If an out-of-court dispute settlement body decides the dispute in favour of the recipient of the service, the online platform should reimburse the recipient for any fees and other reasonable expenses that the recipient has paid or is to pay in relation to the dispute settlement. If the body decides the dispute in favour of the online platform, the recipient should not be required to reimburse fees or other expenses that the online platform paid or is to pay in relation to the dispute settlement, unless the body finds the complaint manifestly unfounded and abusive.***

## Amendment 36

**Proposal for a regulation**  
**Recital 46**

*Text proposed by the Commission*

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

*Amendment*

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

(EU) 2016/794 of the European Parliament and of the Council.<sup>43</sup>

**consistent.** The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council.<sup>43</sup>

---

<sup>43</sup> Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA, OJ L 135, 24.5.2016, p. 53

---

<sup>43</sup> Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA, OJ L 135, 24.5.2016, p. 53

## Amendment 37

### Proposal for a regulation Recital 47

#### *Text proposed by the Commission*

(47) The misuse of services of online platforms by frequently providing **manifestly** illegal content or by frequently submitting **manifestly** unfounded notices or complaints under the mechanisms and systems, respectively, established under this Regulation undermines trust and harms the rights and legitimate interests of the parties concerned. Therefore, there is a need to put in place appropriate and proportionate safeguards against such misuse. **Information should be considered to be manifestly illegal content and notices or complaints should be considered manifestly unfounded where it is evident to a layperson, without any substantive analysis, that the content is illegal respectively that the notices or**

#### *Amendment*

(47) The misuse of services of online platforms by frequently providing **or disseminating** illegal content or by frequently submitting unfounded notices or complaints under the mechanisms and systems, respectively, established under this Regulation undermines trust and harms the rights and legitimate interests of the parties concerned. Therefore, there is a need to put in place appropriate and proportionate safeguards against such misuse. Under certain conditions, online platforms should temporarily suspend 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

***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.

in the case of illegal content related to serious crimes. For reasons of transparency, this possibility should be set out, clearly and in ***sufficient*** 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 38

### Proposal for a regulation

#### Recital 49

*Text proposed by the Commission*

(49) In order to contribute to a safe, trustworthy and transparent online environment for consumers, as well as for other interested parties such as competing traders and holders of intellectual property rights, and to deter traders from selling products or services in violation of the applicable rules, online ***platforms allowing consumers to conclude distance contracts with traders*** should ensure that such traders are traceable. The trader should

*Amendment*

(49) In order to contribute to a safe, trustworthy and transparent online environment for consumers ***and other users***, as well as for other interested parties such as competing traders and holders of intellectual property rights, and to deter traders from selling ***and disseminating*** products or services in violation of the applicable rules, online ***marketplaces*** should ensure that such traders are traceable. The trader should therefore be



therefore be required to provide certain essential information to the online **platform**, including for purposes of promoting messages on or offering products. That requirement should also be applicable to traders that promote messages on products or services on behalf of brands, based on underlying agreements. Those online **platforms** should store all information in a secure manner for a reasonable period of time that does not exceed what is necessary, so that it can be accessed, in accordance with the applicable law, including on the protection of personal data, by public authorities and private parties with a legitimate interest, including through the orders to provide information referred to in this Regulation.

required to provide certain essential information to the **provider of the online marketplace**, including for purposes of promoting messages on or offering products. That requirement should also be applicable to traders that promote messages on products or services on behalf of brands, based on underlying agreements. Those online **marketplaces** should store all information in a secure manner for a reasonable period of time that does not exceed what is necessary, so that it can be accessed, in accordance with the applicable law, including on the protection of personal data, by public authorities and private parties with a legitimate interest, including through the orders to provide information referred to in this Regulation. ***Occasional traders who are natural persons should not be subject to disproportionate identification requirements on online marketplaces. Providers of the online marketplaces should not ask for information from natural persons that goes beyond the mere registration of the marketplace users.***

## Amendment 39

### Proposal for a regulation Recital 50

#### *Text proposed by the Commission*

(50) To ensure an efficient and adequate application of that obligation, without imposing any disproportionate burdens, the online **platforms covered** should make reasonable efforts to verify the reliability of the information provided by the traders concerned, in particular by using freely available official online databases and online interfaces, such as national trade registers and the VAT Information Exchange System<sup>45</sup>, or by requesting the traders concerned to provide trustworthy supporting documents, such as copies of identity documents, certified bank

#### *Amendment*

(50) To ensure an efficient and adequate application of that obligation, without imposing any disproportionate burdens, the **providers of online marketplaces** should make reasonable efforts to verify the reliability of the information provided by the traders concerned, in particular by using freely available official online databases and online interfaces, such as national trade registers and the VAT Information Exchange System<sup>45</sup>, or by requesting the traders concerned to provide trustworthy supporting documents, such as copies of identity documents, certified

statements, company certificates and trade register certificates. They may also use other sources, available for use at a distance, which offer a similar degree of reliability for the purpose of complying with this obligation. However, the online **platforms covered** should not be required to engage in excessive or costly online fact-finding exercises or to carry out verifications on the spot. Nor should such online **platforms**, which have made the reasonable efforts required by this Regulation, be understood as guaranteeing the reliability of the information towards consumer or other interested parties. **Such** online **platforms** should also design and organise their online interface in a way that enables traders to comply with their obligations under Union law, in particular the requirements set out in Articles 6 and 8 of Directive 2011/83/EU of the European Parliament and of the Council<sup>46</sup>, Article 7 of Directive 2005/29/EC of the European Parliament and of the Council<sup>47</sup> and Article 3 of Directive 98/6/EC of the European Parliament and of the Council<sup>48</sup>.

---

45

[https://ec.europa.eu/taxation\\_customs/vies/vieshome.do?selectedLanguage=en](https://ec.europa.eu/taxation_customs/vies/vieshome.do?selectedLanguage=en)

<sup>46</sup> Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European

bank statements, company certificates and trade register certificates. They may also use other sources, available for use at a distance, which offer a similar degree of reliability for the purpose of complying with this obligation. However, the **providers of** online **marketplaces** should not be required to engage in excessive or costly online fact-finding exercises or to carry out verifications on the spot, **as this would be disproportionate**. Nor should such **providers of** online **marketplaces**, which have made the reasonable efforts required by this Regulation, be understood as guaranteeing the reliability of the information towards consumer or other interested parties **or be liable for this information in case it proves to be inaccurate**. **Providers of** online **marketplaces** should also design and organise their online interface in a **user-friendly** way that enables traders to comply with their obligations under Union law, in particular the requirements set out in Articles 6 and 8 of Directive 2011/83/EU of the European Parliament and of the Council<sup>46</sup>, Article 7 of Directive 2005/29/EC of the European Parliament and of the Council<sup>47</sup> and Article 3 of Directive 98/6/EC of the European Parliament and of the Council<sup>48</sup>. **The online interface should allow traders to provide the information allowing for the unequivocal identification of the product or the service, including labelling requirements, in accordance with legislation on product safety and product compliance.**

---

45

[https://ec.europa.eu/taxation\\_customs/vies/vieshome.do?selectedLanguage=en](https://ec.europa.eu/taxation_customs/vies/vieshome.do?selectedLanguage=en)

<sup>46</sup> Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European

Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council

<sup>47</sup> Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive')

<sup>48</sup> Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers

Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council

<sup>47</sup> Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive')

<sup>48</sup> Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers

## Amendment 40

### Proposal for a regulation Recital 50 a (new)

*Text proposed by the Commission*

*Amendment*

***(50a) Without prejudice to relevant exemptions for micro and small enterprises, and to strengthen the obligations of online marketplaces, further ex-ante provisions should be put in place, so as to ensure ex-ante that consumers have the necessary information for product offers, prevent unsafe and non-compliant products and product categories, strengthen ex-ante actions against product counterfeiting as well as to cooperate (ex post) where necessary with regard to dangerous products already sold. Providers of online marketplaces should inform recipients of their service when the service or product they have acquired through their services is illegal. Once they have taken a decision to remove an illegal offering from their***

*service, the providers of online marketplaces should take measures to prevent such illegal offerings, as well as identical or equivalent offerings, from being reuploaded on their marketplace.*

## Amendment 41

### Proposal for a regulation

#### Recital 51

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 42

### 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

*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. In addition to the requirements resulting from Article 6 of Directive 2000/31/EC, online platforms should therefore be required to ensure that the recipients of the service have *certain* individualised information necessary for them to understand when and on whose behalf the advertisement is displayed. In addition, recipients of the service should have information on the main parameters used for determining that specific advertising is to be displayed to them, providing meaningful explanations of the logic used to that end, including when this is based on profiling. The requirements of this Regulation on the provision of information relating to advertisement is without prejudice to the application of the relevant provisions of Regulation (EU) 2016/679, in particular those regarding the right to object, automated individual decision-making, including profiling and specifically the need to obtain consent of the data subject prior to the processing of personal data for targeted advertising. Similarly, it is without prejudice to the provisions laid down in Directive 2002/58/EC in particular those regarding the storage of information in terminal equipment and the access to information stored therein.

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 *that can have* an impact *both* on the equal treatment and opportunities of citizens *and on the perpetuation of harmful stereotypes and norms. New advertising models have generated changes in the way information is presented and have created new personal data collection patterns and business models that might negatively affect privacy, personal autonomy, democracy, quality news reporting and facilitate manipulation and discrimination. Therefore, more transparency in online advertising markets and independent research needs to be carried out to assess the effectiveness of behavioural advertisements.* In addition to the requirements resulting from Article 6 of Directive 2000/31/EC, online platforms should therefore be required to ensure that *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 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 43

### Proposal for a regulation Recital 52 a (new)

*Text proposed by the Commission*

*Amendment*

***(52a) Advertising systems used by very large online platforms pose particular risks and require further public and regulatory supervision on account of their scale and ability to target and reach recipients of the service based on their behaviour within and outside that platform's online interface. Very large online platforms should ensure public access to repositories of advertisements displayed on their online interfaces to facilitate supervision and research into emerging risks brought about by the distribution of advertising online, for example in relation to illegal advertisements or manipulative techniques and disinformation with a real and foreseeable negative impact on public health, public security, civil discourse, political participation and equality. Repositories should include the content of advertisements and related data on the advertiser and the delivery of the advertisement, in particular where targeted advertising is concerned.***

## Amendment 44

### 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 those **challenges to fundamental rights**, there being no alternative and less restrictive measures that would effectively achieve the same result. **Only in very exceptional cases should users be permanently denied access to a very large online platform. The decision to permanently deny access should always be able to be revoked by a competent court.**

**Amendment 45**

**Proposal for a regulation**

**Recital 54**

*Text proposed by the Commission*

(54) Very large online platforms may cause societal risks, different in scope and impact from those caused by smaller platforms. Once the number of recipients of a platform reaches a significant share of the Union population, the systemic risks the platform poses have a disproportionately negative impact in the Union. Such significant reach should be considered to exist where the number of recipients exceeds an operational threshold set at 45 million, that is, a number equivalent to 10% of the Union population. The operational threshold should be kept

*Amendment*

(54) Very large online platforms may cause societal risks, different in scope and impact from those caused by smaller platforms. Once the number of recipients of a platform reaches a significant share of the Union population, the systemic risks the platform poses have a disproportionately negative impact in the Union. Such significant reach should be considered to exist where the number of recipients exceeds an operational threshold set at 45 million, that is, a number equivalent to 10 % of the Union population. The operational threshold

up to date through amendments enacted by delegated acts, where necessary. Such very large online platforms should therefore bear the highest standard of due diligence obligations, proportionate to their societal impact and means.

should be kept up to date through amendments enacted by delegated acts, where necessary. Such very large online platforms should therefore bear the highest standard of due diligence obligations, proportionate to their societal impact and means. ***In certain cases, it should also be possible for an online platform whose number of recipients does not exceed the operational threshold set at 10 % of the Union population to be considered as a very large online platform due to its turnover, role in facilitating public debate, economic transactions and the dissemination of information, opinions and ideas and because of its influence on how recipients obtain and communicate information online.***

#### Amendment 46

#### Proposal for a regulation

#### Recital 56

##### *Text proposed by the Commission*

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

##### *Amendment*

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



## Amendment 47

### Proposal for a regulation

#### Recital 57

##### *Text proposed by the Commission*

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

##### *Amendment*

(57) Three categories of systemic risks should be assessed in-depth. A first category concerns the risks associated with the misuse of their service through the dissemination of illegal content, such as the dissemination of child sexual abuse material or illegal hate speech, and the conduct of illegal activities, such as the sale of products or services prohibited by Union or national law, including counterfeit products ***and illegally-traded animals***. For example, and without prejudice to the personal responsibility of the recipient of the service of very large online platforms for possible illegality of his or her activity under the applicable law, such dissemination or activities may constitute a significant systematic risk where access to such content may be amplified through accounts with a particularly wide reach. A second category concerns the impact of the service on the exercise of fundamental rights, as protected by the Charter of Fundamental Rights, including the freedom of expression and information, the right to private life, the right to non-discrimination and the rights of the child. Such risks may arise, for example, in relation to the design of the algorithmic systems used by the very large online platform or the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition. A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform's service, with a foreseeable impact on health, civic discourse, electoral processes, public security and protection of minors, having

order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or incompatible with an online platform's terms and conditions.

regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or incompatible with an online platform's terms and conditions.

## Amendment 48

### Proposal for a regulation Recital 60

#### *Text proposed by the Commission*

(60) Given the need to ensure verification by independent experts, very large online platforms should be accountable, through independent auditing, for their compliance with the obligations laid down by this Regulation and, where relevant, any complementary commitments undertaking pursuant to codes of conduct and crises protocols. They should give the auditor access to all relevant data necessary to perform the audit properly. Auditors should also be able to make use of other sources of objective information, including studies by vetted researchers. Auditors should guarantee the confidentiality, security and integrity of the information, such as trade secrets, that they obtain when performing their tasks and have the necessary expertise in the area of risk management and technical competence to audit algorithms. Auditors should be independent, so as to be able to perform their tasks in an adequate and trustworthy manner. If their independence is not beyond doubt, they should resign or abstain from the audit engagement.

#### *Amendment*

(60) Given the need to ensure verification by independent experts, very large online platforms should be accountable, through independent ***external*** auditing, for their compliance with the obligations laid down by this Regulation and, where relevant, any complementary commitments undertaking pursuant to codes of conduct and crises protocols. They should give the auditor access to all relevant data necessary to perform the audit properly. Auditors should also be able to make use of other sources of objective information, including studies by vetted researchers. Auditors should guarantee the confidentiality, security and integrity of the information, such as trade secrets, that they obtain when performing their tasks and have the necessary expertise in the area of risk management and technical competence to audit algorithms. Auditors should be independent, so as to be able to perform their tasks in an adequate and trustworthy manner. ***As an indication of independence, at the time of the performance of the audit, auditors should not have provided services, other than auditing services, to the very large online platform over the course of the previous***

**12 months.** If their independence is not beyond doubt, they should resign or abstain from the audit engagement.

## Amendment 49

### Proposal for a regulation

#### Recital 61

##### *Text proposed by the Commission*

(61) The audit report should be substantiated, so as to give a meaningful account of the activities undertaken and the conclusions reached. It should help inform, and where appropriate suggest improvements to the measures taken by the very large online platform to comply with their obligations under this Regulation. The report should be transmitted to the Digital Services Coordinator of establishment and the Board without delay, together with the risk assessment and the mitigation measures, as well as the platform's plans for addressing the audit's recommendations. The report should include an audit opinion based on the conclusions drawn from the audit evidence obtained. A positive opinion should be given where all evidence shows that the very large online platform complies with the obligations laid down by this Regulation or, where applicable, any commitments it has undertaken pursuant to a code of conduct or crisis protocol, in particular by identifying, evaluating and mitigating the systemic risks posed by its system and services. A positive opinion should be accompanied by comments where the auditor wishes to include remarks that do not have a substantial effect on the outcome of the audit. A negative opinion should be given where the auditor considers that the very large online platform does not comply with this Regulation or the commitments undertaken.

##### *Amendment*

(61) The audit report should be substantiated, so as to give a meaningful account of the activities undertaken and the conclusions reached. It should help inform, and where appropriate suggest improvements to the measures taken by the very large online platform to comply with their obligations under this Regulation, ***without prejudice to the fact that the platform remains solely responsible for its compliance with this Regulation and without prejudice to its freedom to conduct a business and, in particular, its ability to design and implement effective measures that are aligned with its specific business model.*** The report should be transmitted to the Digital Services Coordinator of establishment and the Board without delay, together with the risk assessment and the mitigation measures, as well as the platform's plans for addressing the audit's recommendations. The report should include an audit opinion based on the conclusions drawn from the audit evidence obtained. A positive opinion should be given where all evidence shows that the very large online platform complies with the obligations laid down by this Regulation or, where applicable, any commitments it has undertaken pursuant to a code of conduct or crisis protocol, in particular by identifying, evaluating and mitigating the systemic risks posed by its system and services. A positive opinion should be accompanied by comments where the auditor wishes to include remarks that do not have a substantial

effect on the outcome of the audit. A negative opinion should be given where the auditor considers that the very large online platform does not comply with this Regulation or the commitments undertaken. ***A disclaimer should be added to an opinion where the auditor does not have enough information to conclude its opinion due to the novelty of the issues being audited.***

## Amendment 50

### 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

#### *Amendment*

(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 ***on the use of recommender systems, and that recipients can easily control the way*** information is presented to them. They should clearly ***and separately*** present the main parameters for such recommender systems in ***a clear, concise, accessible and*** easily comprehensible manner to ensure that the recipients understand how information is prioritised for them. They should also

the recipient.

ensure that the recipients enjoy alternative options for the main parameters, including options that are not based on profiling of the recipient. *Very large online platforms should ensure that their online interface is designed in such a way that it does not risk misleading or manipulating the recipients of the service.*

## Amendment 51

### Proposal for a regulation Recital 63

*Text proposed by the Commission*

*Amendment*

*(63) Advertising systems used by very large online platforms pose particular risks and require further public and regulatory supervision on account of their scale and ability to target and reach recipients of the service based on their behaviour within and outside that platform's online interface. Very large online platforms should ensure public access to repositories of advertisements displayed on their online interfaces to facilitate supervision and research into emerging risks brought about by the distribution of advertising online, for example in relation to illegal advertisements or manipulative techniques and disinformation with a real and foreseeable negative impact on public health, public security, civil discourse, political participation and equality. Repositories should include the content of advertisements and related data on the advertiser and the delivery of the advertisement, in particular where targeted advertising is concerned.*

*deleted*

## Amendment 52

### Proposal for a regulation Recital 63 a (new)

*Text proposed by the Commission*

*Amendment*

***(63a) By associating advertisements with content uploaded by users, very large online platform could indirectly lead to the promotion of illegal content, or content that is in breach of their terms and conditions and could risk to considerably damage to the buyers of advertising space. In order to prevent such practice, very large online platforms should take steps, including through contractual guarantees to the purchasers of advertising space, to ensure that the content to which they associate advertisements is legal and compliant with their terms and conditions. These steps could include independent audits entailing a quantitative and qualitative assessment of cases where advertising is associated with illegal content or with content incompatible with platforms' terms and conditions.***

### **Amendment 53**

#### **Proposal for a regulation Recital 63 b (new)**

*Text proposed by the Commission*

*Amendment*

***(63b) Very large online platforms should use their best efforts not to permit behavioural and micro-targeted advertising towards children under the age of 18, in accordance with the General Data Protection Regulation.***

### **Amendment 54**

#### **Proposal for a regulation Recital 64**

*Text proposed by the Commission*

*Amendment*

(64) In order to appropriately supervise

(64) In order to appropriately supervise

the compliance of very large online platforms with the obligations laid down by this Regulation, the Digital Services Coordinator of establishment or the Commission may require access to or reporting of specific data. Such a requirement may include, for example, the data necessary to assess the risks and possible harms brought about by the platform's systems, data on the accuracy, functioning and testing of algorithmic systems for content moderation, recommender systems or advertising systems, or data on processes and outputs of content moderation or of internal complaint-handling systems within the meaning of this Regulation. Investigations by researchers on the evolution and severity of online systemic risks are particularly important for bridging information asymmetries and establishing a resilient system of risk mitigation, informing online platforms, Digital Services Coordinators, other competent authorities, the Commission and the public. This Regulation therefore provides a framework for compelling **access to data from** very large online platforms to vetted researchers. All requirements for access to data under that framework should be proportionate and appropriately protect the rights and legitimate interests, including trade secrets and other confidential information, of the platform and any other parties concerned, including the recipients of the service.

the compliance of very large online platforms with the obligations laid down by this Regulation, the Digital Services Coordinator of establishment or the Commission may require access to or reporting of specific **information or** data. Such a requirement may include, for example, the data necessary to assess the risks and possible harms brought about by the platform's systems, data on the accuracy, functioning and testing of algorithmic systems for content moderation, recommender systems or advertising systems, or data on processes and outputs of content moderation or of internal complaint-handling systems within the meaning of this Regulation. Investigations by researchers on the evolution and severity of online systemic risks are particularly important for bridging information asymmetries and establishing a resilient system of risk mitigation, informing online platforms, Digital Services Coordinators, other competent authorities, the Commission and the public. This Regulation therefore provides a framework for compelling very large online platforms **to provide information and access to data** to vetted researchers. All requirements **for providing information and** for access to data under that framework should be proportionate and appropriately protect the rights and legitimate interests, including trade secrets and other confidential information, of the platform and any other parties concerned, including the recipients of the service. **Research conducted under this regime should, where possible, be conducted on the basis of open access principles and should use standardised data sets to ensure a high level of transparency and accountability as regards the use of provided data.**

## Amendment 55

**Proposal for a regulation  
Recital 65 a (new)**

*Text proposed by the Commission*

*Amendment*

***(65a) Interoperability with very large online platforms is desirable as it can create new opportunities for the development of innovative services, overcome the lock-in effect and ensure competition and user choice. These possibilities could allow recipients to benefit from cross-platform interaction. Very large online platforms may 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 functions could include the ability to receive information from certain accounts, to share provided content and react to it. Additionally, very large online platforms could make the core functionalities of their services interoperable with other online platforms to enable cross-platform communication. This possibility should not limit, hinder or delay the very large online platform's ability to solve security issues and should be in compliance with all their responsibilities, especially regarding fundamental rights and protection of privacy. The Commission should request European standardisation bodies to develop the necessary technical standards for interoperability, such as protocol on interoperability and data interoperability and portability.***

**Amendment 56**

**Proposal for a regulation  
Recital 65 b (new)**



***(65b) Very large online platforms should ensure the portability of reviews to the reputation system of another platform operator upon the termination of the platform-user contract. For the sake of transparency, information about the processes, technical requirements, timeframes and charges that apply in case a platform user wishes to transfer reviews to the reputation system of another platform operator should be provided beforehand. When displaying reviews imported from another platform, the receiving platform operator should indicate the origin of such reviews, where possible.***

## **Amendment 57**

### **Proposal for a regulation**

#### **Recital 68**

(68) It is appropriate that this Regulation identify certain areas of consideration for such codes of conduct. In particular, risk mitigation measures concerning specific types of illegal content should be explored via self- and co-regulatory agreements. Another area for consideration is the possible negative impacts of systemic risks on society and democracy, such as disinformation or manipulative and abusive activities. This includes coordinated operations aimed at amplifying information, including disinformation, such as the use of bots ***or fake accounts*** for the creation of fake or misleading information, sometimes with a purpose of obtaining economic gain, which are particularly harmful for vulnerable recipients of the service, such as children. In relation to such areas, adherence to and compliance with a given code of conduct by a very

(68) It is appropriate that this Regulation identify certain areas of consideration for such codes of conduct. In particular, risk mitigation measures concerning specific types of illegal content should be explored via self- and co-regulatory agreements. Another area for consideration is the possible negative impacts of systemic risks on society and democracy, such as disinformation or manipulative and abusive activities. This includes coordinated operations aimed at amplifying information, including disinformation, such as the use of bots for the creation of fake or misleading information, sometimes with a purpose of obtaining economic gain, which are particularly harmful for vulnerable recipients of the service, such as children. In relation to such areas, adherence to and compliance with a given code of conduct by a very large online platform may be

large online platform may be considered as an appropriate risk mitigating measure. The refusal without proper explanations by an online platform of the Commission's invitation to participate in the application of such a code of conduct could be taken into account, where relevant, when determining whether the online platform has infringed the obligations laid down by this Regulation.

## Amendment 58

### Proposal for a regulation

#### Recital 70

##### *Text proposed by the Commission*

(70) The provision of online advertising generally involves several actors, including intermediary services that connect publishers of advertising with advertisers. Codes of conducts should support and complement the transparency obligations relating to advertisement for online platforms and very large online platforms set out in this Regulation in order to provide for flexible and effective mechanisms to facilitate and enhance the compliance with those obligations, notably as concerns the modalities of the transmission of the relevant information. The involvement of a wide range of stakeholders should ensure that those codes of conduct are widely supported, technically sound, effective and offer the highest levels of user-friendliness to ensure that the transparency obligations achieve their objectives.

considered as an appropriate risk mitigating measure. The refusal without proper explanations by an online platform of the Commission's invitation to participate in the application of such a code of conduct could be taken into account, where relevant, when determining whether the online platform has infringed the obligations laid down by this Regulation.

##### *Amendment*

(70) The provision of online advertising generally involves several actors, including intermediary services that connect publishers of advertising with advertisers. Codes of conducts should support and complement the transparency obligations relating to advertisement for online platforms and very large online platforms set out in this Regulation in order to provide for flexible and effective mechanisms to facilitate and enhance the compliance with those obligations, notably as concerns the modalities of the transmission of the relevant information. The involvement of a wide range of stakeholders should ensure that those codes of conduct are widely supported, technically sound, effective and offer the highest levels of user-friendliness to ensure that the transparency obligations achieve their objectives. ***The codes should contain clear and precise consumer protection and human rights objectives and be governed in a transparent manner. The effectiveness of the codes of conduct should be regularly assessed.***

## Amendment 59

### Proposal for a regulation

#### Recital 97

##### *Text proposed by the Commission*

(97) The Commission should remain free to decide whether or not it wishes to intervene in any of the situations where it is empowered to do so under this Regulation. Once the Commission initiated the proceedings, the Digital Services Coordinators of establishment concerned should be precluded from exercising their investigatory and enforcement powers in respect of the relevant conduct of the very large online platform concerned, so as to avoid duplication, inconsistencies and risks from the viewpoint of the principle of ne bis in idem. However, in the interest of effectiveness, those Digital Services Coordinators should not be precluded from exercising their powers either to assist the Commission, at its request in the performance of its supervisory tasks, or in respect of other conduct, including conduct by the same very large online platform that is suspected to constitute a new infringement. Those Digital Services Coordinators, as well as the Board and other Digital Services Coordinators where relevant, should provide the Commission with all necessary information and assistance to allow it to perform its tasks effectively, whilst conversely the Commission should keep them informed on the exercise of its powers as appropriate. In that regard, the Commission should, where appropriate, take account of any relevant assessments carried out by the Board or by the Digital Services Coordinators concerned and of any relevant evidence and information gathered by them, without prejudice to the Commission's powers and responsibility to carry out additional investigations as necessary.

##### *Amendment*

(97) The Commission should remain free to decide whether or not it wishes to intervene in any of the situations where it is empowered to do so under this Regulation. ***However, it should justify any inaction.*** Once the Commission initiated the proceedings, the Digital Services Coordinators of establishment concerned should be precluded from exercising their investigatory and enforcement powers in respect of the relevant conduct of the very large online platform concerned, so as to avoid duplication, inconsistencies and risks from the viewpoint of the principle of ne bis in idem. However, in the interest of effectiveness, those Digital Services Coordinators should not be precluded from exercising their powers either to assist the Commission, at its request in the performance of its supervisory tasks, or in respect of other conduct, including conduct by the same very large online platform that is suspected to constitute a new infringement. Those Digital Services Coordinators, as well as the Board and other Digital Services Coordinators where relevant, should provide the Commission with all necessary information and assistance to allow it to perform its tasks effectively, whilst conversely the Commission should keep them informed on the exercise of its powers as appropriate. In that regard, the Commission should, where appropriate, take account of any relevant assessments carried out by the Board or by the Digital Services Coordinators concerned and of any relevant evidence and information gathered by them, without prejudice to the Commission's powers and responsibility to carry out additional investigations as

necessary.

## Amendment 60

### Proposal for a regulation

#### Article 1 – paragraph 1 – point c a (new)

*Text proposed by the Commission*

*Amendment*

**(ca) interoperability requirements for very large online platforms.**

## Amendment 61

### Proposal for a regulation

#### Article 1 – paragraph 2 – point a

*Text proposed by the Commission*

*Amendment*

(a) contribute to the proper functioning of the internal market for **intermediary** services;

(a) contribute to the proper functioning of the internal market for **digital** services, **including by creating a level playing-field**;

## Amendment 62

### Proposal for a regulation

#### Article 1 – paragraph 2 – point b

*Text proposed by the Commission*

*Amendment*

(b) set out uniform rules for a safe, predictable and trusted online environment, where fundamental rights enshrined in the Charter are effectively protected.

(b) set out uniform rules for a safe, **accessible**, predictable and trusted online environment, where fundamental rights enshrined in the Charter are effectively protected;

## Amendment 63

### Proposal for a regulation

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

*Text proposed by the Commission*

*Amendment*

**(ba) facilitate innovation, support the**

*digital transition, encourage economic growth and encourage competition for digital services, while protecting users' and consumers' rights.*

#### Amendment 64

##### Proposal for a regulation

##### Article 1 – paragraph 5 – point i a (new)

*Text proposed by the Commission*

*Amendment*

**(ia) Directive (EU) 2019/882;**

#### Amendment 65

##### Proposal for a regulation

##### Article 2 – paragraph 1 – point d – introductory part

*Text proposed by the Commission*

*Amendment*

(d) ‘to offer services in the Union’ means enabling legal or natural persons in one or more Member States to use the services of the provider of information society services which has a substantial connection to the Union; such a substantial connection is deemed to exist where the provider has an establishment in the Union; in the absence of such an establishment, ***the assessment of a substantial connection is based on specific factual criteria, such as:***

(d) ‘to offer services in the Union’ means enabling legal or natural persons in one or more Member States to use the services of the provider of information society services which has a substantial connection to the Union; such a substantial connection is deemed to exist where the provider has an establishment in the Union ***or in the absence of such an establishment, where the provider targets its activities towards one or more Member States.***

#### Amendment 66

##### Proposal for a regulation

##### Article 2 – paragraph 1 – point d – indent 1

*Text proposed by the Commission*

*Amendment*

— ***a significant number of users in one or more Member States; or***

***deleted***

## Amendment 67

### Proposal for a regulation

#### Article 2 – paragraph 1 – point d – indent 2

*Text proposed by the Commission*

*Amendment*

— *the targeting of activities towards one or more Member States.*

*deleted*

## Amendment 68

### Proposal for a regulation

#### Article 2 – paragraph 1 – point h

*Text proposed by the Commission*

*Amendment*

(h) ‘online platform’ means a provider of a hosting service which, at the request of a recipient of the service, stores and disseminates to the public information, unless that activity is a minor and purely ancillary feature of *another* service and, for objective and technical reasons cannot be used without that *other* service, and the integration of the feature into the other service is not a means to circumvent the applicability of this Regulation.

(h) ‘online platform’ means a provider of a hosting service which *applies specific terms and conditions and*, at the request of a recipient of the service, stores and disseminates to the public information, unless that activity is a minor and purely ancillary feature of *the principal* service and, for objective and technical reasons cannot be used without that *principal* service, and the integration of the feature into the other service is not a means to circumvent the applicability of this Regulation.

## Amendment 69

### Proposal for a regulation

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

*Text proposed by the Commission*

*Amendment*

*(ha) ‘online marketplace’ means an online platform that allows consumers to conclude distance contracts with other traders or consumers on the platform;*

## Amendment 70

### Proposal for a regulation

## Article 2 – paragraph 1 – point l

*Text proposed by the Commission*

(l) ‘Digital Services Coordinator of establishment’ means the Digital Services Coordinator of the Member State where the provider of an intermediary service *is* established *or* its legal representative *resides or* is established;

*Amendment*

(l) ‘Digital Services Coordinator of establishment’ means the Digital Services Coordinator of the Member State where the provider of an intermediary service *has its main establishment or, in the case that the intermediary service is not established in the European Union, where* its legal representative is established;

## Amendment 71

### Proposal for a regulation

#### Article 2 – paragraph 1 – point n

*Text proposed by the Commission*

(n) ‘advertisement’ means information designed to promote the message of a legal or natural person, irrespective of whether to achieve commercial or non-commercial purposes, and displayed by an online platform on its online interface against remuneration specifically for promoting that information;

*Amendment*

(n) ‘advertisement’ means information designed to promote the message of a legal or natural person, irrespective of whether to achieve commercial or non-commercial purposes, and displayed by an online platform on its online interface against *indirect and direct forms of* remuneration specifically for promoting that information;

## Amendment 72

### Proposal for a regulation

#### Article 2 – paragraph 1 – point o

*Text proposed by the Commission*

(o) ‘recommender system’ means a fully or partially automated system used by an online platform to suggest in its online interface specific information to recipients of the service, including as a result of a search initiated by the recipient or otherwise determining the relative order or prominence of information displayed;

*Amendment*

(o) ‘recommender system’ means a fully or partially automated system used by an online platform to *rank, prioritise and* suggest in its online interface specific information to recipients of the service, including as a result of a search initiated by the recipient or otherwise determining the relative order or prominence of information displayed;

## Amendment 73

### Proposal for a regulation

#### Article 4 – paragraph 1 – introductory part

*Text proposed by the Commission*

1. Where an information society service is provided that consists of the transmission in a communication network of information provided by a recipient of the service, the service provider shall not be liable for the automatic, intermediate and temporary storage of that information, performed for the sole purpose of making more efficient the information's onward transmission to other recipients of the service upon their request, on condition that:

*Amendment*

1. Where an information society service is provided that consists of the transmission in a communication network of information provided by a recipient of the service, the service provider shall not be liable for the automatic, intermediate and temporary storage of that information, performed for the sole purpose of making more efficient the information's onward transmission to other recipients of the service upon their request, on condition that ***the provider***:

## Amendment 74

### Proposal for a regulation

#### Article 4 – paragraph 1 – point a

*Text proposed by the Commission*

(a) ***the provider*** does not modify the information;

*Amendment*

(a) does not modify the information;

## Amendment 75

### Proposal for a regulation

#### Article 4 – paragraph 1 – point b

*Text proposed by the Commission*

(b) ***the provider*** complies with conditions on access to the information;

*Amendment*

(b) complies with conditions on access to the information;

## Amendment 76

### Proposal for a regulation

#### Article 4 – paragraph 1 – point c



*Text proposed by the Commission*

(c) **the provider** complies with rules regarding the updating of the information, specified in a manner widely recognised and used by industry;

*Amendment*

(c) complies with rules regarding the updating of the information, specified in a manner widely recognised and used by industry;

#### **Amendment 77**

##### **Proposal for a regulation**

##### **Article 4 – paragraph 1 – point d**

*Text proposed by the Commission*

(d) **the provider** does not interfere with the lawful use of technology, widely recognised and used by industry, to obtain data on the use of the information; and

*Amendment*

(d) does not interfere with the lawful use of technology, widely recognised and used by industry, to obtain data on the use of the information; and

#### **Amendment 78**

##### **Proposal for a regulation**

##### **Article 4 – paragraph 1 – point e**

*Text proposed by the Commission*

(e) **the provider** acts expeditiously to remove or to disable access to the information it has stored upon obtaining actual knowledge of the fact that the **information** at the initial source of the transmission has been removed from the network, or access to it has been disabled, or that a court or an administrative authority has ordered such removal or disablement.

*Amendment*

(e) acts expeditiously to remove or to disable access to the information it has stored upon obtaining actual knowledge of the fact that the **illegal content** at the initial source of the transmission has been removed from the network, or access to it has been disabled, or that a court or an administrative authority has ordered such removal or disablement.

#### **Amendment 79**

##### **Proposal for a regulation**

##### **Article 5 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2a. Paragraph 1 shall not apply when the main purpose of the information society service is to engage in or facilitate illegal activities or when the provider of the information society service deliberately collaborates with a recipient of the service in order to undertake illegal activities.**

## Amendment 80

### Proposal for a regulation Article 5 – paragraph 3

*Text proposed by the Commission*

3. Paragraph 1 shall not apply with respect to liability under consumer protection law of online platforms allowing consumers to conclude distance contracts with traders, where such an online platform presents the specific item of information or otherwise enables the specific transaction at issue in a way that would lead an average and reasonably well-informed consumer to believe that the information, or the product or service that is the object of the transaction, is provided either by the online platform itself or by a recipient of the service who is acting under its authority or control.

*Amendment*

3. Paragraph 1 shall not apply with respect to liability under consumer protection law of online platforms allowing consumers to conclude distance contracts with traders **on the platform**, where such an online platform presents the specific item of information or otherwise enables the specific transaction at issue in a way that would lead an average and reasonably well-informed consumer to believe that the information, or the product or service that is the object of the transaction, is provided either by the online platform itself or by a recipient of the service who is acting under its authority or control.

## Amendment 81

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

*Text proposed by the Commission*

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**

*Amendment*

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 **take** voluntary own-initiative **investigation measures for the purpose of** detecting, identifying and removing, or disabling access to, illegal content, **including through the use of**

*necessary measures* to comply with the requirements of Union law, including those set out in this Regulation.

*technological tools and instruments, in order* to comply with the requirements of Union law, including those set out in this Regulation.

## Amendment 82

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

*Text proposed by the Commission*

*Amendment*

*Providers of intermediary services shall ensure that voluntary investigations are accompanied by appropriate safeguards, including, where necessary, human oversight, to ensure they are transparent, fair and non-discriminatory.*

## Amendment 83

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

*Text proposed by the Commission*

*Amendment*

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

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

## Amendment 84

### Proposal for a regulation Article 8 – paragraph 2 – point c a (new)

*Text proposed by the Commission*

*Amendment*

*(ca) compliance with the measures in the order is technically feasible taking into account the available technical capabilities of the service provider concerned.*

## Amendment 85

### Proposal for a regulation Article 8 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

**4a. The orders to act against illegal content may require providers of intermediary services to take steps, in the specific case, to remove identical or equivalent illegal content.**

## Amendment 86

### Proposal for a regulation Article 10 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

**3a. Any requests to providers of intermediary services, made on the basis of this legislation, shall be transmitted through the Digital Service Coordinator in the Member State of establishment, who is responsible for collecting requests and communication from all relevant sources.**

## Amendment 87

### Proposal for a regulation Article 11 – paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

**5a. Providers of intermediary services that qualify as micro, small or medium-sized enterprises (SMEs) within the meaning of the Annex to Recommendation 2003/361/EC, and who have been unsuccessful in obtaining the services of a legal representative after reasonable effort, shall be able to request that the Digital Service Coordinator of the Member State where the enterprise intends to establish a legal representative**

*facilitates further cooperation and recommends possible solutions, including possibilities for collective representation.*

## Amendment 88

### 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 ***the activities undertaken by them and*** 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 89

### Proposal for a regulation Article 12 – paragraph 2

*Text proposed by the Commission*

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*

2. Providers of intermediary services shall act in a ***transparent, non-discriminatory, coherent, predictable,*** diligent, ***non-arbitrary, necessary*** and proportionate manner in applying and enforcing the ***terms and conditions*** 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 90**

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

*Text proposed by the Commission*

*Amendment*

**2a. Those parts of the terms and conditions that do not comply with this Article shall not be binding on recipients of the services. Providers of intermediary services shall inform recipients of their services of all changes in terms and conditions in advance.**

## **Amendment 91**

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

*Text proposed by the Commission*

*Amendment*

**2b. Where very large online platforms within the meaning of Article 25 of this Regulation allow for the dissemination to the public of press publications within the meaning of Article 2(4) of Directive (EU) 2019/790, such platforms shall not remove, disable access to, suspend or otherwise interfere with such content or the related service or suspend or terminate the related account on the basis of the alleged incompatibility of such content with its terms and conditions.**

## **Amendment 92**

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

*Text proposed by the Commission*

*Amendment*

**2c. Any restrictions that providers of intermediary services impose in relation to the use of their service and the information provided by the recipients of**

*the service shall be in full compliance with the fundamental rights of the recipients of the services as enshrined in the Charter.*

## Amendment 93

### 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, at least once a year, clear, easily comprehensible and detailed reports on any content moderation they engaged in during the relevant period. ***Where possible, the information published shall be broken down per Member State in which services are offered.*** Those reports shall include, in particular, information on the following, as applicable:

## Amendment 94

### Proposal for a regulation

#### Article 13 – paragraph 1 – point a

*Text proposed by the Commission*

(a) the number of orders received from Member States' authorities, categorised by the type of illegal content concerned, including orders issued in accordance with Articles 8 and 9, ***and the average time needed for taking the action specified in those orders;***

*Amendment*

(a) the number of orders received from Member States' authorities, categorised, ***where possible,*** by the type of illegal content concerned, including orders issued in accordance with Articles 8 and 9;

## Amendment 95

### Proposal for a regulation

#### Article 13 – paragraph 1 – point b

*Text proposed by the Commission*

(b) the number of notices submitted in

*Amendment*

(b) the number of notices submitted in

accordance with Article 14, categorised by the type of alleged illegal content concerned, any action taken pursuant to the notices by differentiating whether the action was taken on the basis of the law or the terms and conditions of the provider, **and the average time needed for taking the action**;

accordance with Article 14, categorised by the type of alleged illegal content concerned, **the number of notices submitted by trusted flaggers**, any action taken pursuant to the notices by differentiating whether the action was taken on the basis of the law or the terms and conditions of the provider;

## Amendment 96

### 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, **as well as measures taken to train content moderators and the safeguards put in place to ensure that non-infringing content is not affected**;

## Amendment 97

### Proposal for a regulation

#### Article 13 – paragraph 1 – point d

*Text proposed by the Commission*

(d) 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.

*Amendment*

(d) the number of complaints received through the internal complaint-handling system referred to in Article 17, **where identifiable**, the basis for those complaints, decisions taken in respect of those complaints and the number of instances where **content moderation** decisions were reversed.

## Amendment 98



**Proposal for a regulation**  
**Article 14 – paragraph 1**

*Text proposed by the Commission*

1. Providers of hosting services shall put mechanisms in place to allow any individual or entity to notify them of the presence on their service of specific items of information that the individual or entity considers to be illegal content. Those mechanisms shall be easy to access, user-friendly, and allow for the submission of notices exclusively by electronic means.

*Amendment*

1. Providers of hosting services shall put mechanisms in place to allow any individual or entity to notify them of the presence on their service of specific items of information that the individual or entity considers to be illegal content. Those mechanisms shall be easy to access, user-friendly, and allow for the submission of notices **at scale and** exclusively by electronic means. **Those mechanisms may not replace a decision of an independent judicial and administrative authority as to whether content is illegal or not.**

**Amendment 99**

**Proposal for a regulation**  
**Article 14 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. The **mechanisms** referred to in paragraph 1 shall be **such as to facilitate the submission of** sufficiently precise and adequately substantiated notices, on the basis of which a diligent economic operator can identify the illegality of the content in question. To that end, the providers shall take the necessary measures to enable and facilitate the submission of notices containing all of the following elements:

*Amendment*

2. The **notifications** referred to in paragraph 1 shall be sufficiently precise and adequately substantiated notices, on the basis of which a diligent economic operator can identify **and assess** the illegality of the content in question. To that end, the providers shall take the necessary measures to enable and facilitate the submission of notices containing all of the following elements:

**Amendment 100**

**Proposal for a regulation**  
**Article 14 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) a clear indication of the electronic **location** of that information, **in particular**

*Amendment*

(b) a clear indication of the electronic **identification** of that information, **such as**

*the exact* URL or URLs, and, where necessary, additional information enabling the identification of the illegal content;

*the* URL or URLs *where possible*, and, where necessary, additional information enabling the identification of the illegal content;

## Amendment 101

### Proposal for a regulation Article 14 – paragraph 2 – point d

*Text proposed by the Commission*

(d) a statement confirming the good faith belief of the individual or entity submitting the notice that the information and allegations contained therein are accurate and complete.

*Amendment*

(d) a statement confirming the good faith belief of the individual or entity submitting the notice that the information and allegations contained therein are, *to the best of their knowledge*, accurate and complete.

## Amendment 102

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

*Amendment*

3. Notices that include the elements referred to in paragraph 2 *and that are thus sufficiently precise and adequately substantiated, and on the basis of which a diligent provider of hosting services can identify the illegality of the specific content*, shall be considered to give rise to actual knowledge or awareness for the purposes of Article 5 in respect of the specific item of information concerned.

## Amendment 103

### Proposal for a regulation Article 14 – paragraph 4

*Text proposed by the Commission*

4. Where the *notice* contains the name and an electronic mail address of the

*Amendment*

4. Where the *notification* contains the name and an electronic mail address of the

individual or entity that submitted it, the provider of hosting services shall promptly send a confirmation of receipt of the **notice** to that individual or entity.

individual or entity that submitted it, the provider of hosting services shall promptly send a confirmation of receipt of the **notification** to that individual or entity.

#### Amendment 104

##### 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 that individual or entity **and the content provider** of its decision in respect of the information to which the **notification** relates, providing information on the redress possibilities in respect of that decision.

#### Amendment 105

##### 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, **where the information provided is sufficiently clear, act on any notifications** that they receive under the mechanisms referred to in paragraph 1, **taking into account their technical and operational ability to act against specific items of illegal content**, and take their decisions in respect of the information to which the **notifications** 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.

#### Amendment 106

##### Proposal for a regulation Article 14 – paragraph 6 a (new)

**6a. Paragraphs 4 and 5 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. In addition, paragraphs 4 and 5 shall not apply to enterprises that previously qualified for the status of a micro or small enterprise within the meaning of the Annex to Recommendation 2003/361/EC during the twelve months following their loss of that status pursuant to Article 4(2) thereof.**

## Amendment 107

### Proposal for a regulation Article 15 – paragraph 1

Text proposed by the Commission

Amendment

1. Where a provider of hosting services decides to remove or disable access to specific items of information provided by the recipients of the service, irrespective of the means used for detecting, identifying or removing or disabling access to that information and of the reason for its decision, it shall inform the recipient, at the latest **at the time of the** removal or disabling of access, of the decision and provide a clear and specific statement of reasons for that decision.

1. Where a provider of hosting services decides **or not** to remove or disable access to, **or otherwise moderate either the form or distribution of**, specific items of information provided by the recipients of the service, irrespective of the means used for detecting, identifying or removing or disabling access to that information and of the reason for its decision, it shall inform the recipient **without undue delay and** at the latest **within 24 hours after such** removal or disabling of access **or other content moderation and content curation measure**, of the decision and provide a clear and specific statement of reasons for that decision.

## Amendment 108

### Proposal for a regulation Article 15 – paragraph 2 – point a

*Text proposed by the Commission*

*Amendment*

(a) whether the decision entails either the removal of, or the disabling of access to, the information and, ***where relevant***, the territorial scope of the disabling of access;

(a) whether the decision entails either the removal of, or the disabling of access to, the information and the territorial scope of the disabling of access;

**Amendment 109**

**Proposal for a regulation**

**Article 15 – paragraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

(c) where applicable, information on the ***use made of automated*** means in taking the decision, ***including where the decision was taken in respect of content detected or identified using automated means***;

(c) where applicable, information on the means ***used*** in taking the decision;

**Amendment 110**

**Proposal for a regulation**

**Article 15 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

***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.***

***deleted***

**Amendment 111**

**Proposal for a regulation**

**Article 15 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4a. Providers of hosting services shall not be obliged to provide a statement of reasons referred to in paragraph 1 where the statement of reasons could give rise to***

*unintended safety concerns for the reporting party. In addition, providers of hosting services shall not be obliged to provide a statement of reasons referred to in paragraph 1 where the provider can demonstrate that the recipient of the service has repeatedly provided illegal content.*

## **Amendment 112**

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

*Text proposed by the Commission*

*Amendment*

*4b. Paragraphs 2 and 3 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. In addition, those paragraphs shall not apply to enterprises that previously qualified for the status of a micro or small enterprise within the meaning of the Annex to Recommendation 2003/361/EC during the twelve months following their loss of that status pursuant to Article 4(2) thereof.*

## **Amendment 113**

### **Proposal for a regulation Article 15 a (new)**

*Text proposed by the Commission*

*Amendment*

#### *Article 15a*

#### *Protection against repeated misuse and criminal offences*

*1. Providers of intermediary services shall, after having issued a prior warning, suspend or, in appropriate circumstances, terminate the provision of their services to recipients of the service that frequently provide illegal content after having*

*provided a comprehensive explanation,*

*2. Where a provider of intermediary services becomes aware of any information giving rise to a suspicion that a serious criminal offence involving a threat to the life or safety of persons has taken place, is taking place or is likely to take place, it shall promptly inform the law enforcement or judicial authorities of the Member State or Member States concerned of its suspicion and provide all relevant information available. Where the provider of intermediary services cannot identify with reasonable certainty the Member State concerned, it shall inform the law enforcement authorities of the Member State in which it has its main establishment or legal representative, and shall also transmit this information to Europol for appropriate follow-up.*

#### **Amendment 114**

##### **Proposal for a regulation Article 15 b (new)**

*Text proposed by the Commission*

*Amendment*

##### *Article 15b*

##### *Market entrance protection*

*The provisions in this Section shall not be enforced against micro or small enterprises within the meaning of the Annex to Recommendation 2003/361/EC for a period of one year after their establishment. During this period, such enterprises shall make all reasonable efforts to comply with the provisions in this section and shall act in good faith.*

#### **Amendment 115**

##### **Proposal for a regulation Article 16 – paragraph 1**

*Text proposed by the Commission*

This Section shall not apply to online platforms that qualify as micro or small enterprises within the meaning of the Annex to Recommendation 2003/361/EC.

*Amendment*

This Section shall not apply to online platforms that qualify as micro or small enterprises within the meaning of the Annex to Recommendation 2003/361/EC, ***unless they meet the criteria to qualify as very large online platforms under this Regulation. This Section shall not apply to enterprises that previously qualified for the status of a micro or small enterprise within the meaning of the Annex to Recommendation 2003/361/EC during the twelve months following their loss of that status pursuant to Article 4(2) thereof, unless they meet the criteria to qualify as very large online platforms under this Regulation.***

**Amendment 116**

**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 illegal content or incompatible with its terms and conditions:

*Amendment*

1. Online platforms shall provide recipients of the service ***and qualified entities within the meaning of Article 3(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 the online platform on the ground that the information provided by the recipients is illegal content or incompatible with its terms and conditions:

**Amendment 117**

**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, **demote, demonetise or restrict** access to the information **or otherwise impose sanctions against it**;

**Amendment 118**

**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 **and include human review**.

**Amendment 119**

**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 the complaining entity so requests, the online platform shall**

***publicly confirm the reversal of the decision.***

## **Amendment 120**

### **Proposal for a regulation Article 17 – paragraph 4**

*Text proposed by the Commission*

4. Online platforms shall inform complainants without undue delay of the decision they have taken in respect of the information to which the complaint relates and shall inform complainants of the possibility of out-of-court dispute settlement provided for in Article 18 and other available redress possibilities.

*Amendment*

4. Online platforms shall inform complainants without undue delay of the decision they have taken in respect of the information to which the complaint relates and shall inform complainants of the possibility of out-of-court dispute settlement provided for in Article 18 and other available redress possibilities. ***Such delay shall not exceed three weeks from the lodging of the complaint.***

## **Amendment 121**

### **Proposal for a regulation Article 18 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

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*

***After internal complaint handling mechanisms are exhausted***, recipients of the service addressed by the decisions referred to in Article 17(1) ***and qualified entities within the meaning of Article 3(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.

## Amendment 122

### Proposal for a regulation

#### Article 18 – paragraph 2 – subparagraph 1 – point b

*Text proposed by the Commission*

(b) it has the necessary expertise in relation to the issues arising in one or more particular areas of illegal content, or in relation to the application and enforcement of terms and conditions of one or more types of online platforms, allowing the body to contribute effectively to the settlement of a dispute;

*Amendment*

(b) it has the necessary **legal** expertise in relation to the issues arising in one or more particular areas of illegal content, or in relation to the application and enforcement of terms and conditions of one or more types of online platforms, allowing the body to contribute effectively to the settlement of a dispute;

## Amendment 123

### Proposal for a regulation

#### Article 18 – paragraph 2 – subparagraph 1 – point c

*Text proposed by the Commission*

(c) **the** dispute settlement is easily accessible through electronic communication technology;

*Amendment*

(c) **it offers** dispute settlement **that** is easily accessible through electronic communication technology;

## Amendment 124

### Proposal for a regulation

#### Article 18 – paragraph 2 – subparagraph 1 – point d

*Text proposed by the Commission*

(d) it is capable of settling dispute in a swift, efficient and cost-effective manner and in at least one official language of the Union;

*Amendment*

(d) it is capable of settling dispute in a swift, efficient, **transparent** and cost-effective manner and in at least one official language of the Union;

## Amendment 125

### Proposal for a regulation

#### Article 18 – paragraph 2 – subparagraph 1 – point e

*Text proposed by the Commission*

*Amendment*

(e) *the* dispute settlement takes place in accordance with clear and fair rules of procedure.

(e) *it offers* dispute settlement *that* takes place in accordance with clear and fair rules of procedure *and sufficient confidentiality safeguards*.

## **Amendment 126**

### **Proposal for a regulation**

#### **Article 18 – paragraph 2 – subparagraph 1 – point e a (new)**

*Text proposed by the Commission*

*Amendment*

*(ea) where applicable, it has particular legal expertise in relation to the applicable laws relating to freedom of expression and its limitations and the applicable case law, including the case law of the European Court of Human Rights.*

## **Amendment 127**

### **Proposal for a regulation**

#### **Article 18 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

If the body decides the dispute in favour of the recipient of the service, the online platform shall reimburse the recipient for any fees and other reasonable expenses that the recipient has paid or is to pay in relation to the dispute settlement. If the body decides the dispute in favour of the online platform, the recipient shall not be required to reimburse any fees or other expenses that the online platform paid or is to pay in relation to the dispute settlement.

If the body decides the dispute in favour of the recipient of the service, the online platform shall reimburse the recipient for any fees and other reasonable expenses that the recipient has paid or is to pay in relation to the dispute settlement. If the body decides the dispute in favour of the online platform the recipient shall not be required to reimburse any fees or other expenses that the online platform paid or is to pay in relation to the dispute settlement, *unless the body finds that the complaint is manifestly unfounded and abusive.*

## **Amendment 128**

**Proposal for a regulation**  
**Article 18 – paragraph 6**

*Text proposed by the Commission*

6. This Article is without prejudice to Directive 2013/11/EU and alternative dispute resolution procedures and entities for consumers established under that Directive.

*Amendment*

6. This Article is without prejudice to Directive 2013/11/EU and alternative dispute resolution procedures and entities for consumers established under that Directive. ***Any attempt to reach an out-of-court agreement on the settlement of a dispute in accordance with this Article shall not affect the rights of the providers of online platform services and of the recipients of the service concerned to initiate judicial proceedings at any time before, during or after the out-of-court dispute settlement process.***

**Amendment 129**

**Proposal for a regulation**  
**Article 19 – paragraph 1**

*Text proposed by the Commission*

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.

*Amendment*

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. ***Similar priority may be given to other notices, when the trustworthiness of those submitting them and the severity and urgency of the situations concerned is considered to be exceptional.***

**Amendment 130**

**Proposal for a regulation**  
**Article 19 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) it has particular expertise ***and competence*** for the purposes of detecting,

*Amendment*

(a) it has ***demonstrated*** particular expertise, ***accuracy and expertise*** for the

identifying and notifying illegal content;

purposes of detecting, identifying and notifying illegal content;

### Amendment 131

#### Proposal for a regulation Article 19 – paragraph 2 – point c

*Text proposed by the Commission*

*Amendment*

(c) it carries out its activities for the purposes of submitting notices in ***a timely, diligent and*** objective manner.

(c) it carries out its activities for the purposes of submitting notices in ***an*** objective manner.

### Amendment 132

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

*Text proposed by the Commission*

*Amendment*

***(ca) where applicable, it has particular legal expertise in relation to the applicable laws relating to freedom of expression and its limitations and the applicable case law, including the case law of the European Court of Human Rights.***

### Amendment 133

#### Proposal for a regulation Article 19 – paragraph 2 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***Digital Services Coordinator of the Member State may award the status of trusted flagger to an entity established in another Member State, if the said entity already holds the status of a trusted flagger in the Member State where it is established. Where several Member States have awarded such status to the same entity, the entity may be referred to as a***

## Amendment 134

### Proposal for a regulation Article 19 – paragraph 3

*Text proposed by the Commission*

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*

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.  
***The Digital Services Coordinator of the Member State of establishment of the platform shall engage in dialogue with platforms and stakeholders for maintaining the accuracy and efficacy of a trusted flagger system.***

## Amendment 135

### 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 136

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

*Text proposed by the Commission*

*Amendment*

**7a. Online platforms shall, where possible, provide trusted flaggers with access to technical means that help them detect illegal content on a large scale.**

## Amendment 137

### Proposal for a regulation Article 20 – paragraph 1

*Text proposed by the Commission*

*Amendment*

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.

1. Online platforms shall suspend, for a reasonable period of time, **or in appropriate circumstances terminate**, and after having issued a prior warning **and having provided a comprehensive explanation**, the provision of their services to recipients of the service that frequently provide manifestly illegal content. **A termination of the service can be issued in case the recipients fail to comply with the applicable provisions set out in this Regulation or in case the suspension has occurred at least three times following verification of the repeated provision of illegal content.**

## Amendment 138

### Proposal for a regulation Article 20 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. Online platforms shall suspend, for a reasonable period of time and after having issued a prior warning, the processing of notices and complaints submitted through the notice and action

2. Online platforms shall suspend, for a reasonable period of time and after having issued a prior warning, the processing of notices and complaints submitted through the notice and action



mechanisms and internal complaints-handling systems referred to in Articles 14 and 17, respectively, by individuals or entities or by complainants that frequently submit notices or complaints that are *manifestly* unfounded.

mechanisms and internal complaints-handling systems referred to in Articles 14 and 17, respectively, by individuals or entities or by complainants that frequently submit notices or complaints that are unfounded.

#### **Amendment 139**

##### **Proposal for a regulation**

##### **Article 20 – paragraph 3 – point a**

*Text proposed by the Commission*

(a) the absolute numbers of items of *manifestly* illegal content or *manifestly* unfounded notices or complaints, submitted in the past year;

*Amendment*

(a) the absolute numbers of items of illegal content or unfounded notices or complaints, submitted in the past year;

#### **Amendment 140**

##### **Proposal for a regulation**

##### **Article 20 – paragraph 3 – point d**

*Text proposed by the Commission*

(d) the intention of the recipient, individual, entity or complainant.

*Amendment*

(d) *where identifiable*, the intention of the recipient, individual, entity or complainant.

#### **Amendment 141**

##### **Proposal for a regulation**

##### **Article 20 – paragraph 4**

*Text proposed by the Commission*

4. Online platforms shall set out, in a clear and detailed manner, their policy in respect of the misuse referred to in paragraphs 1 and 2 in their terms and conditions, including as regards the facts and circumstances that they take into account when assessing whether certain behaviour constitutes misuse and the

*Amendment*

4. Online platforms shall set out, in a clear and detailed manner, their policy in respect of the misuse referred to in paragraphs 1 and 2 in their terms and conditions, including as regards the facts and circumstances that they take into account when assessing whether certain behaviour constitutes misuse and the duration of the suspension, *and the*

duration of the suspension.

*circumstances in which they will terminate their services.*

#### **Amendment 142**

##### **Proposal for a regulation**

##### **Article 21 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

Where the online platform cannot identify with reasonable certainty the Member State concerned, it shall inform the law enforcement authorities of the Member State in which it *is established or* has its legal representative *or inform* Europol.

*Amendment*

Where the online platform cannot identify with reasonable certainty the Member State concerned, it shall inform the law enforcement authorities of the Member State in which it has its *main establishment or* legal representative *and also transmit this information to* Europol *for appropriate follow-up.*

#### **Amendment 143**

##### **Proposal for a regulation**

##### **Article 22 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. *Where an online platform allows consumers to conclude distance contracts with traders, it* shall ensure that traders can only use its services to promote messages on or to offer products or services to consumers located in the Union if, prior to the use of *its* services, *the* online *platform* has obtained the following information:

*Amendment*

1. *Providers of online marketplaces* shall ensure that traders can only use its services to promote messages on or to offer products or services to consumers located in the Union if, prior to the use of *their* services, online *marketplaces have* obtained the following information *from the trader:*

#### **Amendment 144**

##### **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*

## Amendment 145

### Proposal for a regulation

#### Article 22 – paragraph 1 – point d

*Text proposed by the Commission*

(d) the name, address, telephone number and electronic mail address of the economic operator, ***within the meaning of Article 3(13) and Article 4*** of Regulation (EU) 2019/1020 of the European Parliament and the Council<sup>51</sup> or any relevant act of Union law;

---

<sup>51</sup> Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).

## Amendment 146

### Proposal for a regulation

#### Article 22 – paragraph 2

*Text proposed by the Commission*

2. The online ***platform*** shall, upon receiving that information, ***make reasonable efforts*** to assess whether the information referred to in points (a), (d) and (e) of paragraph 1 is reliable through the use of any freely accessible official online database or online interface made available by ***a*** Member States or the Union or through requests to the trader to provide supporting documents from reliable

*Amendment*

(d) ***to the extent the contract relates to products that are subject to the Union Regulations listed in Article 4(5) of Regulation (EU) 2019/1020 of the European Parliament and the Council,*** the name, address, telephone number and electronic mail address of the economic operator, ***established in the Union, referred to in Article 4(1) of Regulation (EU) 2019/1020 of the European Parliament and the Council*** <sup>51</sup> or any relevant act of Union law;

---

<sup>51</sup> Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).

*Amendment*

2. ***The provider of the online marketplace*** shall, upon receiving that information, ***take effective steps that would reasonably be taken by a diligent operator in accordance with a high industry standard of professional diligence*** to assess whether the information referred to in points (a), (d) and (e) of paragraph 1 is ***accurate, current and reliable*** through the use of ***independent***

sources.

**and reliable sources including** any freely accessible official online database or online interface made available by **an authorised administrator**, Member States or the Union or through requests to the trader to provide supporting documents from reliable sources.

## Amendment 147

### Proposal for a regulation

#### Article 22 – paragraph 3 – subparagraph 1

*Text proposed by the Commission*

Where the online **platform** obtains indications that any item of information referred to in paragraph 1 obtained from the trader concerned is inaccurate or incomplete, that **platform** shall request the trader to correct the information in so far as necessary to ensure that all information is accurate and complete, without delay or within the time period set by Union and national law.

*Amendment*

Where **the provider of** the online **marketplace** obtains indications that any item of information referred to in paragraph 1 obtained from the trader concerned is inaccurate or incomplete, that **marketplace** shall request the trader to correct the information in so far as necessary to ensure that all information is accurate and complete, without delay or within the time period set by Union and national law.

## Amendment 148

### Proposal for a regulation

#### Article 22 – paragraph 3 – subparagraph 2

*Text proposed by the Commission*

**Where the trader fails to correct or complete that information, the online platform shall suspend the provision of its service to the trader until the request is complied with.**

*Amendment*

**deleted**

## Amendment 149

### Proposal for a regulation

#### Article 22 – paragraph 3 a (new)

**3a.** *The provider of online marketplace shall require that traders promptly inform them of any changes to the information referred to in paragraph 1 and, in such cases, repeat the relevant steps referred to in paragraph 2. Where the provider of the online marketplace obtains indication that an item of information referred to in Article 22 is inaccurate, the provider of the online marketplace shall request the trader to provide evidence of the accuracy of that item of information or to correct it without delay. Where the trader fails to provide evidence of accuracy, correct or complete that information, the online platform shall suspend the provision of its service to the trader until the request is complied with.*

## **Amendment 150**

### **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 provider of the online marketplace** 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 **including the period for redress**. They shall subsequently delete the information.

## **Amendment 151**

### **Proposal for a regulation Article 22 – paragraph 5**

*Text proposed by the Commission*

5. Without prejudice to paragraph 2, the **platform** shall only disclose the information to third parties where so required in accordance with the applicable law, including the orders referred to in Article 9 and any orders issued by Member States' competent authorities or the Commission for the performance of their tasks under this Regulation.

*Amendment*

5. Without prejudice to paragraph 2, the **provider of the online marketplace** shall only disclose the information to third parties where so required in accordance with the applicable law, including the orders referred to in Article 9 and any orders issued by Member States' competent authorities or the Commission for the performance of their tasks under this Regulation.

**Amendment 152**

**Proposal for a regulation  
Article 22 – paragraph 6**

*Text proposed by the Commission*

6. The online **platform** shall make the information referred to in points (a), (d), (e) and (f) of paragraph 1 available to the recipients of the service, in a clear, easily accessible and comprehensible manner.

*Amendment*

6. **The provider of** the online **marketplace** shall make the information referred to in points (a), (d), (e) and (f) of paragraph 1 available to the recipients of the service, in a clear, easily accessible and comprehensible manner.

**Amendment 153**

**Proposal for a regulation  
Article 22 – paragraph 7**

*Text proposed by the Commission*

7. The online **platform** shall design and organise its online interface in a way that enables traders to comply with their obligations regarding pre-contractual information and product safety information under applicable Union law.

*Amendment*

7. **The provider of** the online **marketplace** shall design and organise its online interface in a **fair and user-friendly** way that enables traders to comply with their obligations regarding pre-contractual information and product safety information under applicable Union law.

**Amendment 154**

**Proposal for a regulation**  
**Article 22 – paragraph 7 a (new)**

*Text proposed by the Commission*

*Amendment*

**7a. The provider of the online marketplace shall design its service in a way that allows traders to communicate to their customers all relevant information for the identification of the product or the service, and, where applicable, the information concerning labelling, including CE marking.**

**Amendment 155**

**Proposal for a regulation**  
**Article 22 – paragraph 7 b (new)**

*Text proposed by the Commission*

*Amendment*

**7b. Online platforms shall ensure that traders are approved without undue delay once the online platform has received the information referred to in paragraph 1 and taken the steps referred to in paragraph 2.**

**Amendment 156**

**Proposal for a regulation**  
**Article 22 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 22a**

**Additional provisions for online marketplaces related to illegal offers**

- 1. Where a provider of the online marketplace becomes aware of the illegal nature of a product or service offered through its services, it shall inform those recipients of the service that had acquired such product or contracted such service.**
- 2. The provider of the online marketplace shall suspend without undue**

*delay the provision of its services to traders that provide, in a repeated manner, illegal offers for a product or a service. It shall immediately notify its decision to the trader.*

*3. For products, categories or groups of products, which are susceptible to bear a serious risk to health and safety of consumers, based on accidents registered in the Safety Business Gateway, the Safety Gate statistics, the results of the joint activities on product safety and other relevant indicators or evidence, as outlined in the Regulation (EU) [.../...] on general product safety, amending Regulation (EU) No 1025/2012 and repealing Directive 87/357/EEC and Directive 2001/95/EC, the provider of the online marketplace shall verify, with regard to the information referred to in paragraph 7a of Article 22, and before the trader's offer is made available on the online marketplace, if the offer that the trader wishes to propose to consumers located in the Union is mentioned in the list, or the lists, of products or categories of products identifies as non-compliant, as classified in any freely accessible official online database or online interface, and shall not authorise the trade to provide the offer if that the product is on such list.*

*4. The provider of the online marketplace shall ensure that content identified as illegal remain inaccessible after take down, and take steps, in the specific case, to remove identical or equivalent illegal content.*

#### **Amendment 157**

#### **Proposal for a regulation Article 23 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

(b) the number of suspensions imposed

(b) the number of suspensions imposed



pursuant to Article 20, distinguishing between suspensions enacted for the provision of *manifestly* illegal content, the submission of *manifestly* unfounded notices and the submission of *manifestly* unfounded complaints;

pursuant to Article 20, distinguishing between suspensions enacted for the provision of illegal content, the submission of unfounded notices and the submission of unfounded complaints;

## Amendment 158

### Proposal for a regulation Article 24 – title

*Text proposed by the Commission*

Online advertising transparency

*Amendment*

Online advertising transparency  
*requirements*

## Amendment 159

### Proposal for a regulation Article 24 – paragraph 1 – introductory part

*Text proposed by the Commission*

Online platforms that display advertising on their online interfaces shall ensure that the recipients of the service can identify, for each specific advertisement displayed to each individual recipient, in a clear and unambiguous manner and *in real time*:

*Amendment*

*1.* Online platforms that display advertising on their online interfaces shall ensure that the recipients of the service can identify, for each specific advertisement displayed to each individual recipient, in a clear, *meaningful* and unambiguous manner and *at all times*:

## Amendment 160

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

*Text proposed by the Commission*

(a) that the information displayed is an advertisement;

*Amendment*

(a) that the information displayed *or parts thereof* is an advertisement;

## Amendment 161

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

*Text proposed by the Commission*

*Amendment*

***(ba) the natural or legal person who finances the advertisement, if different from the natural or legal person identified pursuant to point (b);***

**Amendment 162**

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

*Text proposed by the Commission*

*Amendment*

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

(c) ***clear***, meaningful information about the main parameters used to determine the recipient to whom the advertisement is displayed, ***and how to change those parameters;***

**Amendment 163**

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

*Text proposed by the Commission*

*Amendment*

***(ca) whether the advertisement was selected using an automated system and, in that case, the identity of the natural or legal person responsible for the system.***

**Amendment 164**

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

*Text proposed by the Commission*

*Amendment*

***1a. Online platforms shall offer users the possibility to easily opt-out from micro-targeted tracking and***

*advertisements that are based on their behaviour data or other profiling techniques, within the meaning of Article 4(4) of Regulation (EU) 2016/679.*

## Amendment 165

### Proposal for a regulation Article 25 – paragraph 1

*Text proposed by the Commission*

1. This Section shall apply to online platforms which provide their services to a number of average monthly active recipients of the service in the Union equal to or higher than 45 million, calculated in accordance with the methodology set out in the delegated acts referred to in paragraph 3.

*Amendment*

1. This Section shall apply to online platforms which provide their services to a number of average monthly active recipients of the service in the Union equal to or higher than 45 million, calculated in accordance with the methodology set out in the delegated acts referred to in paragraph 3, ***or where the platform has been designated as a very large online platform in accordance with paragraph 4a.***

## Amendment 166

### Proposal for a regulation Article 25 – paragraph 3

*Text proposed by the Commission*

3. The Commission shall adopt delegated acts in accordance with Article 69, after consulting the Board, to lay down a specific methodology for calculating the number of average monthly active recipients of the service in the Union, for the purposes of paragraph 1. The methodology shall specify, in particular, how to determine the Union's population and criteria to determine the average monthly active recipients of the service in the Union, taking into account different accessibility features.

*Amendment*

3. The Commission shall adopt delegated acts in accordance with Article 69, after consulting the Board, to lay down a specific methodology for calculating the number of average monthly active recipients of the service in the Union ***and whether the turnover, operating model and nature of platform constitutes a systemic risk***, for the purposes of paragraph 1. The methodology shall specify, in particular, how to determine the Union's population and criteria to determine the average monthly active recipients of the service in the Union, taking into account different accessibility features, ***as well as how to determine whether the turnover, operating model***

*and size of platform constitutes a systemic risk.*

#### **Amendment 167**

##### **Proposal for a regulation**

##### **Article 25 – paragraph 4 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*The Commission shall ensure that the list of designated very large online platforms is published in the Official Journal of the European Union and keep that list updated. The obligations of this Section shall apply, or cease to apply, to the very large online platforms concerned from four months after that publication.*

*deleted*

#### **Amendment 168**

##### **Proposal for a regulation**

##### **Article 25 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

*4a. The Commission shall adopt delegated acts in accordance with Article 69 to designate online platforms, which provide their services to a number of average monthly active recipients of the service in the Union lower than 45 million but pose a very high systemic risk, as very large online platforms. The assessment of a systemic risk shall be based on the following criteria:*

*(a) the annual turnover of the online platform, with EUR 50 million as a threshold that shall be exceeded for an online platform to qualify for further assessment based on points b) to e).*

*(b) the role of the online platform as a public forum;*

*(c) the role, nature and volume of economic transactions on the online platform;*

*(d) the role of the online platform in disseminating information, opinions and ideas and in influencing how recipients of the service obtain and communicate information online; and*

*(e) the depth and scope of the systemic risks stemming from the functioning and use made of the services of the online platform, as defined in Article 26, as well as the historical prevalence of illegal content on the service.*

## **Amendment 169**

### **Proposal for a regulation Article 25 – paragraph 4 b (new)**

*Text proposed by the Commission*

*Amendment*

**4b.** *The Commission shall ensure that the list of designated very large online platforms is published in the Official Journal of the European Union and keep that list updated. The obligations of this Section shall apply, or cease to apply, to the very large online platforms concerned from four months after that publication.*

## **Amendment 170**

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

*Text proposed by the Commission*

*Amendment*

1. Very large online platforms shall identify, analyse and assess, from the date of application referred to in the second subparagraph of Article 25(4), at least once a year thereafter, any significant systemic risks stemming from the functioning and use made of their services in the Union. This risk assessment shall be specific to their services and shall include the following systemic risks:

1. Very large online platforms shall identify, analyse and assess, from the date of application referred to in the second subparagraph of Article 25(4), at least once a year thereafter, any significant systemic risks stemming from the functioning and use made of their services in the Union. ***The risk assessment shall be broken down per Member State in which services are offered and in the Union as a whole.*** This risk assessment shall be specific to their

services and shall include the following systemic risks:

## Amendment 171

### 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, including the** rights to respect for private and family life, freedom of expression and information, **freedom and pluralism of the media**, the prohibition of discrimination and the rights of the child, as enshrined in Articles 7, 11, 21 and 24 of the Charter, **as well as any other fundamental rights enshrined in the Charter that can be negatively affected by such risks now or in the future**;

## Amendment 172

### 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) intentional manipulation of their service **with** actual or foreseeable **systemic** negative **effects** on the protection of public health, minors, civic discourse, or actual or foreseeable effects related to electoral processes and public security, **including the risk of manipulation of their service by means of inauthentic use, deep fakes or automated exploitation of the service**.

## Amendment 173

### Proposal for a regulation Article 27 – paragraph 1 – introductory part

*Text proposed by the Commission*

1. Very large online platforms shall put in place reasonable, proportionate and effective **mitigation** measures, **tailored** to the specific systemic risks identified pursuant to Article 26. Such measures may include, where applicable:

*Amendment*

1. Very large online platforms shall put in place reasonable, proportionate and effective measures to **cease, prevent and mitigate** the specific systemic risks identified pursuant to Article 26. Such measures may include, where applicable:

**Amendment 174**

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

*Text proposed by the Commission*

*Amendment*

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

**Amendment 175**

**Proposal for a regulation**  
**Article 27 – paragraph 1 – point d**

*Text proposed by the Commission*

*Amendment*

(d) **initiating or** adjusting cooperation with trusted flaggers in accordance with Article 19;

(d) adjusting cooperation with trusted flaggers in accordance with Article 19;

**Amendment 176**

**Proposal for a regulation**  
**Article 27 – paragraph 2 – point b**

*Text proposed by the Commission*

*Amendment*

(b) best practices for very large online platforms to mitigate the systemic risks identified.

(b) best practices for very large online platforms to **cease, prevent and** mitigate the systemic risks identified.

**Amendment 177**

**Proposal for a regulation**  
**Article 27 – paragraph 3**

*Text proposed by the Commission*

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.

*Amendment*

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.

**Amendment 178**

**Proposal for a regulation**  
**Article 27 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**3a. The reports referred to in paragraph 2 shall be disseminated to the public and include standardised, open data describing the systemic risks, especially risks to fundamental rights.**

**Amendment 179**

**Proposal for a regulation**  
**Article 28 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

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:

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

**Amendment 180**



**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 paragraph 1 shall be performed by organisations ***or associations which have been constituted in accordance with the law of a Member State and*** which:

**Amendment 181**

**Proposal for a regulation**  
**Article 28 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) are independent from the very large online platform concerned;

*Amendment*

(a) are independent from the very large online platform concerned ***and have not provided any service other than audits or relevant ancillary services to that platform in the previous 12 months;***

**Amendment 182**

**Proposal for a regulation**  
**Article 28 – paragraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) have not audited the very large online platform concerned for more than three consecutive years.***

**Amendment 183**

**Proposal for a regulation**  
**Article 28 – paragraph 3 – point f**

*Text proposed by the Commission*

(f) where the audit opinion is ***not positive, operational*** recommendations on specific measures to achieve compliance.

*Amendment*

(f) where the audit opinion is ***negative***, recommendations on specific measures to achieve compliance ***and risk-based***

*remediation timelines, with a focus on rectifying issues that have the potential to cause most harm to users of the service as a priority;*

#### Amendment 184

##### Proposal for a regulation Article 28 – paragraph 3 – point f a (new)

*Text proposed by the Commission*

*Amendment*

*(fa) where the organisation that performs the audit does not have enough information to conclude the audit opinion due to the novelty of the issues audited, a relevant disclaimer.*

#### Amendment 185

##### Proposal for a regulation Article 28 – paragraph 4

*Text proposed by the Commission*

*Amendment*

4. Very large online platforms receiving an audit report that is not **positive** shall take due account of any operational recommendations addressed to them with a view to take the necessary measures to implement them. They shall, within one month from receiving those recommendations, adopt an audit implementation report setting out those measures. Where they do not implement the operational recommendations, they shall justify in the audit implementation report the reasons for not doing so and set out any alternative measures they may have taken to address any instances of non-compliance identified.

4. Very large online platforms receiving an audit report that **contains evidence that the platform** is not **properly assessing or mitigating systemic risks stemming from the functioning and use made of their services in the Union** shall take due account of any operational recommendations addressed to them with a view to take the necessary measures to implement them. They shall, within one month from receiving those recommendations, adopt an audit implementation report setting out those measures. Where they do not implement the operational recommendations, they shall justify in the audit implementation report the reasons for not doing so and set out any alternative measures they may have taken to address any instances of non-compliance identified.

## Amendment 186

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

*Text proposed by the Commission*

*Amendment*

**4a. Digital Services Coordinators shall provide very large online platforms under their jurisdiction with an annual audit plan outlining the key areas of focus for the upcoming audit cycle.**

## Amendment 187

### Proposal for a regulation Article 28 – paragraph 4 b (new)

*Text proposed by the Commission*

*Amendment*

**4b. The audits shall be submitted to Digital Services Coordinators, European Union Agency for Fundamental Rights and to the Commission. Summary of audit findings, not including 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.**

## Amendment 188

### Proposal for a regulation Article 29 – paragraph 1

*Text proposed by the Commission*

*Amendment*

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,

1. **Very large online platforms shall not make the recipients of their services subject to recommender system based on profiling, unless the recipient of the service has expressed a freely given, specific, informed and unambiguous consent.** Very large online platforms that use recommender systems shall set out in their terms and conditions, in a clear,

including at least one option which is not based on profiling, within the meaning of Article 4 (4) of Regulation (EU) 2016/679.

accessible and easily comprehensible manner, the main *technical* parameters used in their recommender systems, **and they shall provide** options for the recipients of the service to modify or influence those main *technical* parameters that they **shall make** available, including at least one option which is not based on profiling, within the meaning of Article 4 (4) of Regulation (EU) 2016/679, **and, where possible, keep a log of the significant changes implemented to the recommender system.**

## Amendment 189

### Proposal for a regulation Article 29 – paragraph 2

*Text proposed by the Commission*

2. Where several options are available pursuant to paragraph 1, very large online platforms shall provide an easily accessible functionality on their online interface allowing the recipient of the service to select and to modify at any time their preferred option for each of the recommender systems that determines the relative order of information presented to them.

*Amendment*

2. Where several options are available pursuant to paragraph 1, very large online platforms shall provide an easily accessible **and user-friendly** functionality on their online interface allowing the recipient of the service to select and to modify at any time their preferred option for each of the recommender systems that determines the relative order of information presented to them

## Amendment 190

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

*Text proposed by the Commission*

*Amendment*

**2a. The parameters referred to in paragraph 1 shall include:**

**(a) whether the recommender system is an automated system and, in that case, the identity of the natural or legal person responsible for the recommender system, if different from the platform provider;**

- (b) clear information about the main criteria used by recommender systems;*
- (c) where possible, the relevance and weight of each main criteria which leads to the information recommended;*
- (d) the goals the system has been optimised for,*
- (e) if applicable, an explanation of the role that the behaviour of the recipients of the service plays in how the relevant system produces its outputs.*

## **Amendment 191**

### **Proposal for a regulation Article 29 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 29a**

##### **Portability of data and reviews**

- 1. Very large online platforms shall provide effective portability of data generated through the activity of a business user or end user and shall, in particular, provide tools for end users to facilitate the exercise of data portability, in line with Regulation EU 2016/679, including by the provision of continuous and real-time access;*
- 2. Very large online platforms shall ensure the portability of reviews to the reputation system of another platform operator upon the termination of the platform-user contract.*

## **Amendment 192**

### **Proposal for a regulation Article 30 – paragraph 2 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

***(ba) the natural or legal person who finances the advertisement, if different from the natural or legal person identified pursuant to point (b);***

## **Amendment 193**

### **Proposal for a regulation Article 30 – paragraph 2 – point e**

*Text proposed by the Commission*

*Amendment*

(e) the total number of recipients of the service reached and, where applicable, aggregate numbers for the group or groups of recipients to whom the advertisement was targeted specifically.

(e) the total number of recipients of the service reached and, where applicable, aggregate numbers for the group or groups of recipients to whom the advertisement was targeted specifically, ***and whether other groups have been explicitly excluded.***

## **Amendment 194**

### **Proposal for a regulation Article 31 – paragraph 1**

*Text proposed by the Commission*

*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.

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, ***information and*** 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.

## **Amendment 195**

### **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 **information and** access to data to vetted researchers, **not-for-profit bodies, organisations or associations which have been constituted in accordance with the law of a Member State**, who meet the requirements in paragraphs 4 of this Article, for the sole purpose of **facilitating and** conducting research that contributes to the identification and understanding of systemic risks as set out in Article 26(1) **and to enable verification of the effectiveness and proportionality of the mitigation measures as set out in Article 27(1)**.

**Amendment 196**

**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. **The period for which information and data is to be provided pursuant to paragraphs 1 and 2 shall be specified in the request. The data provided to vetted researchers shall be as disaggregated as possible, unless the researcher requests it otherwise.**

**Amendment 197**

**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, ***disclose the funding financing the research***, 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 198**

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

*Text proposed by the Commission*

*Amendment*

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

**Amendment 199**

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

*Text proposed by the Commission*

*Amendment*

***(da) relevant information on content moderation broken down per Member State in which the services are offered and in the Union as a whole.***

**Amendment 200**

**Proposal for a regulation  
Article 33 – paragraph 3**



*Text proposed by the Commission*

3. Where a very large online platform considers that the publication of information pursuant to paragraph 2 may result in the disclosure of confidential information of that platform or of the recipients of the service, may cause significant vulnerabilities for the security of its service, may undermine public security or may harm recipients, the platform may remove such information from the reports. In that case, that platform shall transmit the complete reports to the Digital Services Coordinator of establishment and the Commission, accompanied by a statement of the reasons for removing the information from the public reports.

*Amendment*

3. Where a very large online platform considers that the publication of information pursuant to paragraph 2 may result in the disclosure of confidential information of that platform or of the recipients of the service, may cause significant vulnerabilities for the security of its service, may undermine public security or may harm recipients, the platform may remove such information from the reports. In that case, that platform shall transmit the complete reports to the Digital Services Coordinator of establishment and the Commission, accompanied by a statement of the reasons for removing the information from the public reports. ***In such cases, the platform shall indicate that information was removed from the report, the scope of the information removed and the reason for the removal.***

**Amendment 201**

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

*Text proposed by the Commission*

*Amendment*

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

**Amendment 202**

**Proposal for a regulation  
Article 37 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. The Commission shall be responsible for the drafting and scrutiny of the crisis protocols referred to in paragraph 1. It shall report annually thereon to the European Parliament.***

## Amendment 203

### Proposal for a regulation

#### Article 38 – paragraph 1 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***The competent authorities referred to in the first subparagraph shall have relevant expertise in the field of data protection, consumer protection or the regulation of user-generated content.***

## Amendment 204

### Proposal for a regulation

#### Article 38 – paragraph 1 – subparagraph 1 b (new)

*Text proposed by the Commission*

*Amendment*

***Supervisory authorities designated under Regulation (EU) 2016/679 shall be tasked with the application and enforcement of measures related to data processing set out in this Regulation.***

## Amendment 205

### Proposal for a regulation

#### Article 38 – paragraph 2 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

Member States shall designate one of the competent authorities as their Digital Services Coordinator. The Digital Services Coordinator shall be responsible for ***all matters relating to*** application and enforcement of this Regulation in that Member State, unless the Member State concerned has assigned certain specific tasks or sectors to other competent authorities. The Digital Services Coordinator shall in any event be responsible for ensuring coordination at

Member States shall designate one of the competent authorities as their Digital Services Coordinator. The Digital Services Coordinator shall be responsible for ***the*** application and enforcement of this Regulation in that Member State, unless the Member State concerned has assigned certain specific tasks or sectors to other competent authorities. The Digital Services Coordinator shall in any event be responsible for ensuring coordination at national level in respect of matters ***related***

national level in respect of *those* matters and for contributing to the effective and consistent application and enforcement of this Regulation throughout the Union.

*to this Regulation* and for contributing to the effective and consistent application and enforcement of this Regulation throughout the Union.

## Amendment 206

### Proposal for a regulation Article 38 – paragraph 2 – subparagraph 2

*Text proposed by the Commission*

For that purpose, Digital Services Coordinators shall cooperate with each other, other national competent authorities, the Board and the Commission, without prejudice to the possibility for Member States to provide for regular exchanges of views with other authorities where relevant for the performance of the tasks of those other authorities and of the Digital Services Coordinator.

*Amendment*

For that purpose, Digital Services Coordinators shall cooperate with each other, other national competent authorities, the Board and the Commission, without prejudice to the possibility for Member States to provide for regular exchanges of views with other authorities where relevant for the performance of the tasks of those other authorities and of the Digital Services Coordinator, ***including sharing information on cross-border cases and providing support for each other during ongoing interventions and investigations.***

## Amendment 207

### Proposal for a regulation Article 38 – paragraph 2 – subparagraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***The Board shall create a publicly accessible list of all Digital Services Coordinators and competent authorities. It shall regularly update and monitor this list.***

## Amendment 208

### Proposal for a regulation Article 38 – paragraph 3 – subparagraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***The Commission shall provide guidance to Member States to ensure a consistent approach on how national, local and regional authorities should relate to their Digital Services Coordinator.***

## **Amendment 209**

### **Proposal for a regulation**

#### **Article 38 – paragraph 3 – subparagraph 2 b (new)**

*Text proposed by the Commission*

*Amendment*

***The Commission shall publish and update a register containing the name and contact information of the Digital Service Coordinator responsible in each Member State.***

## **Amendment 210**

### **Proposal for a regulation**

#### **Article 39 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Member States shall ensure that their Digital Services Coordinators perform their tasks under this Regulation in an impartial, transparent and timely manner. Member States shall ensure that their Digital Services Coordinators have ***adequate*** technical, financial and human resources to carry out their tasks.

1. Member States shall ensure that their Digital Services Coordinators perform their tasks under this Regulation in an impartial, ***independent***, transparent and timely manner. Member States shall ensure that their Digital Services Coordinators have ***all necessary*** technical, financial and human resources, ***including skills and competence building, as well as infrastructure*** to carry out their tasks. ***Such resources may include access to training and regular exchanges with service providers to understand the specificities of their business model.***

## Amendment 211

### Proposal for a regulation Article 39 – paragraph 2

*Text proposed by the Commission*

2. When carrying out their tasks and exercising their powers in accordance with this Regulation, the Digital Services Coordinators shall act with complete independence. They shall remain free from any external influence, whether direct or indirect, and shall ***neither seek nor*** take instructions from any other public authority or any private party.

*Amendment*

2. When carrying out their tasks and exercising their powers in accordance with this Regulation, the Digital Services Coordinators shall act with complete independence. They shall remain free from any external influence, whether direct or indirect, and shall ***not*** take instructions from any other public authority or any private party.

## Amendment 212

### Proposal for a regulation Article 39 – paragraph 2 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***Digital Services Coordinators may seek information from a public authority or private party if it deems it necessary to carry out its duties, without compromising its independence and neutrality.***

## Amendment 213

### Proposal for a regulation Article 41 – paragraph 6

*Text proposed by the Commission*

6. Member States shall ensure that any exercise of the powers pursuant to paragraphs 1, 2 and 3 is subject to ***adequate*** safeguards laid down in the applicable national law ***in*** conformity with the Charter and with the general principles of Union law. In particular, those measures shall only be taken in accordance with the right to respect for private life and the

*Amendment*

6. Member States shall ensure that any exercise of the powers pursuant to paragraphs 1, 2 and 3 is subject to ***the highest*** safeguards laid down in the applicable national law, ***in absolute*** conformity with the Charter and with the general principles of Union law. In particular, those measures shall only be taken in accordance with the right to

rights of defence, including the rights to be heard and of access to the file, and subject to the right to an effective judicial remedy of all affected parties.

respect for private life and the rights of defence, including the rights to be heard and of access to the file, and subject to the right to an effective judicial remedy of all affected parties.

## Amendment 214

### 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 annual income or turnover of the provider concerned.

#### *Amendment*

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 **global** 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 annual income or **global** turnover of the provider concerned.

## Amendment 215

### Proposal for a regulation Article 42 – paragraph 4

#### *Text proposed by the Commission*

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.

#### *Amendment*

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

## Amendment 216

### Proposal for a regulation Article 43 – paragraph 1

*Text proposed by the Commission*

Recipients of the service shall have the right to lodge a complaint against providers of intermediary services alleging an infringement of this Regulation with the Digital Services Coordinator of the Member State where the recipient resides or is established. The Digital Services Coordinator shall assess the complaint and, where appropriate, transmit it to the Digital Services Coordinator of establishment. Where the complaint falls under the responsibility of another competent authority in its Member State, the Digital Service Coordinator receiving the complaint shall transmit it to that authority.

*Amendment*

Recipients of the service, ***as well as other parties with a legitimate interest and who are independent of any provider of intermediary service***, shall have the right to lodge a complaint against providers of intermediary services alleging an infringement of this Regulation with the Digital Services Coordinator of the Member State where the recipient resides or is established. The Digital Services Coordinator shall assess the complaint and, where appropriate, transmit it to the Digital Services Coordinator of establishment. Where the complaint falls under the responsibility of another competent authority in its Member State, the Digital Service Coordinator receiving the complaint shall transmit it to that authority.

## Amendment 217

### Proposal for a regulation Article 49 – paragraph 1 – point e a (new)

*Text proposed by the Commission*

*Amendment*

***(ea) issue own-initiative opinions.***

## Amendment 218

### Proposal for a regulation Article 59 – paragraph 1 – introductory part

*Text proposed by the Commission*

*Amendment*

1. In the decision pursuant to Article 58, the Commission may impose on the very large online platform concerned fines not exceeding 6% of its total turnover in

1. In the decision pursuant to Article 58, the Commission may impose on the very large online platform concerned fines not exceeding 6 % of its total ***global***

the preceding financial year where it finds that that platform, intentionally or negligently:

turnover in the preceding financial year where it finds that that platform, intentionally or negligently:

## **Amendment 219**

### **Proposal for a regulation**

#### **Article 59 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. The Commission may by decision impose on the very large online platform concerned or other person referred to in Article 52(1) fines not exceeding 1% of the total turnover in the preceding financial year, where they intentionally or negligently:

*Amendment*

2. The Commission may by decision impose on the very large online platform concerned or other person referred to in Article 52(1) fines not exceeding 1 % of the total **global** turnover in the preceding financial year, where they intentionally or negligently:

## **Amendment 220**

### **Proposal for a regulation**

#### **Article 60 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. The Commission may, by decision, impose on the very large online platform concerned or other person referred to in Article 52(1), as applicable, periodic penalty payments not exceeding 5 % of the average daily turnover in the preceding financial year per day, calculated from the date appointed by the decision, in order to compel them to:

*Amendment*

1. The Commission may, by decision, impose on the very large online platform concerned or other person referred to in Article 52(1), as applicable, periodic penalty payments not exceeding 5 % of the average daily **global** turnover in the preceding financial year per day, calculated from the date appointed by the decision, in order to compel them to:

## **Amendment 221**

### **Proposal for a regulation**

#### **Article 64 – paragraph 1**

*Text proposed by the Commission*

1. The Commission shall publish the decisions it adopts pursuant to Articles 55(1), 56(1), 58, 59 and 60. Such

*Amendment*

1. The Commission shall publish the decisions it adopts pursuant to Articles 55(1), 56(1), 58, 59 and 60. Such



publication shall state the names of the parties and the main content of the decision, including any penalties imposed.

publication shall state the names of the parties and the main content of the decision, including any penalties imposed, ***along with, where possible, non-confidential documents or other forms of information on which the decision is based.***

## **Amendment 222**

### **Proposal for a regulation Article 73 – paragraph 3**

#### *Text proposed by the Commission*

3. In carrying out the evaluations referred to in paragraph 1, the Commission shall take into account the positions and findings of the European Parliament, the Council, and other relevant bodies or sources.

#### *Amendment*

3. In carrying out the evaluations referred to in paragraph 1, the Commission shall take into account the positions and findings of the European Parliament, the Council, and other relevant bodies or sources, ***and pay specific attention to small and medium-sized enterprises and the position of new competitors.***

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC
<b>References</b>	COM(2020)0825 – C9-0418/2020 – 2020/0361(COD)
<b>Committee responsible</b> Date announced in plenary	IMCO 8.2.2021
<b>Opinion by</b> Date announced in plenary	ITRE 8.2.2021
<b>Associated committees - date announced in plenary</b>	20.5.2021
<b>Rapporteur for the opinion</b> Date appointed	Henna Virkkunen 15.12.2020
<b>Discussed in committee</b>	17.6.2021                      15.7.2021
<b>Date adopted</b>	27.9.2021
<b>Result of final vote</b>	+:                      46 –:                      22 0:                      6
<b>Members present for the final vote</b>	Nicola Beer, François-Xavier Bellamy, Hildegard Bentele, Tom Berendsen, Vasile Blaga, Michael Bloss, Paolo Borchia, Marc Botenga, Markus Buchheit, Cristian-Silviu Buşoi, Jerzy Buzek, Carlo Calenda, Maria da Graça Carvalho, Ignazio Corrao, Ciarán Cuffe, Josianne Cutajar, Nicola Danti, Pilar del Castillo Vera, Martina Dlabajová, Valter Flego, Niels Fuglsang, Lina Gálvez Muñoz, Claudia Gamon, Nicolás González Casares, Christophe Grudler, András Gyürk, Henrike Hahn, Robert Hajšel, Ivo Hristov, Ivars Ijabs, Romana Jerković, Eva Kaili, Izabela-Helena Kloc, Łukasz Kohut, Zdzisław Krasnodębski, Andrius Kubilius, Miapetra Kumpula-Natri, Thierry Mariani, Marisa Matias, Joëlle Mélin, Dan Nica, Angelika Niebler, Ville Niinistö, Aldo Patriciello, Mauri Pekkarinen, Mikuláš Peksa, Tsvetelina Penkova, Morten Petersen, Markus Pieper, Clara Ponsatí Obiols, Manuela Ripa, Robert Roos, Sara Skytvedal, Maria Spyraiki, Jessica Stegrud, Beata Szydło, Riho Terras, Grzegorz Tobiszowski, Patrizia Toia, Evžen Tošenovský, Marie Toussaint, Isabella Tovaglieri, Viktor Uspaskich, Henna Virkkunen, Pernille Weiss, Carlos Zorrinho
<b>Substitutes present for the final vote</b>	Erik Bergkvist, Izaskun Bilbao Barandica, Cornelia Ernst, Valérie Hayer, Elena Lizzi, Jutta Paulus, Sandra Pereira, Angelika Winzig

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

46	+
NI	Viktor Uspaskich#
PPE	François-Xavier Bellamy, Hildegard Bentele, Tom Berendsen, Vasile Blaga, Cristian-Silviu Buşoi, Jerzy Buzek, Maria da Graça Carvalho, Pilar del Castillo Vera, Andrius Kubilius, Angelika Niebler, Aldo Patriciello, Markus Pieper, Sara Skyttedal, Maria Spyrali, Riho Terras, Henna Virkkunen, Pernille Weiss, Angelika Winzig
Renew	Nicola Beer, Izaskun Bilbao Barandica, Nicola Danti, Martina Dlabajová, Valter Flego, Claudia Gamon, Christophe Grudler, Valérie Hayer, Ivars Ijabs, Mauri Pekkarinen, Morten Petersen
S&D	Erik Bergkvist, Carlo Calenda, Josianne Cutajar, Niels Fuglsang, Lina Gálvez Muñoz, Nicolás González Casares, Robert Hajšel, Ivo Hristov, Romana Jerković, Eva Kaili, Łukasz Kohut, Miapetra Kumpula-Natri, Dan Nica, Tsvetelina Penkova, Patrizia Toia, Carlos Zorrinho

22	-
ECR	Izabela-Helena Kloc, Zdzisław Krasnodębski, Robert Roos, Jessica Stegrud, Beata Szydło, Grzegorz Tobiszowski, Evžen Tošenovský
ID	Paolo Borchia, Markus Buchheit, Elena Lizzi, Isabella Tovaglieri
The Left	Marc Botenga, Sandra Pereira
Verts/ALE	Michael Bloss, Ignazio Corrao, Ciarán Cuffe, Henrike Hahn, Ville Niinistö, Jutta Paulus, Mikuláš Peksa, Manuela Ripa, Marie Toussaint

6	0
ID	Thierry Mariani, Joëlle Mélin
NI	András Gyürk, Clara Ponsatí Obiols
The Left	Cornelia Ernst, Marisa Matias

Key to symbols:

+ : in favour

- : against

0 : abstention