AMENDMENTS
72 - 271

Draft opinion
Henna Virkkunen
(PE693.552v01-00)

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

Proposal for a regulation
AM_Com_LegOpinion
Amendment 72
Jessica Stegrud
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

deleted

Amendment 73
Marisa Matias
on behalf of The Left Group

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.

Justification

Or. en
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.

(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

Justification

Amendment 74
Mikuláš Peksa
on behalf of the Greens/EFA Group

Proposal for a regulation
Recital 3

Text proposed by the Commission

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

Or. en

Justification

Specifying rights that are tightly connected to the digital domain

Amendment 75

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.

Or. en

Amendment 76
Marisa Matias
on behalf of the The Left Group
Proposal for a regulation
Recital 4 a (new)

Text proposed by the Commission

(4 a) Lack of harmonised accessibility requirements for digital services and platforms will also create barriers for the implementation of existing Union legislation on accessibility. Therefore, accessibility requirements for intermediary services, including their user interfaces, must be consistent with existing Union accessibility legislation, such as the European Accessibility Act and the Web Accessibility Directive, so that no one is left behind as a result of digital innovation. This aim is in line with the Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030 and the Union’s commitment to the United Nations’ Sustainable Development Goals. Accessibility for persons with disabilities means that services, technologies and products are perceivable, operable, understandable and robust for persons with disabilities.

Amendment

Or. en

Amendment 77
Mikuláš Peksa
on behalf of the Greens/EFA Group

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, that is, any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient.

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, 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.


Justification

Updating the text to better reflect the status quo

Amendment 78
Lina Gálvez Muñoz, Alicia Homs Ginel, Robert Hajšel, Carlos Zorrinho, Andris Ameriks, Nicolás González Casares, Romana Jerković, Eva Kall, Carlo Calenda, Maria-Manuel Leitão-Marques, Adriana Maldonado López

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

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 the existence of activities or on 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
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 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\(^27\). 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.


**Justification**

In line with changes made in Art. 2d

**Amendment 79**

Marisa Matias

on behalf of the The Left Group

**Proposal for a regulation**

Recital 9
(9) This Regulation should complement, yet not affect the application of rules resulting from other acts of Union law regulating certain aspects of the provision of intermediary services, in particular Directive 2000/31/EC, with the exception of those changes introduced by this Regulation, Directive 2010/13/EU of the European Parliament and of the Council as amended,\(^\text{28}\) and Regulation (EU) .../.. of the European Parliament and of the Council\(^\text{29}\) – proposed Terrorist Content Online Regulation. Therefore, this Regulation leaves those other acts, which are to be considered lex specialis in relation to the generally applicable framework set out in this Regulation, unaffected. However, the rules of this Regulation apply in respect of issues that are not or not fully addressed by those other acts as well as issues on which those other acts leave Member States the possibility of adopting certain measures at national level.


\(^{29}\) Regulation (EU) .../.. of the European Parliament and of the Council – proposed Terrorist Content Online Regulation

Amendment 80
Marisa Matias
on behalf of the The Left Group

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 as implemented in national laws so as to insure the highest level of protection of these rights, which establish specific rules and procedures that should remain unaffected.

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

Amendment

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

Amendment 82
Mikuláš Peksa
on behalf of the Greens/EFA Group

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

(12) In order to achieve the objective of ensuring a safe, predictable and trusted online environment, for the purpose of this Regulation the concept of “illegal content” should be defined to cover information relating to illegal content, products, services and activities following the Member State of origin principle. In particular, that concept should be understood to refer to information, irrespective of its form, that under the applicable law is either itself illegal, such as illegal hate speech or terrorist content and unlawful discriminatory content, or that relates to activities that are illegal, such as the sharing of images depicting child sexual abuse, unlawful non-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.
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law or from national law that is consistent with Union law and what the precise nature or subject matter is of the law in question.

Or. en

**Justification**

**Needed to underline the country of origin principle.**

**Amendment 83**

Marisa Matias

on behalf of the The Left Group

**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**

(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 refer back to EU and national legal definitions as well as 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 84
Martin Hojsík, Valérie Hayer

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

(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, 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.

Or. en

Justification

The EC’s Communication on the EU Strategy to tackle Organised Crime recognizes that “Environmental crime deserves particular attention due to its harmful effects on biodiversity and on the environment, health and social cohesion within the EU and in third countries” and underlines devastating consequences of illegal trade in wildlife and companion animal. Due
to those impacts (e.g. tax revenue loss, damage to human health, biodiversity) and scale of the issue (animal trafficking networks profit from a market worth up to 4 billion per year), it cannot be left outside the scope.

Amendment 85

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

(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 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 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.

Or. en
Amendment 86
Marisa Matias
on behalf of the The Left Group

Proposal for a regulation
Recital 12 a (new)

Text proposed by the Commission

(12 a) More than 80% of illegal content is removed solely on the basis of the automated mechanisms put in place by the platforms. This content, which is potentially the most toxic, is therefore never brought to the attention of law enforcement authorities and thus escapes any judicial sanction. This situation should therefore be remedied as it sets a dangerous precedent where big platforms decide on what constitute an illegal content.

Amendment 87
Valérie Hayer, Christophe Grudler, Dominique Riquet, Iskra Mihaylova, Susana Solís Pérez, Klemen Grošelj, Nicola Beer, Martin Hojsík

Proposal for a regulation
Recital 13

Text proposed by the Commission

(13) Considering the particular characteristics of the services concerned and the corresponding need to make the providers thereof subject to certain specific obligations, it is necessary to distinguish, within the broader category of providers of hosting services as defined in this Regulation, the subcategory of online platforms. Online platforms, such as social networks or online marketplaces, should be defined as providers of hosting services that not only store information provided by the recipients of the service at their request, but that also disseminate that information

Amendment

(13) Considering the particular characteristics of the services concerned and the corresponding need to make the providers thereof subject to certain specific obligations, it is necessary to distinguish, within the broader category of providers of hosting services as defined in this Regulation, the subcategory of online platforms. Online platforms, such as social networks, content-sharing platforms, search engines, livestreaming platforms, messaging services or online marketplaces, should be defined as providers of hosting services that not only store information
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.

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.

Or. en

Justification

The DSA should cover all digital services that play an important role in the dissemination of illegal content. This amendment clarifies that content-sharing platforms, search engines, live streaming platforms and messaging services falls within the scope of hosting services and online platforms.

Amendment 88
Gianna Gancia, Elena Lizzi

Proposal for a regulation
Recital 13

Text proposed by the Commission

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Amendment

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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.

Or. en

Amendment 89

Proposal for a regulation
Recital 13

Text proposed by the Commission
(13) Considering the particular characteristics of the services concerned and the corresponding need to make the providers thereof subject to certain specific obligations, it is necessary to distinguish, within the broader category of providers of

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.

Justification

Search engines have an important role in ranking information, which impacts the access and dissemination of content. Therefore, the DSA should clarify and include search engines as online platforms.

Amendment 90

Valérie Hayer, Christophe Grudler, Dominique Riquet, Iskra Mihaylova, Susana Solís Pérez, Klemen Grošelj, Nicola Beer, Martin Hojsík

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) The concept of ‘dissemination to

Amendment

(14) The concept of ‘dissemination to

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

Accordingly, where access to information requires registration or admission to a user group, such information should only be considered to be publicly available when users seeking to access such information are automatically registered or admitted without human intervention to decide or select the users to whom access is granted. The mere possibility to create groups of users of a given service, including a messaging 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, such as emails or private messaging services, fall outside the scope of this Regulation if they do not meet the above criteria for "dissemination to the public". Information should be considered disseminated to the public within the meaning of this Regulation only where that occurs upon the direct request by the recipient of the service that provided the information. File-sharing services and other cloud services fall within the scope of this Regulation, to the extent that such services are used to make the stored information available to the public at the direct request of the content provider.
The amendment clarifies the concept of the dissemination to the public in the light of the regulation on countering terrorist content online. It also better reflects on the specificities of cloud services, and aims at underlining the potential role of groups and channels in disseminating illegal content.

Amendment 91
Mikuláš Peksa
on behalf of the Greens/EFA Group

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,39

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. Interpersonal communication services, as defined in Directive (EU) 2018/1972 of the European Parliament and of the Council,39
Parliament and of the Council,\textsuperscript{39} such as emails or private messaging services, fall outside the scope of this Regulation. Information should be considered disseminated to the public within the meaning of this Regulation only where that occurs upon the direct request by the recipient of the service that provided the information.


\textbf{Justification}

\textit{AM needed to clarify the scope}

\textbf{Amendment 92}

\textbf{Mikuláš Peksa}
on behalf of the Greens/EFA Group

\textbf{Proposal for a regulation}

\textbf{Recital 15 a (new)}

\textit{Text proposed by the Commission}

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

Or. en

Justification

AM needed to explain changes introduced in the articles.

Amendment 93
Mikuláš Peksa
on behalf of the Greens/EFA Group

Proposal for a regulation
Recital 15 b (new)

Text proposed by the Commission

(15 b) 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 confidentiality of communications.

Or. en

Justification

AM needed for text consistency with changes proposed in the articles

Amendment 94
Henna Virkkunen, Tomas Tobé, Pilar del Castillo Vera, Tom Berendsen, Pernille Weiss, Sara Skyttedal

Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) The exemptions from liability established in this Regulation should not apply where, instead of confining itself to

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

**Amendment 95**
Massimiliano Salini

Proposal for a regulation
Recital 18

*Text proposed by the Commission*

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

**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.
intermediary service itself, including where the information has been developed under the editorial responsibility of that provider.

Amendment 96
Mikuláš Peksa
on behalf of the Greens/EFA Group

Proposal for a regulation
Recital 18

Text proposed by the Commission

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

Amendment

(18) The exemptions from liability established in this Regulation should not apply where, the provider of intermediary services has actual knowledge of, or meaningful control over information. Those exemptions should accordingly not be available in respect of liability relating to information provided not by the recipient of the service but by the provider of intermediary service itself, including where the information has been developed under the editorial responsibility of that provider.

Or. en

Justification

Change needed to provide clarity to the scope

Amendment 97
François-Xavier Bellamy, Geoffroy Didier

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

Amendment
Lina Gálvez Muñoz, Patrizia Toia, Alicia Homs Ginel, Robert Hajšel, Carlos Zorrinho, Andris Ameriks, Nicolás González Casares, Romana Jerković, Eva Kaili, Carlo Calenda, Adriana Maldonado López
Proposal for a regulation
Recital 18

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

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

Or. en

Justification

The European Court of Justice case law takes into account that in order to benefit from these provisions, a clear distinction should be made between "active" and "passive" platforms.

Amendment 99
Lina Gálvez Muñoz, Patrizia Toia, Alicia Homs Ginel, Robert Hajšel, Carlos Zorrinho, Andris Ameriks, Nicolás González Casares, Romana Jerković, Eva Kaili, Carlo Calenda, Maria-Manuel Leitão-Marques, Adriana Maldonado López

Proposal for a regulation
Recital 18 a (new)

Text proposed by the Commission

Amendment

(18 a) The exemptions from liability should also not be available to providers of intermediary services that do not comply with the due diligence obligations set out in this Regulation. The conditionality should further ensure that the standards to qualify for those exemptions contribute to a high level of safety and trust in the online environment in a manner that promotes a fair balance of the rights of all stakeholders.

Or. en

Justification

The conditionality on the exemption from liability on compliance with Chapter III due diligence obligations (DDOs) could provide an additional incentive for compliance with DDOs, while acting as a deterrent effect especially on those players who choose not to
comply because they can afford the sanctions. In line with changes in Article 5a (new.)

Amendment 100
Eva Kaili

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) A provider of intermediary services whose main purpose is to engage in or facilitate illegal activities that 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.

Or. en

Amendment 101
François-Xavier Bellamy, Geoffroy Didier

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) A provider of intermediary services that engages in 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.

Or. en

Amendment 102
Mikuláš Peksa
on behalf of the Greens/EFA Group

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 alter the integrity of the information transmitted.

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 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.

Or. en

Justification

The distinction in the law needs to be made between those involved in the information and those who are mere conduits.

Amendment 103
Patrizia Toia

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

Amendment

(22) In order to benefit from the exemption from liability for hosting services, the provider should, upon obtaining actual knowledge or awareness of illegal content, act expeditiously to remove or to disable access to that content. The removal or disabling of access should be undertaken in the observance of the principle of freedom of expression. Where the illegal content can cause significant
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.

The provider can obtain such actual knowledge or awareness through, in particular, its own-initiative investigations or notices submitted to it by individuals or entities in accordance with this Regulation in so far as those notices are sufficiently precise and adequately substantiated to allow a diligent economic operator to reasonably identify, assess and where appropriate act against the allegedly illegal content.

Or. en

Amendment 104

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

Amendment

(22) In order to benefit from the exemption from liability for hosting services, the provider should, upon obtaining actual knowledge or awareness of illegal content, act expeditiously to remove or to disable access to that content. The removal or disabling of access should be undertaken in the observance of the principles enshrined in the Charter of Fundamental Rights, including freedom of expression. Where the illegal content can cause significant public harm, the provider should assess and, when necessary, remove or disable access to that content within 24 hours and, in any
adequately substantiated to allow a diligent economic operator to reasonably identify, assess and where appropriate act against the allegedly illegal content.

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

Or. en

Justification

To align it with the Terrorist Content Regulation.

Amendment 105
Henna Virkkunen, Tomas Tobé, Adam Jarubas, Jerzy Buzek, Pilar del Castillo Vera, Tom Berendsen, Massimiliano Salini, Pernille Weiss, Sara Skyttedal

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 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, and, in accordance with the jurisprudence of the Court of Justice of the European Union, ensure that identical or equivalent illegal content does not reappear within the same context. 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
the allegedly illegal content.

own-initiative investigations or notices submitted to it by individuals or entities in accordance with this Regulation in so far as those notices are sufficiently precise and adequately substantiated to allow a diligent economic operator to reasonably identify, assess and where appropriate act against the allegedly illegal content.

Or. en

Amendment 106
Mikuláš Peksa
on behalf of the Greens/EFA Group

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 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 illegal content.

Or. en

Justification

The original text had several layers of uncertainty, allowing privatised law enforcement.
Amendment 107

Proposal for a regulation
Recital 23

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

(23) In order to ensure the effective protection of consumers when engaging in intermediated commercial transactions online, certain providers of hosting services, namely, online platforms that allow consumers to conclude distance contracts with traders, should not be able to benefit from the exemption from liability for hosting service providers establishing in this Regulation, unless they comply with a number of specific requirements set out in this Regulation, including the appointment of a legal representative in the Union, the implementation of notice and action mechanisms, the traceability of traders using their services, the provision of information on their online advertising and their recommender system practices and policy as well as transparency requirements towards the consumers as laid down in Directive 2011/83/EU. In addition, they should not be able to benefit from the exemption from liability for hosting service providers establishing in this Regulation, in so far as those online platforms present the relevant information relating to the transactions at issue in such a way that it leads consumers to believe that the information was provided by those online platforms themselves or by recipients of the service acting under their authority or control, and that those online platforms thus have knowledge of or control over the information, even if that may in reality not be the case. In that regard, is should be determined objectively, on the basis of all relevant circumstances, whether the presentation could lead to such a belief on the side of an
Amendment 108
Mikuláš Peksa
on behalf of the Greens/EFA Group

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

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

Justification

The text operated with several hard to proof assumptions, being detrimental to people with disabilities and discriminatory based on access to knowledge.
Amendment 109
Gianna Gancia, Elena Lizzi

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.

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, 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. As a general rule, injunctions should be considered as a last resort, where any other reasonable and proportionate action closer to the content owner is not available.

Or. en

Amendment 110
Mikuláš Peksa
on behalf of the Greens/EFA Group

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

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

Or. en
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.

Justification

The legal regime of injunctions needed clarification

Amendment 111
Mikuláš Peksa
on behalf of the Greens/EFA Group

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.

Or. en

Justification

The deletion is necessary in order to align the text with the changes proposed for the articles.

Amendment 112
Henna Virkkunen, Tomas Tobé, Adam Jarubas, Jerzy Buzek, Pilar del Castillo Vera, Tom Berendsen, Pernille Weiss

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

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 good faith and for the sole purpose of detecting, identifying and acting against illegal content. 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 those exemptions from liability set out in this Regulation. Therefore, any such activities
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 113

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

Amendment

(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 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 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...
exemption from liability, in particular as regards whether the provider provides its service neutrally and can therefore fall within the scope of the relevant provision, without this rule however implying that the provider can necessarily rely thereon.

Or. en

Amendment 114
Gianna Gancia, Elena Lizzi

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

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.

Where the provider of intermediary services does not have the technical and operational ability to act against specific items of illegal content, the obligations laid down in this Regulation, such as provisions on orders and notices, shall not apply. In such situations, the provider of intermediary services shall demand, based on contractual obligations, that the illegal content is removed by the natural or legal person that is best placed to act.

Amendment 115
Eva Kaili

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

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 also attempt to resolve conflicts relating to such content. 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
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 116

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 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

(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.

qualify as ‘mere conduits’, ‘caching’ or neutral 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 or 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 actions where the customer fails to remove the illegal content, unless technically impracticable.

Or. en

Justification

Services deeper in the internet stack acting as online intermediaries should be required to take proportionate actions where the customer fails to remove the illegal content, unless technically impracticable (e.g. they own the hosting service; or it would not result in indiscriminate or disproportionate removal of legitimate customer content).

Amendment 117
Mikuláš Peksa
on behalf of the Greens/EFA Group

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

Justification

*Cloud infrastructure services are a type of business model that need to be included.*

**Amendment 118**

Jessica Stegrud, Robert Roos
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, or content delivery networks, that enable or improve the functions of other providers of intermediary services. Likewise, services used for communications purposes, and the technical means of their delivery, have also evolved considerably, giving rise to online services such as Voice over IP, messaging services and web-based e-mail services, where the communication is delivered via an internet access service. Those services, too, can benefit from the exemptions from liability, to the extent that they qualify as ‘mere conduit’, ‘caching’ or hosting service.

Or. en

Amendment 119
Mikuláš Peksa
on behalf of the Greens/EFA Group
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 use automated tools for content moderation. This does not concern monitoring obligations in a specific case and, in particular, does not affect orders by national authorities in accordance with national legislation, in accordance with the conditions established in this Regulation. Nothing in this Regulation should be construed as an imposition of a general monitoring obligation or active fact-finding obligation, or as a general obligation for providers to take proactive measures to relation to illegal content.

Or. en

Justification

The lack of precision of automated tools show that they are not ready for market deployment, therefore the legislation should clearly state it.

Amendment 120

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

Amendment

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

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 impeding upon the ability of providers to undertake proactive measures to identify and remove illegal content and to prevent its reappearance.

Or. en

Justification

Intermediary services should be encouraged to take voluntary and targeted measures to detect and remove illegal content without losing their liability exemption when doing so.

Amendment 121
Henna Virkkunen, Eva Maydell, Tomas Tobé, Adam Jarubas, Jerzy Buzek, Pilar del Castillo Vera, Tom Berendsen, Pernille Weiss, Sara Skyttedal

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

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. 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, within the same context. 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
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 122
Valérie Hayer, Christophe Grudler, Dominique Riquet, Iskra Mihaylova, Susana Solís Pérez, Klemen Grošelj, Nicola Beer, Nicola Danti, Bart Groothuis, Martin Hojsík

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

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 or international law and the interests of international comity.

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.

Or. en

Amendment 123
Valérie Hayer, Christophe Grudler, Dominique Riquet, Iskra Mihaylova, Susana Solís Pérez, Klemen Grošelj, Nicola Beer, Nicola Danti, Bart Groothuis, Martin Hojsík

Proposal for a regulation
Recital 33

Text proposed by the Commission

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

Amendment

(33) Orders to act against illegal content and to provide information are subject to the rules safeguarding the competence of the Member State where the service provider addressed is established and laying down possible derogations from that competence in certain cases, set out in Article 3 of Directive 2000/31/EC, only if the conditions of that Article are met. Given that the orders in question relate to specific items of illegal content and information under either Union or national 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.

Or. en
Amendment 124
Marisa Matias
on behalf of the The Left Group

Proposal for a regulation
Recital 34

Text proposed by the Commission

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

Amendment

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

Amendment 125
François-Xavier Bellamy, Geoffroy Didier

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

Amendment

(34) In order to achieve the objectives of this Regulation, and in particular to improve the functioning of the internal market and ensure a safe and transparent online environment, it is necessary to
establish a clear and balanced set of harmonised due diligence obligations for providers of intermediary services. Those obligations should aim in particular to guarantee different public policy objectives such as the safety and trust of 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.

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

Amendment 126
Robert Roos, Jessica Stegrud

Proposal for a regulation
Recital 34

Text proposed by the Commission

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

Amendment

(34) In order to achieve the objectives of this Regulation, and in particular to improve the functioning of the internal market and ensure a safe and transparent online environment, it is necessary to establish a clear and balanced set of harmonised due diligence obligations for providers of intermediary services. Those obligations should aim in particular to guarantee different public policy objectives such as the safety and trust of 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.
Justification

While it is worth protecting online groups, the wording 'and vulnerable users' is too unspecified.

Amendment 127
Jessica Stegrud

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.

Or. en

Amendment 128

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. In contrast to the legal representative, the point of contact should serve operational purposes and should not necessarily have to have a physical location.
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 129
Robert Roos, Jessica Stegrud
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 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 130
Lina Gálvez Muñoz, Alicia Homs Ginel, Robert Hajšel, Carlos Zorrinho, Andris Ameriks, Nicolás González Casares, Romana Jerković, Eva Kaili, Patrizia Toia, Maria-Manuel Leitão-Marques, Adriana Maldonado López

Proposal for a regulation
Recital 37

Text proposed by the Commission

(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.

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. **Providers of intermediary services that qualify as small or micro 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, shall be able to establish collective representation under the guidance of the Digital Service Coordinator of the Member State where the enterprise intends to establish a legal representative.**

Or. en

*Justification*

*In line with changes in Article 11.*

Amendment 131
Lina Gálvez Muñoz, Alicia Homs Ginel, Robert Hajšel, Carlos Zorrinho, Andris Ameriks, Nicolás González Casares, Romana Jerković, Eva Kaili, Patrizia Toia, Maria-Manuel Leitão-Marques, Adriana Maldonado López
Manuel Leitão-Marques, Adriana Maldonado López, Karen Melchior

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 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.

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 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 ('notice'), pursuant to which that provider shall assess the illegality of the identified content and, based on that assessment, can decide whether or not it agrees with the notification for illegal content and wishes to remove or disable access to that content ('action'). In the event that the provider of hosting services assesses the notice of illegal content to be positive and thus 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.
Justification

The notification of a user for illegal content should not be automatically understood as an awareness of the illegality of the notified content.

Amendment 132
Robert Roos, Jessica Stegrud

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 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.

Amendment

(40) Providers of hosting services play a particularly important role in tackling **manifestly** 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 **manifestly** 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.
Amendment 133  
Robert Roos

Proposal for a regulation  
Recital 40 a (new)

*Text proposed by the Commission*

(40 a) It is worth noting that leaking information can constitute as a criminal offence or is in most cases linked to a criminal offence. Not a single provision in this regulation can be explained as an obligation by default to take leaked information offline. This does not mean that leaked information under no circumstance can qualify as manifestly illegal content. Leaked information that is in the interest of the public debate shall in principle not be deemed as illegal content. However, if the leaked information in itself not contains any indication of illegal activities, the leaked information shall be deemed manifestly illegal and subsequently be removed.

Or. en

Amendment 134  
Robert Roos

Proposal for a regulation  
Recital 41

*Text proposed by the Commission*

(41) The rules on such notice and action mechanisms should be harmonised at Union level, so as to provide for the timely, diligent and objective processing of notices on the basis of rules that are uniform, transparent and clear and that provide for robust safeguards to protect the right and legitimate interests of all affected parties, in particular their fundamental rights guaranteed by the Charter, irrespective of the Member State in which those parties

(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.

While an absolute hierarchy between these rights does not exist, extraordinary gravity will be assigned to the freedom of expression as this right is a cornerstone in a democratic society.

Amendment 135
Eva Kaili
Proposal for a regulation
Recital 42

Text proposed by the Commission

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

Or. en

Amendment 136
François-Xavier Bellamy, Geoffroy Didier

Proposal for a regulation
Recital 42

*Text proposed by the Commission*

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

*Amendment*

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

Amendment 137
Lina Gálvez Muñoz, Patrizia Toia, Alicia Homs Ginel, Robert Hajšel, Carlos Zorrinho, Andris Ameriks, Nicolás González Casares, Romana Jerković, Eva Kaili, Carlo Calenda, Maria-Manuel Leitão-Marques, Adriana Maldonado López

Proposal for a regulation
Recital 42

Text proposed by the Commission

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

Amendment

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

Or. en
Amendment 138
Mikuláš Peksa
on behalf of the Greens/EFA Group

Proposal for a regulation
Recital 42

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

The mentions to automated means have been updated in accordance to the changes to the articles.

Amendment 139
Henna Virkkunen, Tomas Tobé, Adam Jarubas, Jerzy Buzek, Pilar del Castillo Vera, Tom Berendsen, Pernille Weiss

Proposal for a regulation
Recital 42 a (new)
(42 a) Hosting services providers should not be subject to the obligation to provide a statement of reasons when doing so would infringe on a legal right or 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 the statement of reasons should be considered such as to likely cause unintended safety concerns for the reporting party. As a result of this, dating applications and other similar services should by default refrain from providing statements of reasons. Additionally, other providers of hosting services should make reasonable efforts to assess if providing a statement of reasons could cause unintended safety concerns to the reporting party, and in such cases, refrain from providing a statement of reasons.

Amendment 140
Lina Gálvez Muñoz, Alicia Homs Ginel, Robert Hajšel, Carlos Zorrinho, Andris Ameriks, Nicolás González Casares, Romana Jerković, Eva Kaili, Patrizia Toia, Maria-Manuel Leitão-Marques, Adriana Maldonado López

Proposal for a regulation
Recital 43

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


Justification

The risk is that illegal content and services move to micro and small enterprises. Voluntary measures for small and micro enterprises is not enough to ensure a safe online environment and the guarantee of fundamental rights.

Amendment 141
Henna Virkkunen, Tomas Tobé, Adam Jarubas, Jerzy Buzek, Tom Berendsen, Maria da Graça Carvalho, Pernille Weiss, Sara Skyttedal

Proposal for a regulation
Recital 43

Text proposed by the Commission

(43) To avoid disproportionate burdens, the additional obligations imposed on online platforms under this Regulation should not apply to micro or small enterprises as defined in Recommendation 2003/361/EC of the Commission, unless their reach and impact is such that they meet the criteria to qualify as very large online platforms under this Regulation. The consolidation rules laid down in that Recommendation help ensure that any circumvention of those additional obligations is prevented. The exemption of

Amendment

(43) To avoid disproportionate burdens, the additional obligations imposed on online platforms under this Regulation should not apply to micro, small and medium-sized enterprises (SMEs) as defined in Recommendation 2003/361/EC of the Commission. The consolidation rules laid down in that Recommendation help ensure that any circumvention of those additional obligations is prevented. The exemption of micro, small and medium-sized enterprises (SMEs)
micro- and small enterprises from those additional obligations should not be understood as affecting their ability to set up, on a voluntary basis, a system that complies with one or more of those obligations.


Proposal for a regulation Recital 43 a (new)

Text proposed by the Commission

(43 a) To similarly avoid unnecessary regulatory burden, certain obligations should not apply to online platforms offering products and services from third-party traders, which are established in the European Union, where these traders' access is exclusive, curated and entirely controlled by the providers of the online platform and these traders' products and services are reviewed and pre-approved by the providers of the online platform before they are offered on the platform. 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 benefit from relevant liability exemptions outlined in this Regulation. These online platforms
should subsequently not be subjected to the obligations which are necessary for platforms with different operational models where the prevalence of illegal content is more frequent and the relevant liability exemptions are available.

Or. en

Amendment 143
Robert Roos

Proposal for a regulation
Recital 44

Text proposed by the Commission

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

Amendment

(44) Recipients of the service should be able to easily and effectively contest certain decisions of online platforms that negatively affect them. Therefore, online platforms should be required to provide for internal complaint-handling systems, which meet certain conditions aimed at ensuring that the systems are easily accessible and lead to swift and fair outcomes. In addition, provision should be made for the possibility of out-of-court dispute settlement of disputes, including those that could not be resolved in satisfactory manner through the internal complaint-handling systems, by certified bodies that have the requisite independence, means and expertise, with a focus on (the limitations to) the freedom of expression, 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.

Or. en
Amendment 144
Lina Gálvez Muñoz, Alicia Homs Ginel, Robert Hajšel, Carlos Zorrinho, Andris Ameriks, Nicolás González Casares, Romana Jerković, Eva Kaili, Patrizia Toia, Carlo Calenda, Maria-Manuel Leitão-Marques, Adriana Maldonado López

Proposal for a regulation
Recital 44

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 145
Jessica Stegrud, Robert Roos

Proposal for a regulation
Recital 44

Text proposed by the Commission

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

Amendment 146
Marisa Matias
on behalf of the The Left Group

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

Amendment

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such
trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content, that they represent collective interests and that they work in a diligent and objective manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation (‘Europol’) or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, organisations of industry and of right-holders could be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council.43
Amendment 147
François-Xavier Bellamy, Geoffroy Didier

Proposal for a regulation
Recital 46

Text proposed by the Commission

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

Amendment

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

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Amendment 148
Lina Gálvez Muñoz, Patrizia Toia, Alicia Homs Ginel, Robert Hajšel, Carlos Zorrinho, Andris Ameriks, Nicolás González Casares, Romana Jerković, Eva Kaili, Maria-Manuel Leitão-Marques, Adriana Maldonado López

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

**Amendment**

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

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43 Regulation (EU) 2016/794 of the...
Concern about industry entities considered and act as “trusted” flaggers. There is need for specific knowledge and expertise when dealing with intellectual property rights, but there is also a need to ensure that the status of a trusted flagger is awarded to an entity working for the general interest, and not for profit.

Amendment 149
Jessica Stegrud, Robert Roos

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

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


Or. en

Amendment 150
Martin Hojsík

Proposal for a regulation
Recital 46

Text proposed by the Commission

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

Amendment 151
Henna Virkkunen, Tomas Tobé, Adam Jarubas, Jerzy Buzek, Pilar del Castillo Vera, Tom Berendsen, Maria da Graça Carvalho, Pernille Weiss, Sara Skyttedal, Eva Maydell

Proposal for a regulation
Recital 46

Text proposed by the Commission

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

Amendment

(46) Action against illegal content can be taken more quickly and reliably where online platforms, 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,
and competence in tackling illegal content, that they represent collective interests and that they work in a diligent and objective manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation (‘Europol’) or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, organisations of industry and of right-holders could be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council.\(^\text{43}\)

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Amendment 152
Mikuláš Peksa
on behalf of the Greens/EFA Group

Proposal for a regulation
Recital 47

Text proposed by the Commission

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

Amendment

(47) The misuse of services of online platforms by 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. Under certain conditions, online platforms should temporarily suspend their relevant activities in respect of the person engaged in abusive behaviour. For reasons of transparency, this possibility should be set out, clearly and in sufficient detail, in the terms and conditions of the online platforms. Redress should always be readily available 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 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.
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.

Justification

The text has been updated to reflect the limited options available to the platforms.

Amendment 153

Proposal for a regulation
Recital 47

Text proposed by the Commission

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

Amendment

(47) The misuse of services of online platforms by frequently providing 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 in the case of 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.
prejudice to the freedom by online platforms to determine their terms and conditions and establish stricter measures in the case of *manifestly* illegal content related to serious crimes. For reasons of transparency, this possibility should be set out, clearly and in sufficiently detail, in the terms and conditions of the online platforms. Redress should always be open to the decisions taken in this regard by online platforms and they should be subject to oversight by the competent Digital Services Coordinator. The rules of this Regulation on misuse should not prevent online platforms from taking other measures to address the provision of illegal content by recipients of their service or other misuse of their services, in accordance with the applicable Union and national law. Those rules are without prejudice to any possibility to hold the persons engaged in misuse liable, including for damages, provided for in Union or national law.

Or. en

*Justification*

There is no need that the content is clearly illegal, the frequent provisions or notices of illegal content should be enough. The assessment of the illegality should come later.

**Amendment 154**

Jessica Stegrud

**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

*Amendment*

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

Amendment 155
François-Xavier Bellamy, Geoffroy Didier
Proposal for a regulation
Recital 47

Text proposed by the Commission

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

Amendment

(47) The misuse of services of online platforms by frequently providing or disseminating 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 illegal content and notices or complaints should be considered manifestly unfounded where it is evident to a layperson, without any substantive analysis, that the content is illegal respectively that the notices or complaints are unfounded. Under certain conditions, online platforms should temporarily suspend their relevant activities in respect of the person engaged in abusive behaviour. This is without prejudice to the freedom by online platforms to determine their terms and conditions and establish stricter measures in the case of 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
the persons engaged in misuse liable, including for damages, provided for in Union or national law.

prejudice to any possibility to hold the persons engaged in misuse liable, including for damages, provided for in Union or national law.

Amendment 156
François-Xavier Bellamy, Sabine Verheyen, Geoffroy Didier

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 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.

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 the selling and dissemination of products and services in violation of the applicable rules all providers of intermediary services, including hosting providers, domain name registrars, providers of content delivery networks, proxy and reverse proxy providers, online marketplaces, online payment service providers and online advertising service providers should ensure that their business customers are traceable. The business customer should therefore be required to provide certain essential information to the online platform or provider of intermediary services, including for purposes of promoting messages on or offering products. That requirement should also be applicable to business customers that promote messages on products or services on behalf of brands, based on underlying agreements. Providers of intermediary services 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 and verified, in accordance with the applicable law, including on the
protection of personal data, by the providers of intermediary services, public authorities and private parties with a legitimate interest, including through the orders to provide information referred to in this Regulation.

Or. en

Amendment 157
Henna Virkkunen, Eva Maydell, Tomas Tobé, Adam Jarubas, Jerzy Buzek, Pilar del Castillo Vera, Tom Berendsen, Pernille Weiss, Sara Skyttedal

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 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.

Amendment

(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 on the platforms should ensure that such traders are traceable. The trader should 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.
Amendment 158
Valérie Hayer, Christophe Grudler, Dominique Riquet, Iskra Mihaylova, Susana Solís Pérez, Klemen Grošelj, Nicola Beer, Nicola Danti, Bart Groothuis, Martin Hojsík

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 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.

Amendment

(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 marketplaces should ensure that such traders are traceable. The trader should therefore be 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 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.
Amendment 159
François-Xavier Bellamy, Sabine Verheyen, Geoffroy Didier

Proposal for a regulation
Recital 50

Text proposed by the Commission

Recital 50

(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\(^45\), or by requesting the traders concerned to provide trustworthy supporting documents, such as copies of identity documents, certified 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 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\(^46\) , Article 7 of Directive 2005/29/EC of the European Parliament and of the Council\(^47\) and Article 3 of Directive 98/6/EC of the European Parliament and of the Council\(^48\) .

Amendment

(50) To ensure an efficient and adequate application of that obligation, without imposing any disproportionate burdens, the providers of intermediary services should make reasonable efforts to verify the reliability of the information provided by their business customers, in particular by using freely available official online databases and online interfaces, such as national trade registers and the VAT Information Exchange System\(^45\) , or by requesting their business customers to provide trustworthy supporting documents, such as copies of identity documents, certified 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 intermediary services 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 providers of intermediary services, which have made the reasonable efforts required by this Regulation, be understood as guaranteeing the reliability and accuracy of the information towards consumer or other interested parties. Such providers of intermediary services should update the information they hold on a risk-sensitive basis, and at least once a year and also design and organise their online interface in a way that enables their business customers 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\(^46\) , Article 7


Proposal for a regulation
Recital 50

Text proposed by the Commission

Amendment 160
Valérie Hayer, Christophe Grudler, Dominique Riquet, Iskra Mihaylova, Susana Solís Pérez, Klemen Gröselj, Nicola Beer, Nicola Danti, Bart Groothuis, Martin Hojsík

Amendment


Or. en
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, or by requesting the traders concerned to provide trustworthy supporting documents, such as copies of identity documents, certified 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 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 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, Article 7 of Directive 2005/29/EC of the European Parliament and of the Council and Article 3 of Directive 98/6/EC of the European Parliament and of the Council.

(50) To ensure an efficient and adequate application of that obligation, without imposing any disproportionate burdens, the providers of online marketplaces 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, or by requesting the traders concerned to provide trustworthy supporting documents, such as copies of identity documents, certified 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 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 providers, 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. 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, Article 7 of Directive 2005/29/EC of the European Parliament and of the Council and Article 3 of Directive 98/6/EC of the European Parliament and of the Council. The online interface shall allow traders to provide the information allowing for the unequivocal identification of the product or the service, including labelling requirements, in compliance with legislation on product safety and product


Amendment 161
Henna Virkkunen, Eva Maydell, Tomas Tobé, Adam Jarubas, Jerzy Buzek, Pilar del Castillo Vera, Tom Berendsen, Maria da Graça Carvalho, Pernille Weiss, Sara Skyttedal

Proposal for a regulation
Recital 50

Text proposed by the Commission

(50) To ensure an efficient and adequate application of that obligation, without

Amendment

(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\(^{45}\), or by requesting the traders concerned to provide trustworthy supporting documents, such as copies of identity documents, certified 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 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\(^{46}\), Article 7 of Directive 2005/29/EC of the European Parliament and of the Council\(^{47}\) and Article 3 of Directive 98/6/EC of the European Parliament and of the Council\(^{48}\).

\(^{45}\) https://ec.europa.eu/taxation_customs/vies/vieshome.do?selectedLanguage=en


Amendment 162

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

Amendment

(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 and by other intermediaries, such as advertising services, webhosting, domain name registrations, in particular by using freely available official online
Exchange System\textsuperscript{45}, or by requesting the traders concerned to provide trustworthy supporting documents, such as copies of identity documents, certified 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 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\textsuperscript{46}, Article 7 of Directive 2005/29/EC of the European Parliament and of the Council\textsuperscript{47} and Article 3 of Directive 98/6/EC of the European Parliament and of the Council\textsuperscript{48}.

\textsuperscript{45} https://ec.europa.eu/taxation_customs/vies/vieshome.do?selectedLanguage=en


Justification

Reinforce KYBC principle for marketplaces and extend its use of other intermediaries (advertising services, web hosting, domain name registrations).

Amendment 163
Valérie Hayer, Christophe Grudler, Dominique Riquet, Iskra Mihaylova, Susana Solís Pérez, Klemen Grošelj, Nicola Beer, Nicola Danti, Martin Hojsík

Proposal for a regulation
Recital 50 a (new)

Text proposed by the Commission

(50 a) Providers of online marketplaces should demonstrate their best efforts in preventing the dissemination by traders of illegal products and services. In compliance with the no general monitoring provision, providers shall inform recipients when the service or product they have acquires through their services is illegal. Once notified of an illegal product as foreseen in Article 14, providers of online marketplaces should take measures to prevent such notified products and services from being reuploaded on their marketplace.
Justification

In the light of the expansion of online marketplaces and the substantial share of products proposed to European consumers that remain non-compliant or dangerous, additional specific provisions for providers of online marketplace services should be integrated in the DSA. These measures should not lead to a general monitoring surveillance from the provider.

Amendment 164
Marisa Matias
on behalf of the The Left Group

Proposal for a regulation
Recital 50 a (new)

Text proposed by the Commission

(50 a) Without prejudice to Article 16, to strengthen the obligations of online marketplaces, further ex-ante provisions must 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.

Amendment 165
Mikuláš Peksa
on behalf of the Greens/EFA Group

Proposal for a regulation
Recital 50 a (new)

Text proposed by the Commission

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

Or. en

Justification

This recital introduces changes made in the articles, clarifying the regime for occasional traders who are natural persons

Amendment 166
Mikuláš Peksa
on behalf of the Greens/EFA Group

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.

Or. en
Justification

We need to avoid paper reporting for a digital activity.

Amendment 167
Mikuláš Peksa
on behalf of the Greens/EFA Group

Proposal for a regulation
Recital 52

Text proposed by the Commission

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

Amendment

(52) Online advertisement plays an important role in the online environment, including in relation to the provision of the services of online platforms. However, online advertisement can contribute to significant risks, ranging from advertisement that is itself illegal content, to contributing to financial incentives for the publication or amplification of illegal or otherwise harmful content and activities online, or the discriminatory display of advertising with an impact on the equal treatment and opportunities of citizens. The surveillance-led advertising model has generated deep changes in the way information is presented and has created new data collection patterns and business models that might negatively affect privacy, personal autonomy, democracy, quality news reporting and facilitates manipulation and discrimination. In addition to the requirements resulting from Article 6 of Directive 2000/31/EC, online platforms should therefore be required to ensure data collection is kept to a minimum, the maximisation of revenue from advertising does not limit the quality of the service and that the recipients of the service have extensive individualised information necessary for them to understand when and on whose behalf the advertisement is displayed. In addition, recipients of the service should have information on the main parameters used
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.

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.

Justification

This recital tackles the surveillance-led advertising model

Amendment 168
Lina Gálvez Muñoz, Alicia Homs Ginel, Robert Hajšel, Carlos Zorrinho, Andris Ameriks, Nicolás González Casares, Romana Jerković, Eva Kaili, Patrizia Toia, Carlo Calenda, Maria-Manuel Leitão-Marques, Adriana Maldonado López

Proposal for a regulation
Recital 52

Text proposed by the Commission

(52) Online advertisement plays an important role in the online environment, including in relation to the provision of the services of online platforms. However, online advertisement can contribute to significant risks, ranging from advertisement that is itself illegal content, to contributing to financial incentives for the publication or amplification of illegal

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.

or otherwise harmful content and activities online, or the discriminatory display of advertising that can have both an impact on the equal treatment and opportunities of citizens and on the perpetuation of harmful stereotypes and norms. Therefore, more transparency in online advertising markets and independent research needs to be carried out to assess the effectiveness of behavioural advertisements which could pave the way for stricter measures or restriction of behavioural advertising. 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.

Or. en

Justification

Data collection in the provision of digital services and digital advertising should be limited.
Insofar as the business model of tech companies raises challenges in terms of power imbalances and the protection of the right to privacy, strict data protection provisions should be reinforced.

**Amendment 169**
**Marisa Matias**
on behalf of the The Left Group

**Proposal for a regulation**
**Recital 52**

*Text proposed by the Commission*

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

*Amendment*

(52) Online advertisement plays an important role in the online environment, including in relation to the provision of the services of online platforms. However, online advertisement can contribute to significant risks, ranging from advertisement that is itself illegal content, to contributing to financial incentives for the publication or amplification of illegal or otherwise harmful content and activities online, or the discriminatory display of advertising with an impact on over-consumption and climate change as well as 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. **Lastly, basing advertisements on user behaviour should be prohibited. Personalised advertisements can be based on the content the user is viewing only and tracking the user beyond the platform.**
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.

**itself, on the wider web, is forbidden.** 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.

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**Amendment 170**

Jessica Stegrud

**Proposal for a regulation**

**Recital 52**

**Text proposed by the Commission**

(52) **Online advertisement plays an important role in the online environment, including in relation to the provision of the services of online platforms. However,** online advertisement can contribute to significant risks, ranging from advertisement that is itself illegal content, to contributing to financial incentives for the publication or amplification of illegal or otherwise harmful content and activities online, or the discriminatory display of advertising with an impact on the equal treatment and opportunities of citizens. In addition to the requirements resulting from Article 6 of Directive 2000/31/EC, online platforms should therefore be required to ensure that the recipients of the service have certain individualised information necessary for them to understand when and

**Amendment**

(52) 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
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 171
Lina Gálvez Muñoz, Alicia Homs Giné, Robert Hajšel, Carlos Zorrinho, Andris Ameriks, Nicolás González Casares, Romana Jerković, Eva Kaili, Patrizia Toia, Maria-Manuel Leitão-Marques, Adriana Maldonado López

Proposal for a regulation
Recital 52 a (new)

Text proposed by the Commission

Amendment

(52 a) 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.

Justification

Former Recital 63, moved to Recital 52a to enhance coherence.

Amendment 172
Robert Roos, Jessica Stegrud

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 ensure that very large online platforms fulfil the aforementioned roles to the fullest extent and do not limit the public debate, or silence dissenting opinions,
there being no alternative and less restrictive measures that would effectively achieve the same result. **In general, everyone shall have the right to be on a very large online platform. Only in very exceptional cases, one can be permanently denied access to a very large online platform. These exceptional cases in cases where the recipient repeatedly disseminates of manifest illegal content that violates the public order, or the public health. The decision to permanently ban a recipient should always be able to be revoked by a competent court in accordance with the law of the Member States.**

Amendment 173
Jessica Stegrud, Robert Roos

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, especially the basic right to an account for all legal users, 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 174
Mikuláš Peksa
on behalf of the Greens/EFA Group

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.

Justification

AM needed to enhance the clarity of the issues

Amendment 175
Henna Virkkunen, Eva Maydell, Adam Jarubas, Jerzy Buzek, Pilar del Castillo Vera, Tom Berendsen, Maria da Graça Carvalho, Pernille Weiss

Proposal for a regulation
Recital 54

Text proposed by the Commission

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 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.

(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 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, online platforms whose number of recipients does not exceed the operational threshold set at 10% of the Union population should also be considered very large online platforms due to their role in facilitating public debate, economic transactions and the dissemination of information, opinions and ideas and in influencing how recipients obtain and communicate information online.

Or. en

Amendment 176
Robert Roos
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

Amendment

deleted
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 177
Marisa Matias
on behalf of the The Left Group

Proposal for a regulation
Recital 56

Text proposed by the Commission

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

Amendment

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

Amendment 178
Mikuláš Peksa
on behalf of the Greens/EFA Group

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

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Justification

AM clarifying the status quo

Amendment 179
Jessica Stegrud

Proposal for a regulation
Recital 56 a (new)
(56 a) Very large online platforms have a special responsibility when it comes to the public debate especially around elections. Therefore, deletion of legal content must be prohibited for very large online platforms.

Amendment

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

When it comes to hate speech, it must be underlined that it is nearly impossible for online platforms to assess whether hate speech constitutes as illegal hate speech, or that it is protected by the freedom of expression. For example: an expression done in the context of the public debate, in the context of a religion, an expression
of the algorithmic systems used by the very large online platform or the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition. A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform’s service, with a foreseeable impact on health, civic discourse, electoral processes, public security and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or incompatible with an online platform’s terms and conditions.

made by a comedian or a politician will in almost all of the occasions be protected by the freedom of expression according to the European Court of Human Rights. It is therefore not up to online platforms to determine whether an expression constitutes as illegal hate speech, but up to judges. A second category concerns the impact of the service on the exercise of fundamental rights, as protected by the Charter of Fundamental Rights, including the freedom of expression and information, the right to private life, the right to non-discrimination and the rights of the child. Such risks may arise, for example, in relation to the design of the algorithmic systems used by the very large online platform or the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition. A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform’s service, with a foreseeable impact on health, civic discourse, electoral processes, public security and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content.
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Justification

The EC’s Communication on the EU Strategy to tackle Organised Crime recognizes that "Environmental crime deserves particular attention due to its harmful effects on biodiversity and on the environment, health and social cohesion within the EU and in third countries” and underlines devastating consequences of illegal trade in wildlife and companion animal. Due to those impacts (e.g. tax revenue loss, damage to human health, biodiversity) and scale of the issue (animal trafficking networks profit from a market worth up to 4 billion per year), it cannot be left outside the scope.

Amendment 182
Mikuláš Peksa
on behalf of the Greens/EFA Group

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

Amendment

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Rights, including the freedom of expression and information, the right to private life, the right to non-discrimination and the rights of the child. Such risks may arise, for example, in relation to the design of the algorithmic systems used by the very large online platform or the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition. A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform’s service, with a foreseeable impact on health, civic discourse, electoral processes, public security and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or incompatible with an online platform’s terms and conditions.

Accounts ensuring anonymity can be a tool for protecting vulnerable people.

Amendment 183
Robert Roos, Jessica Stegrud

Proposal for a regulation
Recital 58

Text proposed by the Commission

(58) Very large online platforms should deploy the necessary means to diligently mitigate the systemic risks identified in the risk assessment. Very large online platforms should under such mitigating

Amendment

(58) Very large online platforms should deploy the necessary means to diligently mitigate the systemic risks identified in the risk assessment. Very large online platforms should under such mitigating
measures consider, for example, enhancing or otherwise adapting the design and functioning of their content moderation, algorithmic recommender systems and online interfaces, so that they discourage and limit the dissemination of illegal content, adapting their decision-making processes, or adapting their terms and conditions. They may also include corrective measures, such as discontinuing advertising revenue for specific content, or other actions, such as improving the visibility of authoritative information sources. Very large online platforms may reinforce their internal processes or supervision of any of their activities, in particular as regards the detection of systemic risks. They may also initiate or increase cooperation with trusted flaggers, organise training sessions and exchanges with trusted flagger organisations, and cooperate with other service providers, including by initiating or joining existing codes of conduct or other self-regulatory measures. Any measures adopted should respect the due diligence requirements of this Regulation and be effective and appropriate for mitigating the specific risks identified, in the interest of safeguarding the freedom of expression, public order, protecting privacy and fighting fraudulent and deceptive commercial practices, and should be proportionate in light of the very large online platform’s economic capacity and the need to avoid unnecessary restrictions on the use of their service, taking due account of potential negative effects on the fundamental rights of the recipients of the service.

Amendment 184
Mikuláš Peksa
on behalf of the Greens/EFA Group

Proposal for a regulation

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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 undertaken 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 undertaken 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.

Justification

Change needed for consistency with the articles.

Amendment 185
Henna Virkkunen, Eva Maydell, Tomas Tobé, Adam Jarubas, Jerzy Buzek, Pilar del Castillo Vera, Tom Berendsen, Maria da Graça Carvalho, Pernille Weiss

Proposal for a regulation
Recital 61

Text proposed by the Commission

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. 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.

(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 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 of an opinion should be given where the auditor does not have enough information to conclude on an opinion due to the novelty of the issues audited.

Or. en
Amendment 186  
Lina Gálvez Muñoz, Alicia Homs Ginel, Robert Hajšel, Carlos Zorrinho, Andris Ameriks, Nicolás González Casares, Romana Jerković, Eva Kaili, Patrizia Toia, Maria-Manuel Leitão-Marques, Adriana Maldonado López

Proposal for a regulation
Recital 62

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

Amendment

(62) A core part of 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 and separately present the 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 ensure that the recipients enjoy alternative options for the main parameters, including options that are not based on profiling of the recipient, and shall not make the recipients of their services subject to recommender systems based on profiling by default.

Or. en
Justification

In line with changes in Article 29.

Amendment 187
Mikuláš Peksa
on behalf of the Greens/EFA Group

Proposal for a regulation
Recital 62

Text proposed by the Commission

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

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Justification

Text updated for clarity and consistency reasons.

Amendment 188
Lina Gálvez Muñoz, Alicia Homs Ginel, Robert Hajšel, Carlos Zorrinho, Andris Ameriks, Nicolás González Casares, Romana Jerković, Eva Kaili, Patrizia Toia, Maria-Manuel Leitão-Marques, Adriana Maldonado López

Proposal for a regulation
Recital 63

Text proposed by the Commission

(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.

Justification

Moved to Recital 52a for coherence.
Amendment 189
Valérie Hayer, Christophe Grudler, Dominique Riquet, Iskra Mihaylova, Susana Solís Pérez, Klemen Grošelj, Nicola Beer, Martin Hojsík

Proposal for a regulation
Recital 63 a (new)

Text proposed by the Commission

(63 a) By associating advertisement 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 condition and could risk to considerably damage the brand image of the buyers of advertising space. In order to prevent such practice, the very large online platforms should ensure, including through standard contractual guarantees to the purchasers of advertising space, that the content to which they associate advertisements is legal, and compliant with their terms and conditions. Furthermore, the very large online platforms should allow advertisers to have access to the results of audits carried out independently and evaluating platforms’ commitments and tools for brand safety.

Amendment

Or. en

Amendment 190
Mikuláš Peksa
on behalf of the Greens/EFA Group

Proposal for a regulation
Recital 64

Text proposed by the Commission

(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.

Or. en

Justification

AM needed as the legal regime for data access is set in other regulations than the current one.

Amendment 191
Mikuláš Peksa
on behalf of the Greens/EFA Group

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

Justification

Introducing interoperability requirements for very large online platforms, as needed by the changes in the articles.

Amendment 192
Jessica Stegrud, Robert Roos

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 deleted
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 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 193
Mikuláš Peksa
on behalf of the Greens/EFA Group

Proposal for a regulation
Recital 68

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<th>Text proposed by the Commission</th>
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The refusal without objective reasons, such as technological incompatibility, 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.

Justification

Change meant to increase legislative clarity

Amendment 194
Mikuláš Peksa
on behalf of the Greens/EFA Group

Proposal for a regulation
Recital 69

Text proposed by the Commission

(69) The rules on codes of conduct under this Regulation could serve as a basis for already established self-regulatory efforts at Union level, including the Product Safety Pledge, the Memorandum of Understanding against counterfeit goods, the Code of Conduct against illegal hate speech as well as the Code of practice on disinformation. In
particular for the latter, the Commission will issue guidance for strengthening the Code of practice on disinformation as announced in the European Democracy Action Plan.

Justification

The text is pre-empting the finding of the best solutions, as there is no one size fit all.

Amendment 195
Jessica Stegrud

Proposal for a regulation
Recital 71

Text proposed by the Commission

(71) In case of extraordinary circumstances affecting public security or public health, the Commission may initiate the drawing up of crisis protocols to coordinate a rapid, collective and cross-border response in the online environment. Extraordinary circumstances may entail any unforeseeable event, such as earthquakes, hurricanes, pandemics and other serious cross-border threats to public health, war and acts of terrorism, where, for example, online platforms may be misused for the rapid spread of illegal content or disinformation or where the need arises for rapid dissemination of reliable information. In light of the important role of very large online platforms in disseminating information in our societies and across borders, such platforms should be encouraged in drawing up and applying specific crisis protocols. Such crisis protocols should be activated only for a limited period of time and the measures adopted should also be limited to what is strictly necessary to address the extraordinary circumstance. Those measures should be consistent with this

Amendment

(71) In case of extraordinary circumstances affecting public security or public health, service providers may initiate the drawing up of crisis protocols to coordinate a rapid, collective and cross-border response in the online environment. Extraordinary circumstances may entail any unforeseeable event, such as earthquakes, pandemics and other serious cross-border threats to public health, war and acts of terrorism, where, for example, online platforms may be misused for the rapid spread of illegal content or disinformation or where the need arises for rapid dissemination of reliable information. In light of the important role of very large online platforms in disseminating information in our societies and across borders, such platforms should be encouraged in drawing up and applying specific crisis protocols. Such crisis protocols should be activated only for a limited period of time and the measures adopted should also be limited to what is strictly necessary to address the extraordinary circumstance. Those measures should be consistent with this
Regulation, and should not amount to a general obligation for the participating very large online platforms to monitor the information which they transmit or store, nor actively to seek facts or circumstances indicating illegal content.

Amendment 196
Marisa Matias
on behalf of the The Left Group

Proposal for a regulation
Recital 73 a (new)

Text proposed by the Commission

(73 a) Given the cross-border nature of the services at stake and the horizontal range of obligations introduced by this Regulation, the country-of-origin principle must be adjusted, so as to share the burden and avoid a risk for some authorities to be unable to carry out their tasks. Such a cooperation would allow proper account of national specificities relating to the regulation of content, while bearing in mind the respect for EU legislation, namely with regard to fundamental rights and the rule of law. Prerogatives of intervention in favour of the competent authorities of the country of destination.

Amendment 197
François-Xavier Bellamy, Geoffroy Didier

Proposal for a regulation
Recital 81

Text proposed by the Commission

Amendment
(81) In order to ensure effective enforcement of this Regulation, individuals or representative organisations should be able to lodge any complaint related to compliance with this Regulation with the Digital Services Coordinator in the territory where they received the service, without prejudice to this Regulation’s rules on jurisdiction. Complaints should provide a faithful overview of concerns related to a particular intermediary service provider’s compliance and could also inform the Digital Services Coordinator of any more cross-cutting issues. The Digital Services Coordinator should involve other national competent authorities as well as the Digital Services Coordinator of another Member State, and in particular the one of the Member State where the provider of intermediary services concerned is established, if the issue requires cross-border cooperation.

(81) In order to ensure effective enforcement of this Regulation, individuals or representative organisations as well as parties having a legitimate interest and meeting relevant criteria of expertise and independence from any online hosting services provider or platform should be able to lodge any complaint related to compliance with this Regulation with the Digital Services Coordinator in the territory where they received the service, without prejudice to this Regulation’s rules on jurisdiction. Complaints should provide a faithful overview of concerns related to a particular intermediary service provider’s compliance and could also inform the Digital Services Coordinator of any more cross-cutting issues. The Digital Services Coordinator should involve other national competent authorities as well as the Digital Services Coordinator of another Member State, and in particular the one of the Member State where the provider of intermediary services concerned is established, if the issue requires cross-border cooperation.

Or. en

Amendment 198
Jessica Stegrud

Proposal for a regulation
Recital 88

Text proposed by the Commission

(88) In order to ensure a consistent application of this Regulation, it is necessary to set up an independent advisory group at Union level, which should support the Commission and help coordinate the actions of Digital Services Coordinators. That European Board for Digital Services should consist of the Digital Services Coordinators, without prejudice to the possibility for Digital

Amendment
deleted
Services Coordinators to invite in its meetings or appoint ad hoc delegates from other competent authorities entrusted with specific tasks under this Regulation, where that is required pursuant to their national allocation of tasks and competences. In case of multiple participants from one Member State, the voting right should remain limited to one representative per Member State.

Amendment 199
Jessica Stegrud
Proposal for a regulation
Recital 89

Text proposed by the Commission

(89) The Board should contribute to achieving a common Union perspective on the consistent application of this Regulation and to cooperation among competent authorities, including by advising the Commission and the Digital Services Coordinators about appropriate investigation and enforcement measures, in particular vis-à-vis very large online platforms. The Board should also contribute to the drafting of relevant templates and codes of conduct and analyse emerging general trends in the development of digital services in the Union.

Amendment 200
Jessica Stegrud
Proposal for a regulation
Recital 90
(90) For that purpose, the Board should be able to adopt opinions, requests and recommendations addressed to Digital Services Coordinators or other competent national authorities. While not legally binding, the decision to deviate therefrom should be properly explained and could be taken into account by the Commission in assessing the compliance of the Member State concerned with this Regulation.

(91) The Board should bring together the representatives of the Digital Services Coordinators and possible other competent authorities under the chairmanship of the Commission, with a view to ensuring an assessment of matters submitted to it in a fully European dimension. In view of possible cross-cutting elements that may be of relevance for other regulatory frameworks at Union level, the Board should be allowed to cooperate with other Union bodies, offices, agencies and advisory groups with responsibilities in fields such as equality, including equality between women and men, and non-discrimination, data protection, electronic communications, audiovisual services, detection and investigation of frauds against the EU budget as regards custom duties, or consumer protection, as necessary for the performance of its tasks.
Amendment 202
Jessica Stegrud

Proposal for a regulation
Recital 92

Text proposed by the Commission

(92) The Commission, through the Chair, should participate in the Board without voting rights. Through the Chair, the Commission should ensure that the agenda of the meetings is set in accordance with the requests of the members of the Board as laid down in the rules of procedure and in compliance with the duties of the Board laid down in this Regulation.

Amendment

(92) The Commission, through the Chair, should participate in the Board without voting rights. Through the Chair, the Commission should ensure that the agenda of the meetings is set in accordance with the requests of the members of the Board as laid down in the rules of procedure and in compliance with the duties of the Board laid down in this Regulation.

Amendment 203
Jessica Stegrud

Proposal for a regulation
Recital 93

Text proposed by the Commission

(93) In view of the need to ensure support for the Board’s activities, the Board should be able to rely on the expertise and human resources of the Commission and of the competent national authorities. The specific operational arrangements for the internal functioning of the Board should be further specified in the rules of procedure of the Board.

Amendment

(93) In view of the need to ensure support for the Board’s activities, the Board should be able to rely on the expertise and human resources of the Commission and of the competent national authorities. The specific operational arrangements for the internal functioning of the Board should be further specified in the rules of procedure of the Board.
Amendment 204  
Jessica Stegrud  
Proposal for a regulation  
Recital 95  

Text proposed by the Commission

(95) In order to address those public policy concerns it is therefore necessary to provide for a common system of enhanced supervision and enforcement at Union level. Once an infringement of one of the provisions that solely apply to very large online platforms has been identified, for instance pursuant to individual or joint investigations, auditing or complaints, the Digital Services Coordinator of establishment, upon its own initiative or upon the Board's advice, should monitor any subsequent measure taken by the very large online platform concerned as set out in its action plan. That Digital Services Coordinator should be able to ask, where appropriate, for an additional, specific audit to be carried out, on a voluntary basis, to establish whether those measures are sufficient to address the infringement. At the end of that procedure, it should inform the Board, the Commission and the platform concerned of its views on whether or not that platform addressed the infringement, specifying in particular the relevant conduct and its assessment of any measures taken. The Digital Services Coordinator should perform its role under this common system in a timely manner and taking utmost account of any opinions and other advice of the Board.

Amendment 205  
Marisa Matias  
on behalf of the The Left Group  
Proposal for a regulation
Recital 95

Text proposed by the Commission

(95) In order to address those public policy concerns it is therefore necessary to provide for a common system of enhanced supervision and enforcement at Union level. Once an infringement of one of the provisions that solely apply to very large online platforms has been identified, for instance pursuant to individual or joint investigations, auditing or complaints, the Digital Services Coordinator of establishment, upon its own initiative or upon the Board’s advice, should monitor any subsequent measure taken by the very large online platform concerned as set out in its action plan. That Digital Services Coordinator should be able to ask, where appropriate, for an additional, specific audit to be carried out, on a voluntary basis, to establish whether those measures are sufficient to address the infringement. At the end of that procedure, it should inform the Board, the Commission and the platform concerned of its views on whether or not that platform addressed the infringement, specifying in particular the relevant conduct and its assessment of any measures taken. The Digital Services Coordinator should perform its role under this common system in a timely manner and taking utmost account of any opinions and other advice of the Board.

Amendment

(95) In order to address those fundamental rights concerns it is therefore necessary to provide for a common system of enhanced supervision and enforcement at Union level. Once an infringement of one of the provisions that solely apply to very large online platforms has been identified, for instance pursuant to individual or joint investigations, auditing or complaints, the Digital Services Coordinator of establishment, upon its own initiative or upon the Board’s advice, should monitor any subsequent measure taken by the very large online platform concerned as set out in its action plan. That Digital Services Coordinator should be able to ask, where appropriate, for an additional, specific audit to be carried out, on a voluntary basis, to establish whether those measures are sufficient to address the infringement. At the end of that procedure, it should inform the Board, the Commission and the platform concerned of its views on whether or not that platform addressed the infringement, specifying in particular the relevant conduct and its assessment of any measures taken. The Digital Services Coordinator should perform its role under this common system in a timely manner and taking utmost account of any opinions and other advice of the Board.

Or. en

Amendment 206
Mikuláš Peksa
on behalf of the Greens/EFA Group

Proposal for a regulation
Recital 95
(95) In order to address those public policy concerns it is therefore necessary to provide for a common system of enhanced supervision and enforcement at Union level. Once an infringement of one of the provisions that solely apply to very large online platforms has been identified, for instance pursuant to individual or joint investigations, auditing or complaints, the Digital Services Coordinator of establishment, upon its own initiative or upon the Board’s advice, should monitor any subsequent measure taken by the very large online platform concerned as set out in its action plan. That Digital Services Coordinator should be able to ask, where appropriate, for an additional, specific audit to be carried out, on a voluntary basis, to establish whether those measures are sufficient to address the infringement. At the end of that procedure, it should inform the Board, the Commission and the platform concerned of its views on whether or not that platform addressed the infringement, specifying in particular the relevant conduct and its assessment of any measures taken. The Digital Services Coordinator should perform its role under this common system in a timely manner and taking utmost account of any opinions and other advice of the Board.

Amendment 207
Mikuláš Peksa
on behalf of the Greens/EFA Group

Proposal for a regulation
Recital 97

(97) The Commission should remain free to decide whether or not it wishes to

Or. en
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.

Or. en

Justification

The decision making process needs to be transparent.
Amendment 208
Martin Hojsík

Proposal for a regulation
Recital 106 a (new)

Text proposed by the Commission

(106 a) As online services evolve at a fast pace and in order to rapidly adapt to those developments, this Regulation should provide a legal basis for the adoption of delegated and implementing acts laying down specific rules on unregulated specific sectors that demand better online control.

Or. en

Justification

Online platforms and the internet constantly evolve creating new opportunities but also new possibilities for unscrupulous traders to mislead users. Unfair practices which are becoming harder to trace and are changing at an unprecedented pace need to be tackled through a dynamic and adaptive regime in order to fully protect consumers. The DSA must serve as a legal basis to target specific sectors that require better online supervision. This would provide opportunity not only for regulating the online illegal animal trade, but also other specific sectors.

Amendment 209
Pernille Weiss

Proposal for a regulation
Recital 106 a (new)

Text proposed by the Commission

(106 a) This Regulation ensures that building owners have the right of their data about energy consumption and the right to, in full compliance the GDPR Regulation, allow third parties assess to the data in order to increase energy efficiency in the EU building stock.

Or. en
Amendment 210
Mikuláš Peksa
on behalf of the Greens/EFA Group

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

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

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

Justification
Competition is key for EU's future, therefore it needs to be clearly stated as a policy principle

Amendment 211
Marisa Matias
on behalf of the The Left Group

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

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

Amendment
(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 212
Pernille Weiss

Proposal for a regulation
Article 1 – paragraph 2 – point b a (new)
Text proposed by the Commission

Amendment

(b a) facilitate innovation, support the digital transition, encourage economic growth and an investment climate to create a level-playing field for digital services within the internal market that respect and promote fundamental rights enshrined in the Charter, including children’s rights and wellbeing.

Or. en

Amendment 213
Lina Gálvez Muñoz, Alicia Homs Ginel, Robert Hajšel, Carlos Zorrinho, Andris Ameriks, Nicolás González Casares, Romana Jerković, Eva Kaili, Patrizia Toia, Carlo Calenda, Maria-Manuel Leitão-Marques, Adriana Maldonado López

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

Text proposed by the Commission

Amendment

(b a) promote innovation and facilitate competition for digital services, while protecting users and consumers rights.

Or. en

Amendment 214

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

Text proposed by the Commission

Amendment

(b b) stimulate the level playing field of the online ecosystem by introducing interoperability requirements for very large platforms.

Or. en
Justification

Interoperability requirements could solve some of the issues associated with large platforms and allow new innovative solutions to enter closed-off markets. Thus, it can be an important element to create an open innovative internet ecosystem in which smaller providers could thrive. This needs to be accompanied by a set of smart and tailored obligations and prohibitions imposed on large platforms (e.g. access to data, non-discrimination, transparency requirements) to ensure fair and competitive markets in areas where platforms dominate.

Amendment 215
Marisa Matias
on behalf of the The Left Group

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

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b) Directive 2010/13/EC;</td>
<td>(b) Directive (EU) 2019/882;</td>
</tr>
</tbody>
</table>

Or. en

Amendment 216
Marisa Matias
on behalf of the The Left Group

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

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(c) Union law on copyright and related rights;</td>
<td>(c) Union law on copyright and related rights as implemented in national laws so as to insure the highest level of protection of these rights;</td>
</tr>
</tbody>
</table>

Or. en

Amendment 217
Jessica Stegrud

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

Text proposed by the Commission

(e) Regulation (EU) ..../....on
European Production and Preservation
Orders for electronic evidence in criminal
matters and Directive (EU) ..../....laying
down harmonised rules on the
appointment of legal representatives for
the purpose of gathering evidence in
criminal proceedings [e-evidence once
adopted]

Or. en

Amendment 218
Lina Gálvez Muñoz, Alicia Homs Ginel, Robert Hajšel, Carlos Zorrinho, Andris
Ameriks, Nicolás González Casares, Romana Jerković, Eva Kaili, Patrizia Toia, Carlo
Calenda, Maria-Manuel Leitão-Marques, Adriana Maldonado López

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

Text proposed by the Commission

(i a) Charter of Fundamental Rights of
the European Union

Or. en

Amendment 219
Mikuláš Peksa
on behalf of the Greens/EFA Group

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

Text proposed by the Commission

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

Clarification of scope

Amendment 220
Gianna Gancia, Elena Lizzi

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

Text proposed by the Commission

(a) ‘information society services’ means services within the meaning of Article 1(1)(b) of Directive (EU) 2015/1535;

Amendment

(a) ‘information society services’ means services within the meaning of Article 1(1)(b) of Directive (EU) 2015/1535, including those services the consideration for which consists in the provision of personal data, as per Article 3(1) of Directive (EU) 2019/770;

Amendment 221
Lina Gálvez Muñoz, Alicia Homs Ginel, Robert Hajšel, Carlos Zorrinho, Andris Ameriks, Nicolás González Casares, Romana Jerković, Eva Kaili, Patrizia Toia, Carlo Calenda, Maria-Manuel Leitão-Marques, Adriana Maldonado López

Proposal for a regulation
Article 2 – paragraph 1 – point d – introductory part

Text proposed by the Commission

(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

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, or in the absence of such an establishment where the provider targets its activities towards one or more Member States.
factual criteria, such as:

Amendment 222
Lina Gálvez Muñoz, Alicia Homs Ginel, Robert Hajšel, Carlos Zorrinho, Andris Ameriks, Nicolás González Casares, Romana Jerković, Eva Kaili, Patrizia Toia, María- Manuela Leitão-Marques, Adriana Maldonado López

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

Or. en

Amendment 223
Lina Gálvez Muñoz, Alicia Homs Ginel, Robert Hajšel, Carlos Zorrinho, Andris Ameriks, Nicolás González Casares, Romana Jerković, Eva Kaili, Patrizia Toia, María- Manuela Leitão-Marques, Adriana Maldonado López

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.

Or. en

Amendment 224
François-Xavier Bellamy, Geoffroy Didier, Sabine Verheyen

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

Text proposed by the Commission
Amendment

(e a) ‘business customer’ means:
- legal entities, except any entity which qualifies as a large undertaking as defined in Article 3(4) of Directive 2013/34 of the European Parliament and the Council;

- any natural person that purchases a type or amount of service indicative of, or otherwise indicates, the intent to operate a business online or contracts for the purchase of more than €10,000 of services provided by the intermediary service provider in a one-year period;

Amendment 225
Henna Virkkunen, Tomas Tobé, Adam Jarubas, Jerzy Buzek, Pilar del Castillo Vera, Tom Berendsen, Maria da Graça Carvalho, Pernille Weiss, Sara Skyttedal

Proposal for a regulation
Article 2 – paragraph 1 – point f – indent 3 a (new)

Text proposed by the Commission

Amendment

- Providers of not-for-profit scientific or educational repositories are not considered an intermediary service within the meaning of this Regulation.

Amendment 226
Robert Roos

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

Text proposed by the Commission

Amendment

(f a) ‘allegedly illegal content’ is content being subject to allegations of illegality.
Justification

This definition is almost literally copied from the Greens proposal. (https://www.greens-efa.eu/mycontentmyrights/notice-and-action/)

Amendment 227
Robert Roos

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

Text proposed by the Commission

(f b) ‘manifestly illegal content’ is content that is unmistakably illegal. The illegal character of this content shall be instantly manifest to every average citizen without a legal background.

Or. en

Amendment 228
Robert Roos, Jessica Stegrud

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

Text proposed by the Commission

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

(g) ‘proven illegal content’ is all content a competent judicial body has deemed illegal;

Or. en

Amendment 229
Mikuláš Peksa
on behalf of the Greens/EFA Group
Proposal for a regulation
Article 2 – paragraph 1 – point g

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

According to the JURI report. Digital Services Act: adapting commercial and civil law rules for commercial entities operating online

Amendment 230
Eva Kaili

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

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 231
Gianna Gancia, Elena Lizzi

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

Text proposed by the Commission

(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.

Amendment

(h) ‘online platform’ means a provider of a hosting service which plays an active role in the dissemination of user-generated content 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 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.

Or. en

Amendment 232
Lina Gálvez Muñoz, Alicia Homs Giné, Robert Hajšel, Carlos Zorrinho, Andris Ameriks, Nicolás González Casares, Romana Jerković, Eva Kaili, Patrizia Toia, Maria-Manuel Leitão-Marques, Adriana Maldonado López

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

Text proposed by the Commission

(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.

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 and govern themselves under specific terms and conditions.

Or. en
Justification

Broadening of the definition, as online platforms are self-regulated environments, within the meaning of Article 12, terms and conditions. The operator of the platform is given roles regarding the users: regulating, supervising, moderating content, handling and solving disputes in the platform...

Amendment 233
Miapetra Kumpula-Natri

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

(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, at the request of a recipient of the service, stores and disseminates to the public third party information, unless that activity is a minor and purely ancillary feature of the main editorial publication service, and the integration of the feature into the other service is not a means to circumvent the applicability of this Regulation.

Or. en

Amendment 234
Maria Spyraki

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

(h a) ‘editorial platform’ means an intermediary service which is in connection with a press publication within the meaning of Article 2(4) of Directive (EU) 2019/790 or another editorial media service and which allows users to discuss topics generally covered by the relevant media or to comment editorial content...
and which is under the supervision of the editorial team of the publication or other editorial media.

Amendment 235
Miapetra Kumpula-Natri

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

Text proposed by the Commission

(h a) ‘editorial platform’ means an intermediary service which is in connection with a press publication within the meaning of Article 2(4) of Directive (EU) 2019/790 or another editorial media service and which allows users to discuss topics generally covered by the relevant media or to comment editorial content and which is under the supervision of the editorial team of the publication or other editorial media.

Amendment 236
Valérie Hayer, Christophe Grudler, Dominique Riquet, Iskra Mihaylova, Susana Solís Pérez, Klemen Grošelj, Nicola Beer, Nicola Danti, Martin Hojsík

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

Text proposed by the Commission

(i a) ‘online marketplace’ means an online platform that allows consumers to conclude distance contracts with other traders or consumers
Amendment 237
Robert Roos

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 is established or, in the case that the intermediary service is not established inside the European Union, its legal representative is established;

Or. en

Amendment 238
Marisa Matias
on behalf of the The Left Group

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;

Or. en

Amendment 239
Marisa Matias
on behalf of the The Left Group

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 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 as well as ranking and prioritisation techniques;

Or. en

Amendment 240
Lina Gálvez Muñoz, Alicia Homs Ginel, Robert Hajšel, Carlos Zorrinho, Andris Ameriks, Nicolás González Casares, Romana Jerković, Eva Kaili, Patrizia Toia, Maria-Manuel Leitão-Marques, Adriana Maldonado López

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 suggest, rank and prioritise information 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;

Or. en

Justification

In line with Recital 62, and recommendation of European Data Protection Supervisor (EDPS).

Amendment 241
Eva Kaili
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;

Or. en

Amendment 242
Robert Roos, Jessica Stegrud

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

Text proposed by the Commission

(p) ‘content moderation’ means the activities undertaken by providers of intermediary services aimed at detecting, identifying and addressing illegal content or information incompatible with their terms and conditions, provided by recipients of the service, including measures taken that affect the availability, visibility and accessibility of that illegal content or that information, such as demotion, disabling of access to, or removal thereof, or the recipients’ ability to provide that information, such as the termination or suspension of a recipient’s account;

Amendment

(p) ‘content moderation’ means the activities undertaken by providers of intermediary services aimed at detecting, identifying and addressing allegedly, manifestly, or proven illegal content or content incompatible with their terms and conditions to the extent the intermediary service is allowed to moderate this content under their terms and conditions in accordance with Article 12 and 25a of this regulation, provided by recipients of the service, including measures taken that affect the availability, visibility and accessibility of that illegal content or that information, such as demotion, disabling of access to, or removal thereof, or the recipients’ ability to provide that information, such as the termination or suspension of a recipient’s account;

Or. en
Amendment 243
Marisa Matias
on behalf of the The Left Group

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

Text proposed by the Commission

(q a) ‘online marketplace’ means a service using software, including a website, part of a website or an application, operated by or on behalf of a trader which allows consumers to conclude distance contracts with other traders or consumers, according to Directive (EU) 2019/2161;

Or. en

Amendment 244
Mikuláš Peksa
on behalf of the Greens/EFA Group

Proposal for a regulation
Article 2 a (new)

Text proposed by the Commission

Privacy protection

Article 2 a

User profiling done by information society service providers shall be conducted only on the basis of the data provided with the user’s explicit and informed consent, as defined in Article 4(11) of Regulation (EU) 2016/679. Any profiling must be done only in relation to users of the service. Information society service providers shall not profile individuals who are not users of the service. Users shall not be profiled regarding their racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union
membership, genetic data, biometric data, health, sex life or sexual orientation.

**Justification**

**Introducing the notion of privacy protection provisions**

**Amendment 245**
Mikuláš Peksa
on behalf of the Greens/EFA Group

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

*Text proposed by the Commission*

3. This Article shall not affect the possibility for a court or administrative authority, in accordance with Member States' legal systems, of requiring the service provider to terminate or prevent an infringement.

*Amendment*

3. This Article shall not affect the possibility for a court, in accordance with Member States' legal systems, of requiring the service provider to terminate or prevent an infringement.

*Justification*  
As courts are the ones determining the legality, any assimilated path needs to be defined in the MS legislation, as an exception that needs no EU level acknowledgement.

**Amendment 246**

**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

*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 does not modify the information;
- the provider complies with conditions on access to the information;

Justification

Technical

Amendment 247

Proposal for a regulation
Article 4 – paragraph 1 – point a

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) the provider does not modify the information;</td>
<td>(a) does not modify the information;</td>
</tr>
</tbody>
</table>

Or. en

Amendment 248

Proposal for a regulation
Article 4 – paragraph 1 – point b

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b) the provider complies with conditions on access to the information;</td>
<td>(b) complies with conditions on access to the information;</td>
</tr>
</tbody>
</table>

Or. en
Amendment 249  

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;

Or. en

Amendment 250  

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

Or. en

Amendment 251  
Mikuláš Peksa  
on behalf of the Greens/EFA Group

Proposal for a regulation  
Article 4 – paragraph 1 – point e

Text proposed by the Commission

**Amendment**
(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.

Or. en

Justification

Removal of a potential restriction on content that has in no way been linked to illegal activity, which is disproportionate.

Amendment 252

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

(c) 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.

Or. en

Amendment 253
Eva Kaili

Proposal for a regulation
Article 4 – paragraph 1 – point e a (new)

Text proposed by the Commission

(e a) the provider not only immediately deletes illegal content after positive identification, but also continuously transmits it to the law enforcement authorities for the purpose of further prosecution, including the metadata necessary for this purpose.

Amendment

Or. en

Amendment 254
Mikuláš Peksa
on behalf of the Greens/EFA Group

Proposal for a regulation
Article 4 – paragraph 2

Text proposed by the Commission

2. This Article shall not affect the possibility for a court or administrative authority, in accordance with Member States' legal systems, of requiring the service provider to terminate or prevent an infringement.

Amendment

2. This Article shall not affect the possibility for a court, in accordance with Member States' legal systems, of requiring the service provider to terminate or prevent an infringement.

Or. en

Justification

As courts are the ones determining the legality, any assimilated path needs to be defined in the MS legislation, as an exception that needs no EU level acknowledgement.

Amendment 255
Robert Roos, Jessica Stegrud

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

Text proposed by the Commission

Amendment

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(a) does not have actual knowledge of \textit{illegal activity or} illegal content and, as regards claims for damages, is not aware of facts or circumstances from which the \textit{illegal activity or} illegal content is apparent; or

(a) does not have actual knowledge of \textit{the manifestly} illegal content and, as regards claims for damages, is not aware of facts or circumstances from which the \textit{manifestly} illegal content is apparent; or

Or. en

Amendment 256
Robert Roos, Jessica Stegrud
Proposal for a regulation
Article 5 – paragraph 1 – point b

\textit{Text proposed by the Commission}

(b) upon obtaining such knowledge or awareness, acts expeditiously to remove or to disable access to the illegal content.

\textit{Amendment}

(b) upon obtaining such knowledge or awareness, acts expeditiously to remove or to disable access to the \textit{manifestly} illegal content; or

Or. en

Amendment 257
Robert Roos, Jessica Stegrud
Proposal for a regulation
Article 5 – paragraph 1 – point b a (new)

\textit{Text proposed by the Commission}

(b a) upon obtaining knowledge or awareness of an order from a competent judicial body, acts expeditiously to remove or to disable access to the proven illegal content.

\textit{Amendment}

Or. en

Amendment 258
Pernille Weiss
Proposal for a regulation  
Article 5 – paragraph 1 a (new)

Text proposed by the Commission

1 a. In addition to Article 5(1), the online platform facilitating distance contracts with traders are responsible to ensure that the product is fulfilling obligations as listed in Article 22a when:


b) there is no other economic operator inside the Union responsible for the product safety;

Or. en

Justification

Each year illegal goods are sold to consumers through an online marketplace without having a market actor to hold responsible. This negatively affects the internal market, competition and exposes consumers to a high risk. The proposed safeguards in the DSA do not effectively protect consumers against this issue as they take place after the illegal goods have been sold. Therefore, we find it important to address this issue before the goods are placed on the European market and sold.

Amendment 259
Marisa Matias
on behalf of the The Left Group

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

Amendment

3. Online marketplaces and traders can be jointly liable for:
**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.

- non-compliance of their due diligence obligations,
- damages, when failing to act upon obtaining credible evidence of illegal activities, without incurring into a general duty to monitor the activity of platform users,
- damages, contract performance and guarantees:
  1- for failure to inform consumers about the supplier of the goods or services, in line with Article 4.5 of the Omnibus Directive introducing the new Art. 6a.1,b) of the Consumer Rights Directive and CJEU Wathelet case C-149/15;
  2- for providing misleading information, guarantees, or statements;

where the platform has a predominant influence over suppliers or the transaction. Such predominant influence or control can be inferred by non-exhaustive and non-cumulative criteria that would be assessed on a case-by-case basis by courts such as:

a) The supplier-customer contract is concluded exclusively through facilities provided on the platform;

b) The platform operator withholds the identity of the supplier or contact details until after the conclusion of the supplier-customer contract;
c) The platform operator exclusively uses payment systems which enable the platform operator to withhold payments made by the customer to the supplier;

d) The terms of the supplier-customer contract are essentially determined by the platform operator;

e) The price to be paid by the customer is set by the platform operator;

f) The marketing is focused on the platform operator and not on suppliers; or

g) The platform operator promises to monitor the conduct of suppliers and to enforce compliance with its standards beyond what is required by law.
authority, in accordance with Member States' legal systems, of requiring the service provider to terminate or prevent an infringement.

Or. en

Justification

As courts are the ones determining the legality, any assimilated path needs to be defined in the MS legislation, as an exception that needs no EU level acknowledgement.

Amendment 262
Lina Gálvez Muñoz, Patrizia Toia, Alicia Homs Ginel, Robert Hajšel, Carlos Zorrinho, Andris Ameriks, Nicolás González Casares, Romana Jerković, Eva Kaili, Maria-Manuel Leitão-Marques, Adriana Maldonado López

Proposal for a regulation
Article 5 – paragraph 4 a (new)

Text proposed by the Commission

4 a. Providers of intermediary services shall be deemed ineligible for the exemptions from liability referred to in Articles 3, 4 and 5 when they do not comply with the due diligence obligations set out in this Regulation.

Or. en

Justification

The conditionality on the exemption from liability on compliance with Chapter III due diligence obligations (DDOs) could provide an additional incentive for compliance with DDOs, while acting as a deterrent effect especially on those players who choose not to comply because they can afford the sanctions. In line with changes made in Recital 18a (new).

Amendment 263
Mikuláš Peksa
on behalf of the Greens/EFA Group

Proposal for a regulation
Article 6
Article 6

Voluntary own-initiative investigations and legal compliance

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

Or. en

Justification

This article has been deleted to ensure consistency with the rest of the provisions

Amendment 264
Gianna Gancia, Elena Lizzi

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

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 carry out voluntary own-initiative investigations or other activities, including through the use of technological tools and instruments, aimed at detecting, identifying and removing, or disabling of access to, illegal content, or take the necessary measures to comply with the requirements of Union law, including those set out in this Regulation.

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Amendment 265
Robert Roos, Jessica Stegrud

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

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 carry out voluntary own-initiative investigations or other activities aimed at detecting, identifying and removing, or disabling of access to, manifestly illegal content, or take the necessary measures to comply with the requirements of Union law, including those set out in this Regulation.

Amendment 266
Henna Virkkunen, Tomas Tobé, Adam Jarubas, Jerzy Buzek, Pilar del Castillo Vera, Tom Berendsen, Pernille Weiss

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

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 the necessary voluntary own-initiative investigation measures for the sole purpose of detecting, identifying and removing, or disabling access to, illegal content to comply with the requirements of Union law, including those set out in this Regulation.
Amendment 267
Lina Gálvez Muñoz, Alicia Homs Ginel, Robert Hajšel, Carlos Zorrinho, Andris Ameriks, Nicolás González Casares, Romana Jerković, Eva Kaili, Patrizia Toia, Maria-Manuel Leitão-Marques, Adriana Maldonado López

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

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Providers of intermediary services shall ensure that voluntary investigations or activities are accompanied with appropriate safeguards, such as human oversight, to ensure they are transparent, fair and non-discriminatory.</td>
<td></td>
</tr>
</tbody>
</table>

Or. en

Amendment 268
Lina Gálvez Muñoz, Alicia Homs Ginel, Robert Hajšel, Carlos Zorrinho, Andris Ameriks, Nicolás González Casares, Romana Jerković, Eva Kaili, Patrizia Toia, Maria-Manuel Leitão-Marques, Adriana Maldonado López

Proposal for a regulation
Article 7 – title

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>No general monitoring or active fact-finding obligations</td>
<td>No general monitoring or active fact-finding obligations without undermining the obligation to implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk</td>
</tr>
</tbody>
</table>

Justification

Clarifying that this provision does not undermine encryption, in line with GDPR (Art.32.1): “The controller and the processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk.”
Amendment 269
Mikuláš Peksa
on behalf of the Greens/EFA Group

Proposal for a regulation
Article 7 – title

Text proposed by the Commission

No general monitoring or active fact-finding obligations

Amendment

No general monitoring or automated content moderation obligations

Or. en

Justification

Change needed for consistency

Amendment 270
Mikuláš Peksa
on behalf of the Greens/EFA Group

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

Text proposed by the Commission

Providers of intermediary services should never be obliged to use automated content moderation and the non-user of such technologies should not be considered as an aggravating factor when attributing liability.

Amendment

Or. en

Justification

Change needed to ensure clarity of the legal text

Amendment 271
Marisa Matias
on behalf of the The Left Group
Proposal for a regulation
Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Online marketplaces should conduct periodic checks on trader accounts and the products and services they facilitate offering.

Amendment

Or. en