



2020/0374(COD)

13.9.2021

AMENDMENTS

87 - 310

Draft opinion

Carlos Zorrinho

(PE693.907v01-00)

Contestable and fair markets in the digital sector (Digital Markets Act)

Proposal for a regulation

(COM(2020)0842 – C9-0419/2020 – 2020/0374(COD))

Amendment 87
Paul Tang, Eva Kaili

Proposal for a regulation
Recital 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 88
Rasmus Andresen
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 1

Text proposed by the Commission

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

Amendment

(1) Digital services in general and online platforms in particular play an increasingly important role in the economy, in particular in the internal market, by providing new business opportunities in the Union and facilitating cross-border trading ***and a greater choice in products and services provided to the consumers and business users.***

Or. en

Justification

It is important to put people at the core of legislation and aim for policies that lead to more than purely financial impact.

Amendment 89

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 90

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) Core platform services, at the same time, feature a number of characteristics that can be exploited by their providers. These characteristics of core platform services include among others extreme scale economies, which often result from nearly zero marginal costs to add business users or end users. Other characteristics of core platform services are very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, a significant degree of

Amendment

(2) Core platform services, at the same time, feature a number of characteristics that can be exploited by their providers. These characteristics of core platform services include among others extreme scale economies, which often result from nearly zero marginal costs to add business users or end users. Other characteristics of core platform services are very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, a significant degree of

dependence of both business users and end users, lock-in effects, a lack of multi-homing for the same purpose by end users, vertical integration, and data driven-advantages. All these characteristics combined with unfair conduct by providers of these services can have the effect of substantially undermining the contestability of the core platform services, as well as impacting the fairness of the commercial relationship between providers of such services and their business users and end users, leading to rapid and potentially far-reaching decreases in business users' and end users' choice in practice, and therefore can confer to the provider of those services the position of a so-called gatekeeper.

dependence of both business users and end users, lock-in effects, a lack of multi-homing for the same purpose by end users, vertical integration, and data driven-advantages. All these characteristics combined with unfair conduct by providers of these services can have the effect of substantially undermining the contestability of the core platform services, as well as impacting the fairness of the commercial relationship between providers of such services and their business users and end users, leading to rapid and potentially far-reaching decreases in business users' and end users' choice in practice, and therefore can confer to the provider of those services the position of a so-called gatekeeper. ***It is important to note that end users are similarly affected by unfair practices by gatekeepers and their interests should be taken into account in the obligations to be imposed under this Regulation.***

Or. en

Justification

Though the regulation generally aims at a B2B issues and only indirectly produce end user effects, we need to underline the role of end users in the market.

Amendment 91 Jessica Stegrud

Proposal for a regulation Recital 6

Text proposed by the Commission

(6) Gatekeepers have a significant impact on the internal market, providing gateways for a large number of business users, to reach end users, everywhere in the Union and on different markets. The adverse impact of unfair practices on the internal market and particularly weak contestability of core platform services, including their negative societal and

Amendment

(6) Gatekeepers have a significant impact on the internal market, providing gateways for a large number of business users, to reach end users, everywhere in the Union and on different markets. The adverse impact of unfair practices on the internal market and particularly weak contestability of core platform services, including their negative societal and

economic implications, have led national legislators and sectoral regulators to act. A number of national regulatory solutions have already been adopted or proposed to address unfair practices and the contestability of digital services or at least with regard to some of them. ***This has created a risk of divergent regulatory solutions and thereby fragmentation of the internal market, thus raising the risk of increased compliance costs due to different sets of national regulatory requirements.***

economic implications, have led national legislators and sectoral regulators to act. A number of national regulatory solutions have already been adopted or proposed to address unfair practices and the contestability of digital services or at least with regard to some of them.

Or. en

Amendment 92

Miapetra Kumpula-Natri, Łukasz Kohut, Andris Ameriks, Maria-Manuel Leitão-Marques

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) Therefore, business users and end-users of core platform services provided by gatekeepers should be afforded appropriate regulatory safeguards throughout the Union against the unfair behaviour of gatekeepers in order to facilitate cross-border business within the Union and thereby improve the proper functioning of the internal market and to ***address*** existing or likely emerging fragmentation in the specific areas covered by this Regulation. Moreover, while gatekeepers tend to adopt global or at least pan-European business models and algorithmic structures, they can adopt, and in some cases have adopted, different business conditions and practices in different Member States, which is liable to create disparities between the competitive conditions for the users of core platform services provided by gatekeepers, to the detriment of integration within the internal market.

Amendment

(7) Therefore, ***the objective of this Regulation is to contribute to the proper functioning of the internal market by laying down rules to ensure contestability and fairness for the digital sector in general and for business users and end-users of core platform services provided by gatekeepers in particular.*** Business users and end-users of core platform services provided by gatekeepers should be afforded appropriate regulatory safeguards throughout the Union against the unfair behaviour of gatekeepers in order to facilitate cross-border business within the Union and thereby improve the proper functioning of the internal market and to ***eliminate*** existing or likely emerging fragmentation in the specific areas covered by this Regulation. Moreover, while gatekeepers tend to adopt global or at least pan-European business models and algorithmic structures, they can adopt, and in some cases have adopted, different

business conditions and practices in different Member States, which is liable to create disparities between the competitive conditions for the users of core platform services provided by gatekeepers, to the detriment of integration within the internal market.

Or. en

Amendment 93
Jessica Stegrud

Proposal for a regulation
Recital 8

Text proposed by the Commission

(8) ***By approximating diverging national laws, obstacles to the freedom to provide and receive services, including retail services, within the internal market should be eliminated.*** A targeted set of harmonised mandatory rules should therefore be established at Union level to ensure contestable and fair digital markets featuring the presence of gatekeepers within the internal market.

Amendment

(8) A targeted set of harmonised mandatory rules should therefore be established at Union level to ensure contestable and fair digital markets featuring the presence of gatekeepers within the internal market.

Or. en

Amendment 94
Jessica Stegrud

Proposal for a regulation
Recital 9

Text proposed by the Commission

(9) ***A fragmentation of the internal market can only be effectively averted if Member States are prevented from applying national rules which are specific to the types of undertakings and services covered by this Regulation.*** At the same time, since this Regulation aims at

Amendment

(9) At the same time, since this Regulation aims at complementing the enforcement of competition law, it should be specified that this Regulation is without prejudice to Articles 101 and 102 TFEU, to the corresponding national competition rules and to other national competition

complementing the enforcement of competition law, it should be specified that this Regulation is without prejudice to Articles 101 and 102 TFEU, to the corresponding national competition rules and to other national competition rules regarding unilateral behaviour that are based on an individualised assessment of market positions and behaviour, including its likely effects and the precise scope of the prohibited behaviour, and which provide for the possibility of undertakings to make efficiency and objective justification arguments for the behaviour in question. However, the application of the latter rules should not affect the obligations imposed on gatekeepers under this Regulation and their uniform and effective application in the internal market.

rules regarding unilateral behaviour that are based on an individualised assessment of market positions and behaviour, including its likely effects and the precise scope of the prohibited behaviour, and which provide for the possibility of undertakings to make efficiency and objective justification arguments for the behaviour in question. However, the application of the latter rules should not affect the obligations imposed on gatekeepers under this Regulation and their uniform and effective application in the internal market.

Or. en

Amendment 95

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) Articles 101 and 102 TFEU and the corresponding national competition rules concerning anticompetitive multilateral and unilateral conduct as well as merger control have as their objective the protection of undistorted competition on the market. This Regulation pursues an objective that is complementary to, but different from that of protecting undistorted competition on any given market, as defined in competition-law terms, which is to ensure that markets where gatekeepers are present are and remain contestable and fair, independently

Amendment

(10) Articles 101 and 102 TFEU and the corresponding national competition rules concerning anticompetitive multilateral and unilateral conduct as well as merger control have as their objective the protection of undistorted competition on the market. This Regulation pursues an objective that is complementary to, but different from that of protecting undistorted competition on any given market, as defined in competition-law terms, which is to ensure that markets where gatekeepers are present are and remain contestable and fair, independently

from the actual, likely or presumed effects of the conduct of a given gatekeeper covered by this Regulation on competition on a given market. This Regulation therefore aims at protecting a different legal interest from those rules and should be without prejudice to their application.

from the actual, likely or presumed effects of the conduct of a given gatekeeper covered by this Regulation on competition on a given market. This Regulation therefore aims at protecting a different legal interest from those rules and **from rules under consumer protection law and thus it** should be without prejudice to their application.

Or. en

Amendment 96

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 10

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

Since the available data justifies a specific regulation aimed at solving behaviours in the

competition area that would not find a suitable solution, it needs to be underlined that the core competition law is unaffected, neither the general rules on electronic communications, networks and services running over them.

Amendment 97

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) This Regulation should also complement, without prejudice to their application, the rules resulting from other acts of Union law regulating certain aspects of the provision of services covered by this Regulation, in particular Regulation (EU) 2019/1150 of the European Parliament and of the Council²⁶, Regulation (EU) xx/xx/EU [DSA] of the European Parliament and of the Council²⁷, Regulation (EU) 2016/679 of the European Parliament and of the Council²⁸, Directive (EU) 2019/790 of the European Parliament and of the Council²⁹, Directive (EU) 2015/2366 of the European Parliament and of the Council³⁰, and Directive (EU) 2010/13 of the European Parliament and of the Council³¹, as well as national rules aimed at enforcing or, as the case may be, implementing that Union legislation.

²⁶ Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (OJ L 186, 11.7.2019, p. 57).

²⁷ Regulation (EU) .../.. of the European Parliament and of the Council – proposal on a Single Market For Digital Services

Amendment

(11) This Regulation should also complement, without prejudice to their application, the rules resulting from other acts of Union law regulating certain aspects of the provision of services covered by this Regulation, in particular Regulation (EU) 2019/1150 of the European Parliament and of the Council²⁶, Regulation (EU) xx/xx/EU [DSA] of the European Parliament and of the Council²⁷, Regulation (EU) 2016/679 of the European Parliament and of the Council²⁸, Directive (EU) 2019/790 of the European Parliament and of the Council²⁹, Directive (EU) 2015/2366 of the European Parliament and of the Council³⁰, **Directive 2005/29/EC, Council Directive 93/13/EEC** and Directive (EU) 2010/13 of the European Parliament and of the Council³¹, as well as national rules aimed at enforcing or, as the case may be, implementing that Union legislation.

²⁶ Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (OJ L 186, 11.7.2019, p. 57).

²⁷ Regulation (EU) .../.. of the European Parliament and of the Council – proposal on a Single Market For Digital Services

(Digital Services Act) and amending Directive 2000/31/EC.

²⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

²⁹ Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/ (OJ L 130, 17.5.2019, p. 92.).

³⁰ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

³¹ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).

(Digital Services Act) and amending Directive 2000/31/EC.

²⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

²⁹ Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/ (OJ L 130, 17.5.2019, p. 92.).

³⁰ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

³¹ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).

Or. en

Amendment 98

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 11

Text proposed by the Commission

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Amendment

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complement, without prejudice to their application, the rules resulting from other acts of Union law regulating certain aspects of the provision of services covered by this Regulation, in particular Regulation (EU) 2019/1150 of the European Parliament and of the Council²⁶, Regulation (EU) xx/xx/EU [DSA] of the European Parliament and of the Council²⁷, Regulation (EU) 2016/679 of the European Parliament and of the Council²⁸, Directive (EU) 2019/790 of the European Parliament and of the Council²⁹, Directive (EU) 2015/2366 of the European Parliament and of the Council³⁰, and Directive (EU) 2010/13 of the European Parliament and of the Council³¹, as well as national rules aimed at enforcing or, as the case may be, implementing that Union legislation.

²⁶ Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (OJ L 186, 11.7.2019, p. 57).

²⁷ Regulation (EU) .../.. of the European Parliament and of the Council – proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC.

²⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

complement, without prejudice to their application, the rules resulting from other acts of Union law regulating certain aspects of the provision of services covered by this Regulation, in particular Regulation (EU) 2019/1150 of the European Parliament and of the Council²⁶, Regulation (EU) xx/xx/EU [DSA] of the European Parliament and of the Council²⁷, Regulation (EU) 2016/679 of the European Parliament and of the Council²⁸, *and Directive 2002/58/EC*^{28a}, Directive (EU) 2019/790 of the European Parliament and of the Council²⁹, Directive (EU) 2015/2366 of the European Parliament and of the Council³⁰, and Directive (EU) 2010/13 of the European Parliament and of the Council³¹, as well as national rules aimed at enforcing or, as the case may be, implementing that Union legislation.

²⁶ Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (OJ L 186, 11.7.2019, p. 57).

²⁷ Regulation (EU) .../.. of the European Parliament and of the Council – proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC.

²⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

^{28a} *Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)*

²⁹ Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/ (OJ L 130, 17.5.2019, p. 92.).

³⁰ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

³¹ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).

²⁹ Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/ (OJ L 130, 17.5.2019, p. 92.).

³⁰ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

³¹ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).

Or. en

Justification

The proposed changes could have an impact on the implementation of Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), therefore a reference to it is necessary.

Amendment 99

François-Xavier Bellamy

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) This Regulation should also complement, without prejudice to their application, the rules resulting from other acts of Union law regulating certain aspects of the provision of services covered

Amendment

(11) This Regulation should also complement, without prejudice to their application, the rules resulting from other acts of Union law regulating certain aspects of the provision of services covered

by this Regulation, in particular Regulation (EU) 2019/1150 of the European Parliament and of the Council²⁶, Regulation (EU) xx/xx/EU [DSA] of the European Parliament and of the Council²⁷, Regulation (EU) 2016/679 of the European Parliament and of the Council²⁸, Directive (EU) 2019/790 of the European Parliament and of the Council²⁹, Directive (EU) 2015/2366 of the European Parliament and of the Council³⁰, and Directive (EU) 2010/13 of the European Parliament and of the Council³¹, as well as national rules ***aimed at enforcing or, as the case may be, implementing*** that Union legislation.

²⁶ Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (OJ L 186, 11.7.2019, p. 57).

²⁷ Regulation (EU) .../. of the European Parliament and of the Council – proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC.

²⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

²⁹ Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/ (OJ L 130, 17.5.2019, p. 92.).

³⁰ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No

by this Regulation, in particular Regulation (EU) 2019/1150 of the European Parliament and of the Council²⁶, Regulation (EU) xx/xx/EU [DSA] of the European Parliament and of the Council²⁷, Regulation (EU) 2016/679 of the European Parliament and of the Council²⁸, Directive (EU) 2019/790 of the European Parliament and of the Council²⁹, Directive (EU) 2015/2366 of the European Parliament and of the Council³⁰, and Directive (EU) 2010/13 of the European Parliament and of the Council³¹, as well as national rules ***taken in accordance*** that Union legislation.

²⁶ Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (OJ L 186, 11.7.2019, p. 57).

²⁷ Regulation (EU) .../. of the European Parliament and of the Council – proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC.

²⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

²⁹ Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/ (OJ L 130, 17.5.2019, p. 92.).

³⁰ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No

1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

³¹ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).

1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

³¹ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).

Or. en

Amendment 100

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) Weak contestability and unfair practices in the digital sector are more frequent and pronounced for certain digital services than for others. This is the case in particular for widespread and commonly used digital services that mostly directly intermediate between business users and end users and where features such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration are the most prevalent. Often, there is only one or very few large providers of those digital services. These providers of core platform services have emerged most frequently as gatekeepers for business users and end users with far-reaching impacts, gaining the ability to easily set commercial conditions and terms in a unilateral and detrimental manner for their business users and end users. Accordingly, it is necessary

Amendment

(12) Weak contestability and unfair practices in the digital sector are more frequent and pronounced for certain digital services than for others. This is the case in particular for widespread and commonly used digital services that mostly directly intermediate between business users and end users and where features such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration are the most prevalent. Often, there is only one or very few large providers of those digital services. These providers of core platform services have emerged most frequently as gatekeepers for business users and end users with far-reaching impacts, gaining the ability to easily set commercial conditions and terms in a unilateral and detrimental manner for their business users and end users. Accordingly, it is necessary

to focus **only** on those digital services that are **most broadly** used by business users and end users and where, based on current market conditions, concerns about weak contestability and unfair practices by gatekeepers are **more apparent and** pressing from an internal market perspective.

to focus on **all** those digital services that are used by business users and end users and where, based on current market conditions, concerns about weak contestability and unfair practices by gatekeepers are pressing from an internal market perspective.

Or. en

Justification

As the focused scope does not exclude a general scrutiny of the market and the need to look beyond apparent issues, the text is now adjusted.

Amendment 101

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Jerzy Buzek, Massimiliano Salini, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) In particular, online intermediation services, online search engines, operating systems, online social networking, video sharing platform services, number-independent interpersonal communication services, cloud computing services and online advertising services all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They therefore should be included in the definition of core platform services and fall into the scope of this Regulation. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council³². In certain circumstances, the notion of end users should encompass

Amendment

(13) In particular, online intermediation services, online search engines, operating systems (***which include digital voice assistants and connected TVs***), online social networking, video sharing platform services, number-independent interpersonal communication services, ***web browsers*** and online advertising services all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They therefore should be included in the definition of core platform services and fall into the scope of this Regulation. ***Virtual or voice activated assistants and other connected devices, represent the fastest developing interface for users to access the web, to use and control smart devices and access consumer IoT services, and therefore fall within the scope of this Regulation not***

users that are traditionally considered business users, but in a given situation do not use the core platform services to provide goods or services to other end users, such as for example businesses relying on cloud computing services for their own purposes.

only as operating systems, an online intermediation service or a search engine, but as a distinctive core platform service category. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council³². In certain circumstances, the notion of end users should encompass users that are traditionally considered business users, but in a given situation do not use the core platform services to provide goods or services to other end users, such as for example businesses relying on cloud computing services for their own purposes.

³² Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ L 241, 17.9.2015, p. 1.

³² Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ L 241, 17.9.2015, p. 1.

Or. en

Amendment 102

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) In particular, online intermediation services, online search engines, operating systems, online social networking, video sharing platform services, number-independent interpersonal communication services, cloud computing services and online advertising services all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They

Amendment

(13) In particular, online intermediation services, online search engines, ***web browsers***, operating systems, online social networking, video sharing platform services, number-independent interpersonal communication services, cloud computing services and online advertising services all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices.

therefore should be included in the definition of core platform services and fall into the scope of this Regulation. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council³². In certain circumstances, the notion of end users should encompass users that are traditionally considered business users, but in a given situation do not use the core platform services to provide goods or services to other end users, such as for example businesses relying on cloud computing services for their own purposes.

They therefore should be included in the definition of core platform services and fall into the scope of this Regulation. ***Online intermediation services should be included irrespective of the technology used to provide such services. For that reason, virtual or voice activated assistants and other connected devices should fall within the scope of this Regulation whether their software is considered an operating system, an online intermediation service or a search engine.*** Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council³². In certain circumstances, the notion of end users should encompass users that are traditionally considered business users, but in a given situation do not use the core platform services to provide goods or services to other end users, such as for example businesses relying on cloud computing services for their own purposes.

³² Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ L 241, 17.9.2015, p. 1.

³² Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ L 241, 17.9.2015, p. 1.

Or. en

Amendment 103

Markus Buchheit

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) In particular, online intermediation

Amendment

(13) In particular, online intermediation

services, online search engines, operating systems, online social networking, video sharing platform services, number-independent interpersonal communication services, cloud computing services and online advertising services all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They therefore should be included in the definition of core platform services and fall into the scope of this Regulation. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council³². ***In certain circumstances, the notion of end users should encompass users that are traditionally considered business users, but in a given situation do not use the core platform services to provide goods or services to other end users, such as for example businesses relying on cloud computing services for their own purposes.***

³² Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ L 241, 17.9.2015, p. 1.

services, online search engines, operating systems, online social networking, video sharing platform services, number-independent interpersonal communication services, cloud computing services and online advertising services all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They therefore should be included in the definition of core platform services and fall into the scope of this Regulation. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council³².

³² Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ L 241, 17.9.2015, p. 1.

Or. en

Amendment 104

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 13

Text proposed by the Commission

Amendment

(13) In particular, online intermediation services, online search engines, operating systems, online social networking, video sharing platform services, number-independent interpersonal communication services, cloud computing services *and* online advertising services all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They therefore should be included in the definition of core platform services and fall into the scope of this Regulation. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council³². ***In certain circumstances, the notion of end users should encompass users that are traditionally considered business users, but in a given situation do not use the core platform services to provide goods or services to other end users, such as for example businesses relying on cloud computing services for their own purposes.***

³² Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ L 241, 17.9.2015, p. 1.

(13) In particular, online intermediation services, online search engines, operating systems, online social networking, video sharing platform services, number-independent interpersonal communication services, cloud computing services, ***including business to business clouds, online advertising, embedded digital services in vehicles, browsers, voice assistants, connected tv and collaborative economy*** services all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They therefore should be included in the definition of core platform services and fall into the scope of this Regulation. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council³².

³² Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ L 241, 17.9.2015, p. 1.

Or. en

Justification

The recital is aligned with the proposed changes in the text of the articles.

Amendment 105
François-Xavier Bellamy

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) In particular, online intermediation services, online search engines, operating systems, online social networking, video sharing platform services, number-independent interpersonal communication services, cloud computing services and online advertising services all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They therefore should be included in the definition of core platform services and fall into the scope of this Regulation. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council³². In certain circumstances, the notion of end users should encompass users that are traditionally considered business users, but in a given situation do not use the core platform services to provide goods or services to other end users, such as for example businesses relying on cloud computing services for their own purposes.

³² Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ L 241, 17.9.2015, p. 1.

Amendment

(13) In particular, online intermediation services (***including, inter alia, marketplaces, application stores, digital voice assistants***), online search engines, operating systems, online social networking, video sharing platform services, number-independent interpersonal communication services, cloud computing services and online advertising services all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They therefore should be included in the definition of core platform services and fall into the scope of this Regulation. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council³². In certain circumstances, the notion of end users should encompass users that are traditionally considered business users, but in a given situation do not use the core platform services to provide goods or services to other end users, such as for example businesses relying on cloud computing services for their own purposes.

³² Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ L 241, 17.9.2015, p. 1.

Or. en

Amendment 106 **Marisa Matias**

on behalf of the The Left Group

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) In particular, online intermediation services, online search engines, operating systems, online social networking, video sharing platform services, number-independent interpersonal communication services, cloud computing services and online advertising services all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They therefore should be included in the definition of core platform services and fall into the scope of this Regulation. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council³². In certain circumstances, the notion of end users should encompass users that are traditionally considered business users, but in a given situation do not use the core platform services to provide goods or services to other end users, such as for example businesses relying on cloud computing services for their own purposes.

³² Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ L 241, 17.9.2015, p. 1.

Amendment

(13) In particular, online intermediation services, online search engines, **online browser**, operating systems, online social networking, video sharing platform **services, streaming** services, number-independent interpersonal communication services, cloud computing services, **voice-controlled virtual assistants** and online advertising services all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They therefore should be included in the definition of core platform services and fall into the scope of this Regulation. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council³². In certain circumstances, the notion of end users should encompass users that are traditionally considered business users, but in a given situation do not use the core platform services to provide goods or services to other end users, such as for example businesses relying on cloud computing services for their own purposes.

³² Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ L 241, 17.9.2015, p. 1.

Or. en

Amendment 107
Rasmus Andresen
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 13 a (new)

Text proposed by the Commission

Amendment

(13 a) In certain circumstances, the notion of end users should encompass users that are traditionally considered business users, but in a given situation do not use the core platform services to sell goods or services to other end users, such as for example businesses relying on cloud computing services for their own purposes.

Or. en

Justification

For clarity, the text has been separated from the end of recital 13 to a new recital with a slight change.

Amendment 108
Adam Jarubas
on behalf of the PPE Group
Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Pernille Weiss, Christian Ehler, Henna Virkkunen

Proposal for a regulation
Recital 15

Text proposed by the Commission

Amendment

(15) The fact that a digital service qualifies as a core platform service in light of its widespread and common use and its importance for connecting business users and end users does not as such give rise to sufficiently serious concerns of contestability and unfair practices. It is only when a core platform service constitutes an important gateway and is operated by a provider with a significant impact in the internal market and an

(15) The fact that a digital service qualifies as a core platform service in light of its widespread and common use and its importance for connecting business users and end users does not as such give rise to sufficiently serious concerns of contestability and unfair practices. It is only when a core platform service constitutes an important gateway and is operated by a provider with a significant impact in the internal market and an

entrenched and durable position, ***or by a provider that will foreseeably have such a position in the near future***, that such concerns arise. Accordingly, the targeted set of harmonised rules laid down in this Regulation should apply only to undertakings designated on the basis of these three objective criteria, and they should only apply to those of their core platform services that individually constitute an important gateway for business users to reach end users.

entrenched and durable position, that such concerns arise. Accordingly, the targeted set of harmonised rules laid down in this Regulation should apply only to undertakings designated on the basis of these three objective criteria, and they should only apply to those of their core platform services that individually constitute an important gateway for business users to reach end users.

Or. en

Amendment 109

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 15

Text proposed by the Commission

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

Amendment

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

Amendment 110

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Recital 16

Text proposed by the Commission

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

Amendment

(16) In order to ensure the effective application of this Regulation to providers of core platform services which are most likely to satisfy these objective requirements, and where unfair conduct weakening contestability is most prevalent and impactful, the Commission should be able to directly designate as gatekeepers those providers of core platform services which meet certain quantitative thresholds. Such undertakings should in any event be subject to a fast designation process which should start upon the entry into force of this Regulation. ***The turnover and market value-based threshold should refer to the whole undertaking, while the user-based threshold should apply separately for, and only to, each type of core platform service rendered by a provider within an undertaking. Provisions in Chapter IV and Chapter V should refer to the whole undertaking controlling the gatekeeper for the sake of enforcement.***

Amendment 111

Adriana Maldonado López, Lina Gálvez Muñoz, Alicia Homs Ginel, Nicolás González Casares

Proposal for a regulation

Recital 16

Text proposed by the Commission

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

Amendment

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

Or. es

Amendment 112

Markus Buchheit, Elena Lizzi

Proposal for a regulation

Recital 16

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 113
Markus Buchheit, Elena Lizzi

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) A very significant turnover ***in the Union and the provision of*** a core platform service in ***at least three Member States*** constitute compelling indications that the provider of a core platform service has a significant impact on the internal market. ***This is equally true where a provider of a core platform service in at least three Member States has a very significant market capitalisation or equivalent fair market value.*** Therefore, a provider of a core platform service should be presumed to have a significant impact on the internal market where it provides a core platform service in ***at least three Member States*** and where either its ***group*** turnover realised in the EEA is equal to or exceeds a specific, high threshold ***or the market capitalisation of the group is equal to or exceeds a certain high absolute value.*** For providers of core platform services that belong to undertakings that are not publicly listed, the equivalent fair market value above a certain high absolute value should be referred to. The Commission should use its power to adopt delegated acts to develop an objective methodology to calculate that value. A high EEA group turnover in conjunction with the threshold of users in the Union of core platform services reflects a relatively strong ability to monetise these users. A high market capitalisation relative to the same threshold number of users in the Union reflects a relatively significant potential to monetise these users in the near future. This monetisation potential in turn reflects in principle the gateway position of the undertakings concerned. Both indicators are in addition reflective of their financial capacity, including their ability to leverage their access to financial markets to reinforce their position. This may for

Amendment

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

example happen where this superior access is used to acquire other undertakings, which ability has in turn been shown to have potential negative effects on innovation. Market capitalisation can also be reflective of the expected future position and effect on the internal market of the providers concerned, notwithstanding a potentially relatively low current turnover. The market capitalisation value can be based on a level that reflects the average market capitalisation of the largest publicly listed undertakings in the Union over an appropriate period.

and effect on the internal market of the providers concerned, notwithstanding a potentially relatively low current turnover. The market capitalisation value can be based on a level that reflects the average market capitalisation of the largest publicly listed undertakings in the Union over an appropriate period.

Or. en

Amendment 114

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Pernille Weiss, Christian Ehler, Henna Virkkunen

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) A very significant turnover in the Union and the provision of a core platform service in at least three Member States constitute compelling indications that the provider of a core platform service has a significant impact on the internal market. This is equally true where a provider of a core platform service in at least three Member States has a very significant market capitalisation or equivalent fair market value. Therefore, a provider of a core platform service should be presumed to have a significant impact on the internal market where it provides a core platform service in at least three Member States and where either its group turnover realised in the EEA is equal to or exceeds a specific, high threshold or the market capitalisation of the group is equal to or exceeds a certain high absolute value. For providers of core

Amendment

(17) A very significant turnover in the Union and the provision of a core platform service in at least three Member States constitute compelling indications that the provider of a core platform service has a significant impact on the internal market. This is equally true where a provider of a core platform service in at least three Member States has a very significant market capitalisation or equivalent fair market value. Therefore, a provider of a core platform service should be presumed to have a significant impact on the internal market where it provides a core platform service in at least three Member States and where either its group turnover realised in the EEA is equal to or exceeds a specific, high threshold or the market capitalisation of the group is equal to or exceeds a certain high absolute value. For providers of core

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

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

Or. en

Amendment 115
Markus Buchheit

Proposal for a regulation
Recital 18

Text proposed by the Commission

Amendment

(18) *A sustained market capitalisation of the provider of core platform services at or above the threshold level over three or more years should be considered as strengthening the presumption that the provider of core platform services has a significant impact on the internal market.*

deleted

Or. en

Amendment 116

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 18

Text proposed by the Commission

(18) A sustained market capitalisation of the provider of core platform services at or above the threshold level over three *or more* years should be considered as strengthening the presumption that the provider of core platform services has a significant impact on the internal market.

Amendment

(18) A sustained market capitalisation of the provider of core platform services at or above the threshold level over three years should be considered as strengthening the presumption that the provider of core platform services has a significant impact on the internal market.

Or. en

Amendment 117

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Recital 20

Text proposed by the Commission

(20) A very high number of business users that depend on a core platform service to reach a very high number of monthly active end users allow the provider of that service to influence the operations of a substantial part of business users to its advantage and indicate in principle that the provider serves as an important gateway. The respective relevant

Amendment

(20) A very high number of business users that depend on a core platform service to reach a very high number of monthly active end users allow the provider of that service to influence the operations of a substantial part of business users to its advantage and indicate in principle that the provider serves as an important gateway. The respective relevant

levels for those numbers should be set representing a substantive percentage of the entire population of the Union when it comes to end users and of the entire population of businesses using platforms to determine the threshold for business users.

levels for those numbers should be set representing a substantive percentage of the entire population of the Union when it comes to end users and of the entire population of businesses using platforms to determine the threshold for business users.
Active end users as well as business users should be defined in a way that adequately represents the role and reach of the specific core platform service in question. In order to provide legal certainty for gatekeepers, elements of such definitions per core platform service should be set out in an annex to this Regulation, which should be subject to possible amendment by the Commission by means of delegated act to be able to keep it up to date in the light of technical or other developments.

Or. en

Amendment 118

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Pernille Weiss, Christian Ehler, Henna Virkkunen

Proposal for a regulation

Recital 21

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 119

Patrizia Toia

Proposal for a regulation

Recital 21

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 120

Markus Buchheit, Elena Lizzi

Proposal for a regulation

Recital 21

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 121

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 21

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 122

Miapetra Kumpula-Natri, Lukasz Kohut, Andris Ameriks, Maria-Manuel Leitão-Marques

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) Such thresholds can be impacted by market and technical developments. The Commission should therefore be empowered to adopt delegated acts to specify the methodology for determining whether the quantitative thresholds are met, and to regularly adjust it to market and technological developments where necessary. This is particularly relevant in relation to the threshold referring to market capitalisation, which should be indexed in appropriate intervals.

Amendment

(22) Such thresholds can be impacted by market and technical developments. The Commission should therefore be empowered to adopt delegated acts to specify the methodology for determining whether the quantitative thresholds are met, and to regularly adjust it to market and technological developments where necessary. This is particularly relevant in relation to the threshold referring to market capitalisation, which should be indexed in appropriate intervals. ***The accuracy of the reported numbers of business users and monthly active users can be technically verified through independent audience measurement.***

Or. en

Amendment 123

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) Such thresholds can be impacted by market and technical developments. The Commission should therefore be empowered to adopt delegated acts to specify the methodology for determining whether the quantitative thresholds are met, and to regularly adjust it to market and technological developments where necessary. This is particularly relevant in relation to the threshold referring to market capitalisation, which should be indexed in appropriate intervals.

Amendment

(22) Such thresholds can be impacted by market and technical developments. The Commission should therefore be empowered to adopt delegated acts to specify the methodology for determining whether the quantitative thresholds are met, and to regularly adjust it to market and technological developments **and a more qualitative approach** where necessary. This is particularly relevant in relation to the threshold referring to market capitalisation, which should be indexed in appropriate intervals.

Or. en

Amendment 124

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) ***Providers of core platform services which meet the quantitative thresholds but are able to present sufficiently substantiated arguments to demonstrate that, in the circumstances in which the relevant core platform service operates, they do not fulfil the objective requirements for a gatekeeper, should not be designated directly, but only subject to a further investigation. The burden of adducing evidence that the presumption deriving from the fulfilment of***

Amendment

(23) ***In its*** quantitative ***and qualitative*** assessment, the Commission should take into account the elements which relate to the requirements for constituting a gatekeeper, namely whether it is an important gateway which is operated by a provider with a significant impact in the internal market with an entrenched and durable position, either actual or foreseeable. Any justification on economic grounds seeking to demonstrate efficiencies deriving from a specific type

quantitative thresholds should not apply to a specific provider should be borne by that provider In its assessment, the Commission should take into account ***only*** the elements which ***directly*** relate to the requirements for constituting a gatekeeper, namely whether it is an important gateway which is operated by a provider with a significant impact in the internal market with an entrenched and durable position, either actual or foreseeable. Any justification on economic grounds seeking to demonstrate efficiencies deriving from a specific type of behaviour by the provider of core platform services should be discarded, as it is not relevant to the designation as a gatekeeper. The Commission should be able to take a decision by relying on the quantitative thresholds where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.

of behaviour by the provider of core platform services should be discarded, as it is not relevant to the designation as a gatekeeper. The Commission should be able to take a decision by relying on the quantitative thresholds where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.

Or. en

Amendment 125

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) Providers of core platform services which meet the quantitative thresholds but are able to present sufficiently substantiated arguments to demonstrate that, in the circumstances in which the relevant core platform service operates, they do not fulfil the objective requirements for a gatekeeper, should ***not be designated directly, but only*** subject to ***a further investigation. The burden of adducing evidence that the presumption deriving from the fulfilment of quantitative thresholds should not apply***

Amendment

(23) Providers of core platform services which meet the quantitative thresholds but are able to present sufficiently substantiated arguments to demonstrate that, in the circumstances in which the relevant core platform service operates, they do not fulfil the objective requirements for a gatekeeper, should ***be*** subject to ***an assessment by the Commission whether they qualify or not as a gatekeeper in light of the argument presented. This assessment*** should be done ***within specific time limits and not lead to***

to a specific provider should be *borne by that* provider In its assessment, the Commission should take into account only the elements which directly relate to the requirements for constituting a gatekeeper, namely whether it is an important gateway which is operated by a provider with a significant impact in the internal market with an entrenched and durable position, either actual or foreseeable. Any justification on economic grounds seeking to demonstrate efficiencies deriving from a specific type of behaviour by the provider of core platform services should be discarded, as it is not relevant to the designation as a gatekeeper. The Commission should be able to take a decision by relying on the quantitative thresholds where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.

undue delay in designating the provider of a core platform service as a gatekeeper. In its assessment, the Commission should take into account only the elements which directly relate to the requirements for constituting a gatekeeper, namely whether it is an important gateway which is operated by a provider with a significant impact in the internal market with an entrenched and durable position, either actual or foreseeable. Any justification on economic grounds seeking to demonstrate efficiencies deriving from a specific type of behaviour by the provider of core platform services should be discarded, as it is not relevant to the designation as a gatekeeper. The Commission should be able to take a decision by relying on the quantitative thresholds where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.

Or. en

Justification

This change is necessary on order to increase the legal certainty and the efficiency of the Regulation.

Amendment 126

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Pernille Weiss, Christian Ehler, Henna Virkkunen

Proposal for a regulation

Recital 24

Text proposed by the Commission

(24) Provision should also be made for the assessment of the gatekeeper role of providers of core platform services which do not satisfy all of the quantitative thresholds, in light of the overall objective requirements that they have a significant impact on the internal market, act as an

Amendment

(24) Provision should also be made for the assessment of the gatekeeper role of providers of core platform services which do not satisfy all of the quantitative thresholds, in light of the overall objective requirements that they have a significant impact on the internal market, act as an

important gateway for business users to reach end users and benefit from a durable and entrenched position in their operations ***or it is foreseeable that it will do so in the near future.***

important gateway for business users to reach end users and benefit from a durable and entrenched position in their operations.

Or. en

Amendment 127

Nicola Beer, Ivars Ijabs

Proposal for a regulation

Recital 25

Text proposed by the Commission

(25) Such an assessment can only be done in light of a market investigation, while taking into account the quantitative thresholds. In its assessment the Commission should pursue the objectives of preserving and fostering the level of innovation, the quality of digital products and services, the degree to which prices are fair and competitive, and the degree to which quality or choice for business users and for end users is or remains high. Elements that are specific to the providers of core platform services concerned, such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration, can be taken into account. In addition, a very high market capitalisation, a very high ratio of equity value over profit or a very high turnover derived from end users of a single core platform service can point to the tipping of the market or leveraging potential of such providers. Together with market capitalisation, high growth rates, or decelerating growth rates read together with profitability growth, are examples of dynamic parameters that are particularly relevant to identifying such providers of core platform services that are foreseen to

Amendment

(25) Such an assessment can only be done in light of a market investigation, while taking into account the quantitative thresholds. In its assessment the Commission should pursue the objectives of preserving and fostering the level of innovation, the quality of digital products and services, the degree to which prices are fair and competitive, and the degree to which quality or choice for business users and for end users is or remains high. Elements that are specific to the providers of core platform services concerned, such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration, can be taken into account. ***The potential negative and positive impacts of these elements for business users, especially for small and medium-sized enterprises, and consumers should be taken into consideration.*** In addition, a very high market capitalisation, a very high ratio of equity value over profit or a very high turnover derived from end users of a single core platform service can point to the tipping of the market or leveraging potential of such providers. Together with market capitalisation, high growth rates, or decelerating growth rates

become entrenched. The Commission should be able to take a decision by drawing adverse inferences from facts available where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.

read together with profitability growth, are examples of dynamic parameters that are particularly relevant to identifying such providers of core platform services that are foreseen to become entrenched. The Commission should be able to take a decision by drawing adverse inferences from facts available where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.

Or. en

Amendment 128

Jessica Stegrud, Robert Roos

Proposal for a regulation

Recital 25

Text proposed by the Commission

(25) Such an assessment can only be done in light of a market investigation, while taking into account the quantitative thresholds. In its assessment the Commission should pursue the objectives of preserving and fostering the level of innovation, the quality of digital products and services, the degree to which prices are fair and competitive, and the degree to which quality or choice for business users and for end users is or remains high. Elements that are specific to the providers of core platform services concerned, such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration, can be taken into account. In addition, a very high market capitalisation, a very high ratio of equity value over profit or a very high turnover derived from end users of a single core platform service can point to the tipping of the market or leveraging potential of such providers. Together with

Amendment

(25) Such an assessment can only be done in light of a market investigation, while taking into account the quantitative thresholds. In its assessment the Commission should pursue the objectives of preserving and fostering the level of innovation, the quality of digital products and services, the degree to which prices are fair and competitive, and the degree to which quality or choice for business users and for end users is or remains high. Elements that are specific to the providers of core platform services concerned, such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration, can be taken into account. ***Potential negative impacts for small and medium-sized enterprises and consumers should always be taken into consideration.*** In addition, a very high market capitalisation, a very high ratio of equity value over profit or a very high turnover derived from end users of a single

market capitalisation, high growth rates, or decelerating growth rates read together with profitability growth, are examples of dynamic parameters that are particularly relevant to identifying such providers of core platform services that are foreseen to become entrenched. The Commission should be able to take a decision by drawing adverse inferences from facts available where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.

core platform service can point to the tipping of the market or leveraging potential of such providers. Together with market capitalisation, high growth rates, or decelerating growth rates read together with profitability growth, are examples of dynamic parameters that are particularly relevant to identifying such providers of core platform services that are foreseen to become entrenched. The Commission should be able to take a decision by drawing adverse inferences from facts available where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.

Or. en

Amendment 129

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Pernille Weiss, Christian Ehler, Henna Virkkunen

Proposal for a regulation

Recital 25

Text proposed by the Commission

(25) Such an assessment can only be done in light of a market investigation, while taking into account the quantitative thresholds. In its assessment the Commission should pursue the objectives of preserving and fostering the level of innovation, the quality of digital products and services, the degree to which prices are fair and competitive, and the degree to which quality or choice for business users and for end users is or remains high. Elements that are specific to the providers of core platform services concerned, such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-

Amendment

(25) Such an assessment can only be done in light of a market investigation, while taking into account the quantitative thresholds. In its assessment the Commission should pursue the objectives of preserving and fostering the level of innovation, the quality of digital products and services, the degree to which prices are fair and competitive, and the degree to which quality or choice for business users and for end users is or remains high. Elements that are specific to the providers of core platform services concerned, such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-

homing or vertical integration, can be taken into account. In addition, a very high market capitalisation, a very high ratio of equity value over profit or a very high turnover derived from end users of a single core platform service can point to the tipping of the market or leveraging potential of such providers. Together with market capitalisation, high growth rates, or decelerating growth rates read together with profitability growth, are examples of dynamic parameters that are particularly relevant to identifying such providers of core platform services that are *foreseen to become* entrenched. The Commission should be able to take a decision by drawing adverse inferences from facts available where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.

homing or vertical integration, can be taken into account. In addition, a very high market capitalisation, a very high ratio of equity value over profit or a very high turnover derived from end users of a single core platform service can point to the tipping of the market or leveraging potential of such providers. Together with market capitalisation, high growth rates, or decelerating growth rates read together with profitability growth, are examples of dynamic parameters that are particularly relevant to identifying such providers of core platform services that are entrenched. The Commission should be able to take a decision by drawing adverse inferences from facts available where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.

Or. en

Amendment 130

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Pernille Weiss, Christian Ehler, Henna Virkkunen

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) A particular subset of rules should apply to those providers of core platform services that are foreseen to enjoy an entrenched and durable position in the near future. The same specific features of core platform services make them prone to tipping: once a service provider has obtained a certain advantage over rivals or potential challengers in terms of scale or intermediation power, its position may become unassailable and the situation may evolve to the point that it is likely to become durable and entrenched in the

Amendment

deleted

near future. Undertakings can try to induce this tipping and emerge as gatekeeper by using some of the unfair conditions and practices regulated in this Regulation. In such a situation, it appears appropriate to intervene before the market tips irreversibly.

Or. en

Amendment 131

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 26

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

Necessary for consistency with the changes to the articles.

Amendment 132

Adam Jarubas

on behalf of the PPE Group

**Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Pernille Weiss,
Christian Ehler, Henna Virkkunen**

Proposal for a regulation

Recital 27

Text proposed by the Commission

Amendment

(27) However, such an early intervention should be limited to imposing only those obligations that are necessary and appropriate to ensure that the services in question remain contestable and allow to avoid the qualified risk of unfair conditions and practices. Obligations that prevent the provider of core platform services concerned from achieving an entrenched and durable position in its operations, such as those preventing unfair leveraging, and those that facilitate switching and multi-homing are more directly geared towards this purpose. To ensure proportionality, the Commission should moreover apply from that subset of obligations only those that are necessary and proportionate to achieve the objectives of this Regulation and should regularly review whether such obligations should be maintained, suppressed or adapted.

deleted

Or. en

Amendment 133

Markus Buchheit, Elena Lizzi

Proposal for a regulation

Recital 28

Text proposed by the Commission

Amendment

(28) This should allow the Commission to intervene in time and effectively, while fully respecting the proportionality of the considered measures. It should also reassure actual or potential market participants about the fairness and contestability of the services concerned.

deleted

Or. en

Amendment 134

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 29

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 135

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Pernille Weiss,

Christian Ehler, Henna Virkkunen

Proposal for a regulation

Recital 30

Text proposed by the Commission

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

Amendment

(30) The very rapidly changing and complex technological nature of core platform services requires a regular review of the status of gatekeepers. To provide all of the market participants, including the gatekeepers, with the required certainty as to the applicable legal obligations, a time limit for such regular reviews is necessary. It is also important to conduct such reviews on a regular basis and at least every two years.

Or. en

Amendment 136

Paul Tang, Eva Kaili

Proposal for a regulation

Recital 31

Text proposed by the Commission

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

Amendment

(31) To ensure the effectiveness of the review of gatekeeper status as well as the possibility to adjust the list of core platform services provided by a gatekeeper, the gatekeepers should inform the Commission of all of their intended and concluded ***concentrations*** within the ***meaning of Article 3 of Regulation (EC) No 139/2004 or any agreement or series of agreements having a substantially similar effect***. Such information should not only serve the review process mentioned above, regarding the status of individual gatekeepers, but will also provide information that is crucial to monitoring broader contestability trends in the digital

context of the market investigations foreseen by this Regulation.

sector and can therefore be a useful factor for consideration in the context of the market investigations foreseen by this Regulation. ***To safeguard the fairness and contestability of core platform services provided by gatekeepers, any concentration by undertakings that have been considered as gatekeepers for more than 2 years should be forbidden by default, unless the specific concentration is indisputably not impeding contestable and fair markets in the digital sector. The burden of proof for this lies on the gatekeeper.***

Or. en

Amendment 137

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 31

Text proposed by the Commission

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

Amendment

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

Justification

The available information needs to be given proper use in order to achieve efficient policy making.

Amendment 138**Marisa Matias**

on behalf of the The Left Group

Proposal for a regulation**Recital 31***Text proposed by the Commission*

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

Amendment

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

Or. en

Amendment 139**Adam Jarubas**

on behalf of the PPE Group

Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Recital 31

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 140

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 32

Text proposed by the Commission

(32) To safeguard the fairness and contestability of core platform services provided by gatekeepers, it is necessary to provide in a clear and unambiguous manner for a set of harmonised obligations with regard to those services. Such rules are needed to address the risk of harmful effects of unfair practices imposed by gatekeepers, to the benefit of the business environment in the services concerned, to the benefit of users and ultimately to the benefit of society as a whole. Given the

Amendment

(32) To safeguard the fairness and contestability of core platform services provided by gatekeepers, it is necessary to provide in a clear and unambiguous manner for a set of harmonised obligations with regard to those services. Such rules are needed to address the risk of harmful effects of unfair practices imposed by gatekeepers, to the benefit of the business environment in the services concerned, to the benefit of users and ultimately to the benefit of society as a whole. Given the

fast-moving and dynamic nature of digital markets, and the substantial economic power of gatekeepers, it is important that these obligations are effectively applied without being circumvented. To that end, the obligations in question should apply to any practices by a gatekeeper, irrespective of its form and irrespective of whether it is of a contractual, commercial, technical or any other nature, insofar as a practice corresponds to the type of practice that is the subject of one of the obligations of this Regulation.

fast-moving and dynamic nature of digital markets, and the substantial economic power of gatekeepers, it is important that these obligations are effectively applied without being circumvented. To that end, the obligations in question should apply to any practices by a gatekeeper, irrespective of its form and irrespective of whether it is of a contractual, commercial, technical or any other nature, ***including through product design, structure, function or manner of operation capable of influencing user's choice or autonomy, or through agreements with third party business partners of the gatekeepers*** insofar as a practice corresponds to the type of practice that is the subject of one of the obligations of this Regulation.

Or. en

Justification

Benefiting for current market observations, we need to ensure that practices already identified are clearly covered, therefore the examples have been added.

Amendment 141

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Recital 32

Text proposed by the Commission

(32) To safeguard the fairness and contestability of core platform services provided by gatekeepers, it is necessary to provide in a clear and unambiguous manner for a set of harmonised obligations with regard to those services. Such rules are needed to address the risk of harmful effects of unfair practices imposed by gatekeepers, to the benefit of the business environment in the services concerned, to the benefit of users and ultimately to the

Amendment

(32) To safeguard the fairness and contestability of core platform services provided by gatekeepers, it is necessary to provide in a clear and unambiguous manner for a set of harmonised obligations with regard to those services. Such rules are needed to address the risk of harmful effects of unfair practices imposed by gatekeepers, to the benefit of the business environment in the services concerned, to the benefit of users and ultimately to the

benefit of society as a whole. Given the fast-moving and dynamic nature of digital markets, and the substantial economic power of gatekeepers, it is important that these obligations are effectively applied without being circumvented. To that end, the obligations in question should apply to any *practices* by a gatekeeper, irrespective of its form and irrespective of whether it is of a contractual, commercial, technical or any other nature, insofar as *a practice corresponds to the type of practice that is the subject of one of the obligations of this Regulation.*

benefit of society as a whole. Given the fast-moving and dynamic nature of digital markets, and the substantial economic power of gatekeepers, it is important that these obligations are effectively applied without being circumvented. To that end, the obligations in question should apply to any *behaviour* by a gatekeeper, irrespective of its form and irrespective of whether it is of a contractual, commercial, technical or any other nature, *including product or interface design subverting, impairing or making user decision-making more burdensome*, insofar as *such behaviour has an equivalent object or effect to the practices that are prohibited under this Regulation.*

Or. en

Amendment 142

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Recital 33

Text proposed by the Commission

(33) The obligations laid down in this Regulation are limited to what is necessary and justified to address the unfairness of the identified practices by gatekeepers and to ensure contestability in relation to core platform services provided by gatekeepers. Therefore, the obligations should correspond to those practices that are considered unfair by taking into account the features of the digital sector and where experience gained, for example in the enforcement of the EU competition rules, shows that they have a particularly negative direct impact on the business users and end users. In addition, it is necessary to provide for the possibility of a regulatory dialogue with gatekeepers to tailor those obligations that are likely to require specific implementing measures in order to ensure their effectiveness and

Amendment

(33) The obligations laid down in this Regulation are limited to what is necessary and justified to address the unfairness of the identified practices by gatekeepers and to ensure contestability in relation to core platform services provided by gatekeepers. Therefore, the obligations should correspond to those practices that are considered unfair by taking into account the features of the digital sector and where experience gained, for example in the enforcement of the EU competition rules, shows that they have a particularly negative direct impact on the business users and end users. In addition, it is necessary to provide for the possibility of a regulatory dialogue with gatekeepers to tailor those obligations that are likely to require specific implementing measures in order to ensure their effectiveness and

proportionality. The obligations should only be updated after a thorough investigation on the nature and impact of specific practices that may be newly identified, following an in-depth investigation, as unfair or limiting contestability in the same manner as the unfair practices laid down in this Regulation while potentially escaping the scope of the current set of obligations.

proportionality. The obligations should only be updated after a thorough investigation on the nature and impact of specific practices that may be newly identified, following an in-depth investigation, as unfair or limiting contestability in the same manner as the unfair practices laid down in this Regulation while potentially escaping the scope of the current set of obligations. ***In order to enhance the effectiveness of the updating process, the Commission should also use the reporting mechanism involving competitors, business users, end users and Member States to inform the Commission in the event of any of the identified practices.***

Or. en

Amendment 143

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Recital 33

Text proposed by the Commission

(33) The obligations laid down in this Regulation are limited to what is necessary and justified to address the unfairness of the identified practices by gatekeepers and to ensure contestability in relation to core platform services provided by gatekeepers. Therefore, the obligations should correspond to those practices that are considered unfair by taking into account the features of the digital sector and where experience gained, for example in the enforcement of the EU competition rules, shows that they have a particularly negative direct impact on the business users and end users. In addition, it is necessary to provide for the possibility of a regulatory dialogue with gatekeepers to tailor those obligations that are likely to require specific implementing measures in order to ensure their effectiveness and

Amendment

(33) The obligations laid down in this Regulation are limited to what is necessary and justified to address the unfairness of the identified practices by gatekeepers and to ensure contestability in relation to core platform services provided by gatekeepers. Therefore, the obligations should correspond to those practices that are considered unfair by taking into account the features of the digital sector and where experience gained, for example in the enforcement of the EU competition rules, shows that they have a particularly negative direct impact on the business users and end users. ***The obligations laid down in the Regulation should specifically take into account the nature of the core platform services provided and the presence of different business models.*** In addition, it is necessary to provide for

proportionality. The obligations should only be updated after a thorough investigation on the nature and impact of specific practices that may be newly identified, following an in-depth investigation, as unfair or limiting contestability in the same manner as the unfair practices laid down in this Regulation while potentially escaping the scope of the current set of obligations.

the possibility of a regulatory dialogue with gatekeepers to tailor those obligations that are likely to require specific implementing measures in order to ensure their effectiveness and proportionality. The obligations should only be updated after a thorough investigation on the nature and impact of specific practices that may be newly identified, following an in-depth investigation, as unfair or limiting contestability in the same manner as the unfair practices laid down in this Regulation while potentially escaping the scope of the current set of obligations.

Or. en

Amendment 144

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 33

Text proposed by the Commission

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

Amendment

(33) The obligations laid down in this Regulation are limited to what is necessary and justified to address the unfairness of the identified practices by gatekeepers and to ensure contestability in relation to core platform services provided by gatekeepers. Therefore, the obligations should correspond to those practices that are considered unfair by taking into account the features of the digital sector and where experience gained, for example in the enforcement of the EU competition rules, shows that they have a particularly negative direct impact on the business users and end users, ***and ultimately possibly on democracy and fundamental rights too***. In addition, it is necessary to provide for the possibility of a regulatory dialogue with gatekeepers to tailor those obligations that are likely to require specific implementing measures in order to ensure their effectiveness and

investigation on the nature and impact of specific practices that may be newly identified, following an in-depth investigation, as unfair or limiting contestability in the same manner as the unfair practices laid down in this Regulation while potentially escaping the scope of the current set of obligations.

proportionality. The obligations should only be updated after a thorough investigation on the nature and impact of specific practices that may be newly identified, following an in-depth investigation, as unfair or limiting contestability in the same manner as the unfair practices laid down in this Regulation while potentially escaping the scope of the current set of obligations.

Or. en

Amendment 145
Rasmus Andresen
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 34 a (new)

Text proposed by the Commission

Amendment

(34 a) The network effect is one of the factors that accelerated very large online platforms growth, increasing the value of their services to its users and the user base. When combined with the increased level of integration that technology has in most people's lives, this has a chilling effect on the choice that consumers have. Data portability requirements are a first step in re-establishing the freedom of choice, but in some particular cases more measures are needed. Looking at how communication markets evolved over time and the changes in communication habits, it can be concluded that some services offered by online platforms are replacing services like voice and SMS communications, services that come with interconnection, portability and interoperability requirements. Due to its social importance, access to internet was recently included in the Universal Service obligations, and as a particular case of services, number independent interpersonal communication services are subject to potential remedies by National

Regulatory Agencies according to Article 61 (2)(c) of the Directive 2018/1792, the European Electronic Communication Code. As this regulation applies in the particular case of gatekeepers, meaning entities that have been already assessed as having a significant impact on the internal market and endangering end-to-end connectivity, this Regulation builds up on the EECC provisions and introduces a interoperability requirement for gatekeepers services that are social media or number independent interpersonal communication services.

Or. en

Justification

Building up on the EECC provisions, this recital introduces the changes in the articles on a interoperability requirement for gatekeepers services that are social media or number independent interpersonal communication services.

Amendment 146

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 35

Text proposed by the Commission

(35) The obligations laid down in this Regulation are necessary to address identified public policy concerns, there being no alternative and less restrictive measures that would effectively achieve the same result, having regard to need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices.

Amendment

(35) The obligations laid down in this Regulation are necessary to address identified public policy concerns, there being no alternative and less restrictive measures that would effectively achieve the same result, having regard to need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial *or manipulative* practices.

Or. en

Amendment 147

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation
Recital 35

Text proposed by the Commission

(35) The obligations laid down in this Regulation are necessary to address identified public policy concerns, there being no alternative and less restrictive measures that would effectively achieve the same result, having regard to need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices.

Amendment

(35) The obligations laid down in this Regulation are necessary to address identified public policy concerns, there being no alternative and less restrictive measures that would effectively achieve the same result, having regard to **the** need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices.

Or. en

Amendment 148
Christophe Grudler, Valérie Hayer

Proposal for a regulation
Recital 36

Text proposed by the Commission

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

Amendment

(36) The conduct of combining end user data from different sources or signing in users to different services of gatekeepers gives them potential advantages in terms of accumulation of data, thereby raising barriers to entry. To ensure that gatekeepers do not unfairly undermine the contestability of core platform services, they should enable their end users to freely choose to opt-in to such business practices by offering a less personalised **but equivalent** alternative, **and without making the core platform service or certain functionalities thereof conditional upon the end user's consent in the meaning of Article 6(1)(a) of Regulation (EU) 2016/679. The less personalised alternative should not be different or of inferior quality compared to the service offered to the end users who consent to the combining of their personal data.** The possibility **of data combination** should

cover all possible sources of personal data, including own *core platform* services **and other services offered by** the gatekeeper as well as third party *services (where data is obtained, for example, via cookies or 'like' buttons included on third party websites)*. **When the gatekeeper requests consent, it should proactively present a user-friendly solution to end users to provide, modify or revoke consent** in an explicit, clear and straightforward manner. **Consent should be given in a clear, informed and specific way by the end user who should be informed that a refusal could lead to a less personalised offer but that the quality and functionalities of the core platform service will remain unchanged.**

Or. en

Amendment 149
Rasmus Andresen
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 36

Text proposed by the Commission

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

Amendment

(36) The conduct of combining end user data from different sources or signing in users to different services of gatekeepers gives them potential advantages in terms of accumulation of data, thereby raising barriers to entry. ***Individual consent, expressed in accordance with GDPR is always needed in order to combine personal data across services. Article 5(a) of this Regulation should not be understood as suggesting that platforms that are not designated as gatekeepers can act without the individual's consent. It needs to be recalled that consent is not the only necessary requirement for data processing, and data limitation should guide the collection and use of data in all***

clear and straightforward manner.

online activities.

Or. en

Justification

It need to be clarified that combining end user data from different sources is a practice that is not limited to gatekeepers, and the fact that there are additional requirements for gatekeepers does not mean a change to GDPR but a market mechanism that apply only once the GDPR requirements are met.

Amendment 150

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 36

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 151

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 37

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

These changes align the text with the amendments proposed for the Articles.

Amendment 152

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Recital 37

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 153

Jessica Stegrud, Robert Roos

Proposal for a regulation

Recital 37

Text proposed by the Commission

(37) Because of their position,

Amendment

(37) Because of their position,

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

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

Or. en

Amendment 154

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 37

Text proposed by the Commission

(37) Because of their position, gatekeepers might in certain cases restrict the ability of business users of their online intermediation services to offer their goods or services to end users under more favourable conditions, including price, through other online intermediation

Amendment

(37) Because of their position, gatekeepers might in certain cases restrict the ability of business users of their online intermediation services to offer their goods or services to end users under more favourable conditions, including price, through other online intermediation

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

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

Or. en

Amendment 155

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Recital 37

Text proposed by the Commission

(37) Because of their position, gatekeepers might in certain cases restrict the ability of business users of their online intermediation services to offer their goods or services to end users under more favourable conditions, including price, **through other** online intermediation services. Such restrictions have a significant deterrent effect on the business users of gatekeepers in terms of their use of alternative **online** intermediation services, limiting **inter-platform** contestability, which in turn limits choice of alternative

Amendment

(37) Because of their position, gatekeepers might in certain cases restrict the ability of business users of their online intermediation services to offer their goods or services to end users under **the same or** more favourable conditions, including price, **outside their** online intermediation services. Such restrictions have a significant deterrent effect on the business users of gatekeepers in terms of their use of alternative intermediation services, limiting contestability, which in turn limits choice of alternative **distribution** channels for end

online intermediation channels for end users. To ensure that business users of online intermediation services of gatekeepers can freely choose alternative **online intermediation services** and differentiate the conditions under which they offer their products or services to their end users, it should not be accepted that gatekeepers limit business users from choosing to differentiate commercial conditions, including price. Such a restriction should apply to any measure with equivalent effect, such as for example increased commission rates **or** de-listing of the offers of business users.

users. To ensure that business users of online intermediation services of gatekeepers can freely choose alternative **distribution channels** and differentiate the conditions under which they offer their products or services to their end users, it should not be accepted that gatekeepers limit business users from choosing to differentiate commercial conditions, including price. Such a restriction should apply to any measure with equivalent effect, such as for example increased commission rates, de-listing **or less favourable ranking** of the offers of business users.

Or. en

Amendment 156

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Recital 38

Text proposed by the Commission

(38) To prevent further reinforcing their dependence on the core platform services of gatekeepers, the business users of these gatekeepers should be free in promoting and choosing the distribution channel they consider most appropriate to interact with any end users that these business users have already acquired through core platform services provided by the gatekeeper. Conversely, end users should also be free to choose offers of such business users and to enter into contracts with them either through core platform services of the gatekeeper, if applicable, or from a direct distribution channel of the business user or another indirect distribution channel such business user may use. This should apply to the promotion of offers and conclusion of contracts between business users and end users. Moreover, the ability of end users to freely acquire content, subscriptions,

Amendment

(38) To prevent further reinforcing their dependence on the core platform services of gatekeepers, the business users of these gatekeepers should be free in promoting and choosing the distribution channel they consider most appropriate to interact with any end users that these business users have already acquired through core platform services provided by the gatekeeper. Conversely, end users should also be free to choose offers of such business users and to enter into contracts with them either through core platform services of the gatekeeper, if applicable, or from a direct distribution channel of the business user or another indirect distribution channel such **a** business user may use. This should apply to the promotion of offers, **any communications** and conclusion of contracts between business users and end users. Moreover, the ability of end users to freely acquire

features or other items outside the core platform services of the gatekeeper should not be undermined or restricted. In particular, it should be avoided that gatekeepers restrict end users from access to and use of such services via a software application running on their core platform service. For example, subscribers to online content purchased outside a software application download or purchased from a software application store should not be prevented from accessing such online content on a software application on the gatekeeper's core platform service simply because it was purchased outside such software application or software application store.

content, subscriptions, features or other items outside the core platform services of the gatekeeper should not be undermined or restricted. In particular, it should be avoided that gatekeepers restrict end users from access to and use of such services via a software application running on their core platform service. For example, subscribers to online content purchased outside a software application download or purchased from a software application store should not be prevented from accessing such online content on a software application on the gatekeeper's core platform service simply because it was purchased outside such software application or software application store.

Or. en

Amendment 157
François-Xavier Bellamy

Proposal for a regulation
Recital 39

Text proposed by the Commission

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

Amendment

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

gatekeepers to lay down in their agreements the terms of use including the use of lawful complaints-handling mechanisms, including any use of alternative dispute resolution mechanisms **or of** the jurisdiction of specific courts in compliance with respective Union and national law This should therefore also be without prejudice to the role gatekeepers play in the fight against illegal content online.

gatekeepers to lay down in their agreements the terms of use, ***drafted inaccessible, intelligible and clear language***, including the use of lawful complaints-handling mechanisms, including any use of alternative dispute resolution mechanisms **and providing clear information on** the jurisdiction of specific courts in compliance with respective Union and national law. This should therefore also be without prejudice to the role gatekeepers play in the fight against illegal content online.

Or. en

Amendment 158

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 39

Text proposed by the Commission

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

Amendment

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

mechanisms, including any use of alternative dispute resolution mechanisms or of the jurisdiction of specific courts in compliance with respective Union and national law This should therefore also be without prejudice to the role gatekeepers play in the fight against illegal content online.

including the use of lawful complaints-handling mechanisms, including any use of alternative dispute resolution mechanisms or of the jurisdiction of specific courts in compliance with respective Union and national law This should therefore also be without prejudice to the role gatekeepers play in the fight against illegal content online.

Or. en

Amendment 159

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Recital 39

Text proposed by the Commission

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

Amendment

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

alternative dispute resolution mechanisms or of the jurisdiction of specific courts in compliance with respective Union and national law This should therefore also be without prejudice to the role gatekeepers play in the fight against illegal content online.

mechanisms, including any use of alternative dispute resolution mechanisms or of the jurisdiction of specific courts in compliance with respective Union and national law This should therefore also be without prejudice to the role gatekeepers play in the fight against illegal content online.

Or. en

Amendment 160

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Recital 39 a (new)

Text proposed by the Commission

Amendment

(39 a) The national competition authorities should gather complaints from third parties on unfair behaviours by gatekeepers that fall within the scope of this Regulation and report relevant cases to the Commission. Based on clearly defined conditions and investigation priorities, the Commission should then examine the complaints and act accordingly by, for example, opening a formal market investigation.

Or. en

Amendment 161

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Recital 40

Text proposed by the Commission

Amendment

(40) Identification services are crucial for business users to conduct their business, as these can allow them not only to optimise services, to the extent allowed under Regulation (EU) 2016/679 and

(40) Identification ***and payment*** services are crucial for ***the economic development of*** business users to conduct their business, as these can allow them not only to optimise services, to the extent allowed

Directive 2002/58/EC of the European Parliament and of the Council³³, but also to inject trust in online transactions, in compliance with Union or national law. Gatekeepers should therefore not use their position as provider of core platform services to require their dependent business users to include any identification services provided by the gatekeeper itself as part of the provision of services or products by these business users to their end users, where other identification services are available to such business users.

³³ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

under Regulation (EU) 2016/679 and Directive 2002/58/EC of the European Parliament and of the Council³³, but also to inject trust in online transactions, in compliance with Union or national law. Gatekeepers should therefore not use their position as provider of core platform services to require their dependent business users to include any **payment and** identification services provided by the gatekeeper itself as part of the provision of services or products by these business users to their end users, where other identification services are available to such business users.

³³ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

Or. en

Amendment 162
Axel Voss, Jens Gieseke

Proposal for a regulation
Recital 40 a (new)

Text proposed by the Commission

Amendment

(40 a) A serious imbalance of bargaining power and, consequently, unfair practices is not only demonstrated in relation to gatekeepers' business users but can also affect other actors in the digital value chain. Particularly their status as an important gateway and the related vast and growing internet traffic levels they generate enable gatekeepers to leverage their bargaining power in negotiations with the operators of transport and access networks as well as Internet Access

Service Providers. The networks must handle gatekeepers' vast amounts of traffic and ensure through efficient IP interconnection that gatekeepers' services can be reliably accessed and utilized both by end users and business users. They thus critically hinge on the availability and quality of gatekeepers' core platform services. The importance of their core platform services for end users and business users in combination with the threat of consciously rerouting their traffic to cause congestion and create extensive quality degradations offers gatekeepers a critical leverage when commercially negotiating the contractual conditions for IP Transport. Causing congestion would not only impact the quality of the gatekeeper's own services but cause collateral damage in limiting the performance of third-party services, ultimately impeding end users' and business users' internet experience. Hence, in addition to having the ability to leverage their gatekeeping power from core platform services to ancillary services, gatekeepers have the ability and incentive to leverage their gatekeeper power to extract unfair terms and conditions for IP Transport. Gatekeepers should therefore be obliged to treat network operators and Internet Access Service Providers fairly and not to exploit their gatekeeping position in commercial negotiations.

Or. en

Amendment 163

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Recital 40 a (new)

(40 a) The gatekeepers generate vast and growing internet traffic levels challenging the capacities of operators of transport and access networks as well as Internet Access Service Providers on the one hand but also allowing to leverage their bargaining power in commercially negotiating the contractual conditions for IP Transport. Causing congestion would not only impact the quality of the gatekeeper's own services but cause additional deterioration to the performance of third-party services, ultimately impeding end users and business users internet experience quality of which is attributed by the users to the Internet providers. Gatekeepers should therefore be obliged to treat network operators and Internet Access Service Providers fairly and not to exploit their gatekeeping position in commercial negotiations.

Or. en

Amendment 164

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Recital 41

Text proposed by the Commission

(41) Gatekeepers should not restrict the free choice of end users by technically preventing switching between or subscription to different software applications and services. Gatekeepers should therefore ensure a free choice irrespective of whether they are the manufacturer of any hardware by means of which such software applications or services are accessed and should not raise

Amendment

(41) Gatekeepers should not restrict ***or prevent*** the free choice of end users by technically preventing switching between or subscription to different software applications and services. ***This would allow more providers to offer their services, thereby ultimately providing greater choice to the end user.*** Gatekeepers should therefore ensure a free choice irrespective of whether they are the

artificial technical barriers so as to make switching **impossible** or ineffective. The mere offering of a given product or service to **end users**, including by means of pre-installation, as well the improvement of **end user** offering, such as better prices or **increased** quality, **would not in itself constitute a** barrier to switching.

manufacturer of any hardware by means of which such software applications or services are accessed and **should** not raise artificial technical barriers so as to make switching **more difficult** or ineffective. The mere offering of a given product or service to **consumers**, including by means of pre-installation, as well **as** the improvement of **the** offering to **end users**, such as better prices or quality, **should not be construed as constituting a prohibited** barrier to switching.

Or. en

Amendment 165

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 41

Text proposed by the Commission

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

Amendment

(41) Gatekeepers should not restrict the free choice of end users by technically preventing switching between or subscription to different software applications and services. Gatekeepers should therefore ensure a free choice irrespective of whether they are the manufacturer of any hardware by means of which such software applications or services are accessed and should not raise artificial technical barriers so as to make switching impossible or ineffective. The **commercial terms, including pricing, for the provision of services to a business user or end user should not be made dependent upon whether or to what degree business user or end user uses other applications or services from the same provider, or a related entity.**

Or. en

Justification

The issue of default installation is still a factor that limits choice. Moreover, commercial terms are potentially used as a limiting factor.

Amendment 166

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 41

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 167

Paul Tang, Eva Kaili

Proposal for a regulation

Recital 42

Text proposed by the Commission

(42) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-

Amendment

(42) ***The advertising revenues for many online advertising services, such as traditional publishers, have significantly declined, whereas the advertising***

transparent and opaque. This opacity is **partly** linked to the practices of a few platforms, but is also due to the sheer complexity of modern day programmatic advertising. The sector is considered to have become more non-transparent after the introduction of new privacy legislation, and is expected to become even more opaque with the announced removal of third-party cookies. This **often** leads to a lack of information and knowledge for advertisers and publishers about the conditions of the advertising services they purchased and undermines their ability to switch to alternative providers of online advertising services. Furthermore, the costs of online advertising are **likely to be** higher than they would be in a fairer, more transparent and contestable platform environment. These higher costs are likely to be reflected in the prices that end users pay for many daily products and services relying on the use of online advertising. Transparency obligations should therefore require gatekeepers to provide advertisers and publishers to whom they supply online advertising services, **when requested and to the extent possible**, with information that allows both sides to understand the price paid for each of the different advertising services provided as part of the relevant advertising value chain.

revenues for gatekeepers have steadily increased. The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are **very** often non-transparent and opaque. This opacity is **largely** linked to the practices of a few platforms, but is also due to the sheer complexity of modern day programmatic advertising. The **online advertising** sector is considered to have become more non-transparent after the introduction of new privacy legislation, and is expected to become even more opaque with the announced removal of third-party cookies. This leads to a lack of **trustworthy** information and knowledge for advertisers and publishers about the conditions of the advertising services they purchased and undermines their ability to switch to alternative providers of online advertising services **or build their own service.** Furthermore, the costs of online advertising are **significantly** higher than they would be in a fairer, more transparent and contestable platform environment. These higher costs are likely to be reflected in the prices that end users pay for many daily products and services relying on the use of online advertising. **In addition, a few dominant platforms have gathered significant sets of data and data points, which erodes the exclusive trademarks of publishers and advertisers and extracts their client's data, creating unfair competition.** Transparency obligations should therefore require gatekeepers to provide advertisers and publishers to whom they supply online advertising services **continuous, real-time and free of charge access to the performance measuring tools of the gatekeeper and provide for entire disclosure and transparency of the parameters and data used for** with information that allows both sides to understand the price paid for each of the different advertising services provided as part of the relevant advertising value chain. **A gatekeeper should further provide, free of charge, reliable, non-aggregated,**

granular and complete data necessary for advertisers and publishers to carry out their own independent high-quality and real-time evaluation of intermediation services, including verification of the ad inventory. Moreover, a prohibition on combining data sets should prevent tracking of end users and thereby level the playing field for providers of online advertising services, strengthening funding of public media and restoring privacy of end-users.

Or. en

Amendment 168

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 42

Text proposed by the Commission

(42) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This opacity is partly linked to the practices of a few platforms, but is also due to the sheer complexity of modern day programmatic advertising. ***The sector is considered to have become more non-transparent after the introduction of new privacy legislation, and is expected to become even more opaque with the announced removal of third-party cookies.*** This often leads to a lack of information and knowledge for advertisers and publishers about the conditions of the advertising services they purchased and undermines their ability to switch to alternative providers of online advertising services. Furthermore, the costs of online advertising are likely to be higher than they would be in a fairer, more transparent and contestable platform environment. These

Amendment

(42) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This opacity is partly linked to the practices of a few platforms, but is also due to the sheer complexity of modern day programmatic advertising. This often leads to a lack of information and knowledge for advertisers and publishers about the conditions of the advertising services they purchased and undermines their ability to switch to alternative providers of online advertising services. Furthermore, the costs of online advertising are likely to be higher than they would be in a fairer, more transparent and contestable platform environment. These higher costs are likely to be reflected in the prices that end users pay for many daily products and services relying on the use of online advertising. Transparency obligations should therefore require gatekeepers to provide advertisers and

higher costs are likely to be reflected in the prices that end users pay for many daily products and services relying on the use of online advertising. Transparency obligations should therefore require gatekeepers to provide advertisers and publishers to whom they supply online advertising services, when requested and to the extent possible, with information that allows both sides to understand the price paid for each of the different advertising services provided as part of the relevant advertising value chain.

publishers to whom they supply online advertising services, when requested and to the extent possible, with information that allows both sides to understand the price paid for each of the different advertising services provided as part of the relevant advertising value chain.

Or. en

Justification

Privacy legislation is often used as a scape goat, forgetting that fundamental rights are never a barrier. Buyers of advertisement do not need access to personal data, but to the advertiser own data.

Amendment 169

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Jerzy Buzek, Massimiliano Salini, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Recital 42

Text proposed by the Commission

(42) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This opacity is partly linked to the practices of a few platforms, but is also due to the sheer complexity of modern day programmatic advertising. The sector is considered to have become more non-transparent after the introduction of new privacy legislation, and is expected to become even more opaque with the ***announced removal of third-party cookies***. This often leads to a lack of information and knowledge for

Amendment

(42) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This opacity is partly linked to the practices of a few platforms, but is also due to the sheer complexity of modern day programmatic advertising. The sector is considered to have become more non-transparent after the introduction of new privacy legislation, and is expected to become even more opaque with the ***unilateral decision making by industry actors that are not representative of the entire advertising***

advertisers and publishers about the conditions of the advertising services they purchased and undermines their ability to switch to alternative providers of online advertising services. Furthermore, the costs of online advertising are likely to be higher than they would be in a fairer, more transparent and contestable platform environment. These higher costs are likely to be reflected in the prices that end users pay for many daily products and services relying on the use of online advertising. Transparency obligations should therefore require gatekeepers to provide advertisers and publishers to whom they supply online advertising services, ***when requested and to the extent possible, with*** information that allows both sides to understand the price paid for each of the different advertising services provided as part of the relevant advertising value chain.

value chain. This often leads to a lack of information and knowledge for advertisers and publishers about the conditions of the advertising services they purchased and undermines their ability to switch to alternative providers of online advertising services. Furthermore, the costs of online advertising are likely to be higher than they would be in a fairer, more transparent and contestable platform environment. These higher costs are likely to be reflected in the prices that end users pay for many daily products and services relying on the use of online advertising. Transparency obligations should therefore require gatekeepers to provide advertisers and publishers to whom they supply online advertising services, ***with free of charge, effective, high-quality, continuous and real-time*** information that allows both sides to understand the price paid for each of the different advertising services provided as part of the relevant advertising value chain ***and the availability and visibility of advertisement***.

Or. en

Amendment 170
François-Xavier Bellamy

Proposal for a regulation
Recital 43

Text proposed by the Commission

(43) A gatekeeper may in certain circumstances have a dual role as a provider of core platform services whereby it provides a core platform service to its business users, while also competing with those same business users in the provision of the same or similar services or products to the same end users. In these circumstances, a gatekeeper may take advantage of its dual role to use data, generated from transactions by its business users on the core platform, for the purpose

Amendment

(43) A gatekeeper may in certain circumstances have a dual role as a provider of core platform services whereby it provides a core platform service to its business users, while also competing with those same business users in the provision of the same or similar services or products to the same end users, ***including as part of an ancillary service***. In these circumstances, a gatekeeper may take advantage of its dual role to use data, generated from transactions by its business

of its own services that offer similar services to that of its business users. This may be the case, for instance, where **a gatekeeper** provides an online marketplace or app store to business users, and at the same time offer services as an online retailer or provider of application software against those business users. To prevent gatekeepers from unfairly benefitting from their dual role, it should be ensured that they refrain from using any aggregated or non-aggregated data, which may include anonymised and personal data that is not publicly available to offer similar services to those of their business users. This obligation should apply to the gatekeeper as a whole, including but not limited to its business unit that competes with the business users of a core platform service.

users on the core platform, **including from transactions on its ancillary service**, for the purpose of its own services that offer similar services **or goods** to that of its business users **or of its suppliers**. This may be the case, for instance, where **ag ate keeper** provides an online marketplace or app store to business users, and at the same time offer services as an online retailer or provider of application software against those business users **or against its suppliers**. To prevent gatekeepers from unfairly benefitting from their dual role, it should be ensured that they refrain from using any aggregated or non-aggregated data, which may include anonymised and personal data that is not publicly available to offer similar services to those of their business users. This obligation should apply to the gatekeeper as a whole, including but not limited to its business unit that competes with the business users of a core platform service **or with the supplier of an ancillary service**.

Or. en

Amendment 171

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Jerzy Buzek, Massimiliano Salini, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Recital 43

Text proposed by the Commission

(43) A gatekeeper may in certain circumstances have a dual role as a provider of core platform services whereby it provides a core platform service to its business users, while also competing with those same business users in the provision of the same or similar services or products to the same end users. In these circumstances, a gatekeeper may take advantage of its dual role to use data,

Amendment

(43) A gatekeeper may in certain circumstances have a dual role as a provider of core platform services whereby it provides a core platform service to its business users, while also competing with those same business users in the provision of the same or similar services or products to the same end users. In these circumstances, a gatekeeper may take advantage of its dual role to use data,

generated from transactions by its business users on the core platform, for the purpose of its own services that offer similar services to that of its business users. This may be the case, for instance, where a gatekeeper provides an online marketplace or app store to business users, and at the same time offer services as an online retailer or provider of application software against those business users. To prevent gatekeepers from unfairly benefitting from their dual role, it should be ensured that they refrain from using any aggregated or non-aggregated data, which may include anonymised and personal data that is not publicly available to offer similar services to those of their business users. **This** obligation should apply to the gatekeeper as a whole, including but not limited to its business unit that competes with the business users of a core platform service.

generated from transactions by its business users on the core platform, for the purpose of its own services that offer similar services to that of its business users. This may be the case, for instance, where a gatekeeper provides an online marketplace or app store to business users, and at the same time offer services as an online retailer or provider of application software against those business users. To prevent gatekeepers from unfairly benefitting from their dual role, it should be ensured that they refrain from using any aggregated or non-aggregated data, which may include anonymised and personal data that is not publicly available to offer similar services to those of their business users. **Several providers of core platform services or ancillary services within the same undertaking, with at least one gatekeeper status, often results in a similar dual role.** **Thus** obligation should apply to the gatekeeper as a whole, including but not limited to its business unit that competes with the business users of a core platform service.

Or. en

Amendment 172

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 43

Text proposed by the Commission

(43) A gatekeeper may in certain circumstances have a dual role as a provider of core platform services whereby it provides a core platform service to its business users, while also competing with those same business users in the provision of the same or similar services or products to the same end users. In these circumstances, a gatekeeper **may** take advantage of its dual role to use data,

Amendment

(43) A gatekeeper may in certain circumstances have a dual role as a provider of core platform services whereby it provides a core platform service to its business users, while also competing with those same business users in the provision of the same or similar services or products to the same end users. In these circumstances, a gatekeeper **should not** take advantage of its dual role to use data,

generated from transactions by its business users on the core platform, for the purpose of its own services that offer similar services to that of its business users. This may be the case, for instance, where a gatekeeper provides an online marketplace or app store to business users, and at the same time offer services as an online retailer or provider of application software against those business users. To prevent gatekeepers from unfairly benefitting from their dual role, it should be ensured that they refrain from using any aggregated or non-aggregated data, which may include anonymised and personal data that is not publicly available to offer similar services to those of their business users. This obligation should apply to the gatekeeper as a whole, including but not limited to its business unit that competes with the business users of a core platform service.

generated from transactions by its business users on the core platform, for the purpose of its own services that offer similar services to that of its business users. This may be the case, for instance, where a gatekeeper provides an online marketplace or app store to business users, and at the same time offer services as an online retailer or provider of application software against those business users. To prevent gatekeepers from unfairly benefitting from their dual role, it should be ensured that they refrain from using any aggregated or non-aggregated data, which may include anonymised and personal data that is not publicly available to offer similar services to those of their business users. This obligation should apply to the gatekeeper as a whole, including but not limited to its business unit that competes with the business users of a core platform service.

Or. en

Amendment 173

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Recital 46

Text proposed by the Commission

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

Amendment

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

and thereby favour their own software applications.

any pre-installed software applications on ***their*** core platform service and thereby favour their own software applications, ***unless they are proven as essential to the functioning or security of the operating system, device or other software applications installed by the business or end users.***

Or. en

Amendment 174

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Recital 46

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 175

Miapetra Kumpula-Natri, Łukasz Kohut, Andris Ameriks, Maria-Manuel Leitão-Marques

Proposal for a regulation

Recital 46

Text proposed by the Commission

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

Amendment

(46) A gatekeeper **can** use different means to favour its own **or third party** services or products on **an operating system it provides or effectively controls**, to the detriment of the same or similar services that end users could obtain through third parties. This may for instance be the case where certain software applications or services are pre-installed by a gatekeeper. To enable end user choice, gatekeepers should not prevent end users from un-installing any pre-installed software applications on **an operating system they provide or effectively control** its core platform service and thereby favour their own **or third party** software applications. .

Or. en

Justification

To align Recital 46 with Article 6(1) (b)

Amendment 176

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation
Recital 46 a (new)

Text proposed by the Commission

Amendment

(46 a) Securing default positions across the main search access points of an operating system, such as the pre-installed browser, the home screen search bar, or the voice assistant, can entrench the dominant position of an established core platform service and prevent contestability of digital markets. Even where users can change the default manually, they rarely do so, due to behavioural bias. In order to ensure contestability, end users should be able to select their preferred core platform service default through a preference

menu when they set up their device. End users should be able to access that preference menu the device is set up. A gatekeeper should not be able to offer compensation or benefits to hardware manufacturers or network operators, or otherwise require them to offer its core platform service pre-installed or set as a default as these practices do not allow third-party business users to bid for pre-installation or for a default position.

Or. en

Amendment 177

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 47

Text proposed by the Commission

Amendment

(47) The rules that the gatekeepers set for the distribution of software applications may in certain circumstances restrict the ability of end users to install and effectively use third party software applications or software application stores on operating systems or hardware of the relevant gatekeeper and restrict the ability of end users to access these software applications or software application stores outside the core platform services of that gatekeeper. Such restrictions may limit the ability of developers of software applications to use alternative distribution channels and the ability of end users to choose between different software applications from different distribution channels and should be prohibited as unfair and liable to weaken the contestability of core platform services. In order to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper the gatekeeper concerned

deleted

may implement proportionate technical or contractual measures to achieve that goal if the gatekeeper demonstrates that such measures are necessary and justified and that there are no less restrictive means to safeguard the integrity of the hardware or operating system.

Or. en

Justification

This deletion aligns the text to the modifications in Article 5 and 6.

Amendment 178

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen, Cristian-Silviu Buşoi

Proposal for a regulation

Recital 47

Text proposed by the Commission

(47) The rules that the gatekeepers set for the distribution of software applications may in certain circumstances restrict the ability of end users to install and effectively use third party software applications or software application stores on operating systems or hardware of the relevant gatekeeper and restrict the ability of end users to access these software applications or software application stores outside the core platform services of that gatekeeper. Such restrictions may limit the ability of developers of software applications to use alternative distribution channels and the ability of end users to choose between different software applications from different distribution channels and should be prohibited as unfair and liable to weaken the contestability of core platform services. In order to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating

Amendment

(47) The rules that the gatekeepers set for the distribution of software applications may in certain circumstances restrict the ability of **business users and** end users to install, **set as defaults** and effectively use third party software applications or software application stores on operating systems or hardware of the relevant gatekeeper and restrict the ability of end users to access these software applications or software application stores outside the core platform services of that gatekeeper. Such restrictions may limit the ability of developers of software applications to use alternative distribution channels and the ability of end users to choose between different software applications from different distribution channels and should be prohibited as unfair and liable to weaken the contestability of core platform services. **To ensure contestability, the gatekeeper should allow all downloaded applications or application stores to**

system provided by the gatekeeper the gatekeeper concerned may implement proportionate technical or contractual measures to achieve that goal if the gatekeeper demonstrates that such measures are necessary and justified and that there are no less restrictive means to safeguard the integrity of the hardware or operating system.

prompt the end user enabling decision on setting them as default. In order to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper ***and do not compromise data protection, user privacy, security or choice,*** the gatekeeper concerned may implement proportionate technical or contractual measures to achieve that goal if the gatekeeper demonstrates that such measures are necessary and justified and that there are no less restrictive means to safeguard the integrity of the hardware or operating system.

Or. en

Amendment 179
François-Xavier Bellamy

Proposal for a regulation
Recital 47

Text proposed by the Commission

(47) The rules that the gatekeepers set for the distribution of software applications may in certain circumstances restrict the ability of end users to install and effectively use third party software applications or software application stores on operating systems or hardware of the relevant gatekeeper and restrict the ability of end users to access these software applications or software application stores outside the core platform services of that gatekeeper. Such restrictions may limit the ability of developers of software applications to use alternative distribution channels and the ability of end users to choose between different software applications from different distribution channels and should be prohibited as unfair and liable to weaken the contestability of core platform services. In order to ensure that third party software applications or

Amendment

(47) The rules that the gatekeepers set for the distribution of software applications may in certain circumstances restrict the ability of end users to install and effectively use third party software applications or software application stores on operating systems or hardware of the relevant gatekeeper and restrict the ability of end users to access these software applications or software application stores outside the core platform services of that gatekeeper. Such restrictions may limit the ability of developers of software applications to use alternative distribution channels and the ability of end users to choose between different software applications from different distribution channels and should be prohibited as unfair and liable to weaken the contestability of core platform services. In order to ensure that third party software applications or

software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper the gatekeeper concerned may implement proportionate technical or contractual measures to achieve that goal if the gatekeeper demonstrates that such measures are necessary and justified and that there are no less restrictive means to safeguard the integrity of the hardware or operating system.

software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper the gatekeeper concerned may implement proportionate technical or contractual measures to achieve that goal if the gatekeeper demonstrates that such measures are necessary and justified and that there are no less restrictive means to safeguard the integrity of the hardware or operating system. ***This should also be without prejudice to the role gatekeepers play in the fight against illegal content online.***

Or. en

Amendment 180

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 48

Text proposed by the Commission

(48) Gatekeepers are often vertically integrated and offer certain products or services to end users through their own core platform services, or through a business user over which they exercise control which frequently leads to conflicts of interest. This can include the situation whereby a gatekeeper offers its own online intermediation services through an online search engine. When offering those products or services on the core platform service, gatekeepers can reserve a better position to their own offering, in terms of ranking, as opposed to the products of third parties also operating on that core platform service. This can occur for instance with products or services, including other core platform services, which are ranked in the results communicated by online search engines, or which are partly or entirely embedded in online search engines results, groups of results specialised in a certain

Amendment

(48) Gatekeepers are often vertically integrated and offer certain products or services to end users through their own core platform services, or through a business user over which they exercise control ***or with which they have entered into particular cooperation agreements or which they prefer due to other reasons unrelated to their service's actual relevance,*** which frequently leads to conflicts of interest. This can include the situation whereby a gatekeeper offers its own online intermediation services through an online search engine. When offering those products or services on the core platform service, gatekeepers can reserve a better position to their own offering, in terms of ranking, as opposed to the products of third parties also operating on that core platform service. This can occur for instance with products or services, including other core platform services,

topic, displayed along with the results of an online search engine, which **are** considered or used by certain end users as a service distinct or additional to the online search engine. Other instances are those of software applications which are distributed through software application stores, or products or services that are given prominence and display in the newsfeed of a social network, or products or services ranked in search results or displayed on an online marketplace. In those circumstances, the gatekeeper is in a dual-role position as intermediary for third party providers and as direct provider of products or services of the gatekeeper. Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper.

which are ranked in the results communicated by online search engines, or which are partly or entirely embedded in online search engines results, groups of results specialised in a certain topic, displayed along with the results of an online search engine, which **may be** considered or used by certain end users as a service distinct or additional to the online search engine. ***Such preferential or embedded display of a separate online intermediation service should constitute a favouring irrespective of whether the information or results within the favoured groups of specialised results may also be provided by competing services and are as such ranked in a non-discriminatory way.*** Other instances are those of software applications which are distributed through software application stores, or products or services that are given prominence and display in the newsfeed of a social network, or products or services ranked in search results or displayed on an online marketplace ***or products or services to which users are directed following a voice request by an end user to a digital voice assistant.*** In those circumstances, the gatekeeper is in a dual-role position as intermediary for third party providers and as direct provider of products or services of the gatekeeper. Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper.

Or. en

Amendment 181

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Recital 48

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

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

conflict of interest. Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper.

Or. en

Amendment 182

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 48

Text proposed by the Commission

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

Amendment

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

prominence and display in the newsfeed of a social network, or products or services ranked in search results or displayed on an online marketplace. In those circumstances, the gatekeeper is in a dual-role position as intermediary for third party providers and as direct provider of products or services of the gatekeeper. Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper.

prominence and display in the newsfeed of a social network, or products or services ranked in search results or displayed on an online marketplace ***or in results provided to a search through virtual assistants***. In those circumstances, the gatekeeper is in a dual-role position as intermediary for third party providers and as direct provider of products or services of the gatekeeper. Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper.

Or. en

Justification

This change is aimed at clarifying the instances where search results are provided.

Amendment 183

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Recital 48

Text proposed by the Commission

(48) Gatekeepers are often vertically integrated and offer certain products or services to end users through their own core platform services, or through a business user over which they exercise control which frequently leads to conflicts of interest. This can include the situation whereby a gatekeeper offers its own online intermediation services through an online search engine. When offering those products or services on the core platform service, gatekeepers can reserve a better position to their own offering, in terms of ranking, as opposed to the products of third parties also operating on that core platform service. This can occur for instance with products or services, including other core platform services, which are ranked in the

Amendment

(48) Gatekeepers are often vertically integrated and offer certain products or services to end users through their own core platform services, or through a business user over which they exercise control which frequently leads to conflicts of interest. This can include the situation whereby a gatekeeper offers its own online intermediation services through an online search engine. When offering those products or services on the core platform service, gatekeepers can reserve a better position ***or differentiated treatment*** to their own offering, in terms of ranking, as opposed to the products of third parties also operating on that core platform service. This can occur for instance with products or services, including other core

results communicated by online search engines, or which are partly or entirely embedded in online search engines results, groups of results specialised in a certain topic, displayed along with the results of an online search engine, which are considered or used by certain end users as a service distinct or additional to the online search engine. Other instances are those of software applications which are distributed through software application stores, or products or services that are given prominence and display in the newsfeed of a social network, or products or services ranked in search results or displayed on an online marketplace. In those circumstances, the gatekeeper is in a dual-role position as intermediary for third party providers and as direct provider of products or services of the gatekeeper. Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper.

platform services, which are ranked in the results communicated by online search engines, or which are partly or entirely embedded in online search engines results, groups of results specialised in a certain topic, displayed along with the results of an online search engine, which are considered or used by certain end users as a service distinct or additional to the online search engine. Other instances are those of software applications which are distributed through software application stores, or products or services that are given prominence and display in the newsfeed of a social network, or products or services ranked in search results or displayed on an online marketplace. In those circumstances, the gatekeeper is in a dual-role position as intermediary for third party providers and as direct provider of products or services of the gatekeeper. Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper.

Or. en

Amendment 184

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Recital 48 a (new)

Text proposed by the Commission

Amendment

(48 a) Gatekeepers can offer software applications or services which could be used on, or in conjunction with, a core service platform, such as operating systems or cloud computing services, offered by the same gatekeeper. If, in such circumstances, the gatekeeper prevents end users being able to use their software applications or services on, or in conjunction with, products or services of

alternative providers under equal conditions as with the products or services of the gatekeeper, this could significantly undermine choice for end users and innovation by alternative providers. It should therefore be ensured that gatekeepers do not restrict to their advantage and to the detriment of alternative providers, end users and business users in choosing the products or services of alternative providers which they use in conjunction with the core platform service offered by the gatekeeper.

Or. en

Amendment 185

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 49

Text proposed by the Commission

(49) In such situations, the gatekeeper should not engage in any form of differentiated or preferential treatment in ranking on the core platform service, whether through legal, commercial or technical means, in favour of products or services it offers itself or through a business user which it controls. To ensure that this obligation is effective, it should also be ensured that the conditions that apply to such ranking are also generally fair. Ranking should in this context cover all forms of relative prominence, including display, rating, linking or voice results. To ensure that this obligation is effective and cannot be circumvented it should also apply to any measure that may have an equivalent effect to the differentiated or preferential treatment in ranking. The guidelines adopted pursuant to Article 5 of Regulation (EU) 2019/1150 should also facilitate the implementation and

Amendment

(49) In such situations *of a conflict of interest*, the gatekeeper should *not partly or entirely embed such distinct product or service in online search engines results or groups of results. However, it can rank its products or services, provided that it does not engage in any form of differentiated or preferential treatment in ranking on the core platform service, whether through legal, commercial or technical means, in favour of products or services it offers itself or through a business user which it either controls or cooperates with or prefers for any other reason. In particular, where a gatekeeper's online search engine results page includes the ranking of separate products or services, third parties should be afforded equal opportunity to rank their product or service in the same format and on the same terms and conditions. Should this take place in exchange for remuneration,*

enforcement of this obligation.³⁴

to avoid any conflict of interest, the gatekeeper's separate product or service should be treated as a separate commercial entity and should be commercially viable as a stand-alone service, offered outside of the gatekeeper's core platform service. To ensure that this obligation is effective, it should also be ensured that the conditions that apply to such ranking are also generally fair ***and the gatekeeper's own products or services do not have more access to information about the ranking or any other competition-relevant aspects than products or services of third parties.*** Ranking should in this context cover all forms of relative prominence, including display, rating, linking or voice results. To ensure that this obligation is effective and cannot be circumvented it should also apply to any measure that may have an equivalent effect to the differentiated or preferential treatment in ranking. ***Such an equivalent effect can for instance be achieved by ad formats that are used by users in a similar manner to the gatekeeper's or third parties' online intermediation services, or that benefit the gatekeeper in a similar manner to the preferential treatment in ranking itself (e.g. in terms of financial gains, user access/traffic or data access).*** The guidelines adopted pursuant to Article 5 of Regulation (EU) 2019/1150 should also facilitate the implementation and enforcement of this obligation.³⁴

³⁴ Commission Notice: Guidelines on ranking transparency pursuant to Regulation (EU) 2019/1150 of the European Parliament and of the Council (OJ C 424, 8.12.2020, p. 1).

³⁴ Commission Notice: Guidelines on ranking transparency pursuant to Regulation (EU) 2019/1150 of the European Parliament and of the Council (OJ C 424, 8.12.2020, p. 1).

Or. en

Amendment 186
Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Jerzy Buzek, Pernille Weiss, Christian Ehler, Henna Virkkunen

Proposal for a regulation

Recital 50

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 187

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 50

Text proposed by the Commission

Amendment

(50) Gatekeepers should not restrict or prevent the free choice of end users by technically preventing switching between or subscription to different software

(50) Gatekeepers should not restrict or prevent the free choice of end users by technically preventing switching between or subscription to different software

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

applications and services. This would allow more providers to offer their services, thereby ultimately providing greater choice to the end user. Gatekeepers should ensure a free choice irrespective of whether they are the manufacturer of any hardware by means of which such software applications or services are accessed and shall not raise artificial technical barriers so as to make switching impossible or ineffective. The offering of a given product or service to consumers, including by means of pre-installation, as well as the improvement of the offering to end users, such as price reductions or increased quality, ***constitutes a barrier to switching and needs to be taken into account in the process of applying remedies.***

Or. en

Justification

Gatekeepers that provide more developed ecosystems can limit competition by the use of bundles, nudging consumers into the gatekeeper ecosystem.

Amendment 188

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 50

Text proposed by the Commission

(50) Gatekeepers should not restrict or prevent the free choice of end users by ***technically*** preventing switching between or subscription to different software applications and services. This would allow more providers to offer their services, thereby ultimately providing greater choice to the end user. Gatekeepers should ensure a free choice irrespective of whether they are the manufacturer of any hardware by means of which such software applications or services are accessed and shall not raise artificial technical barriers

Amendment

(50) Gatekeepers should not restrict or prevent the free choice of end users by preventing switching between or subscription to different software applications and services. This would allow more providers to offer their services, thereby ultimately providing greater choice to the end user. Gatekeepers should ensure a free choice irrespective of whether they are the manufacturer of any hardware by means of which such software applications or services are accessed and shall not raise artificial technical barriers

so as to make switching impossible or ineffective. The mere offering of a given product or service to consumers, including by means of pre-installation, as well as the improvement of the offering to end users, such as price reductions or increased quality, should not be construed as constituting a prohibited barrier to switching.

so as to make switching impossible or ineffective. The mere offering of a given product or service to consumers, including by means of pre-installation, as well as the improvement of the offering to end users, such as price reductions or increased quality, should not be construed as constituting a prohibited barrier to switching.

Or. en

Amendment 189

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Recital 51

Text proposed by the Commission

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

Amendment

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

Amendment 190**Marisa Matias**

on behalf of the The Left Group

Proposal for a regulation**Recital 51***Text proposed by the Commission*

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

Amendment

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

Or. en

Amendment 191**Rasmus Andresen**

on behalf of the Verts/ALE Group

Proposal for a regulation**Recital 52***Text proposed by the Commission*

(52) Gatekeepers may *also* have a dual role as developers of operating systems and device manufacturers, including any technical functionality that such a device may have. For example, a gatekeeper that

Amendment

(52) Gatekeepers may have a dual role as developers of operating systems and device manufacturers, including any technical functionality that such a device may have. For example, a gatekeeper that

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

is a manufacturer of a device may restrict access to some of the functionalities in this device, such as near-field-communication technology and the software used to operate that technology, which may be required for the effective provision of **a** service by the gatekeeper as well as by any potential third party provider of such **a** service. Such access may equally be required by software applications related to the relevant ancillary services in order to effectively provide similar functionalities as those offered by gatekeepers. The gatekeepers should therefore be obliged to ensure access under equal conditions to, and interoperability with, the same operating system, hardware or software features that are available or used in the provision of **its** services by the gatekeeper.

Or. en

Justification

Restrictive measure that prevent competitors from providing services are not acceptable.

Amendment 192

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Recital 52

Text proposed by the Commission

(52) Gatekeepers may also have a dual

Amendment

(52) Gatekeepers may also have a dual

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

role as developers of operating systems and device manufacturers, including any technical functionality that such a device may have. For example, a gatekeeper that is a manufacturer of a device may restrict access to some of the functionalities in this device, such as near-field-communication technology and the software used to operate that technology, which may be required for the effective provision of an ancillary service by the gatekeeper as well as by any potential third party provider of such an ancillary service. Such access may equally be required by software applications related to the relevant ancillary services in order to effectively provide similar functionalities as those offered by gatekeepers. If such a dual role is used in a manner that prevents alternative providers of ancillary services or of software applications to have access under equal conditions to the same operating system, hardware or software features that are available or used in the provision by the gatekeeper of any ancillary services, this could significantly undermine innovation by providers of such ancillary services as well as choice for end users of such ancillary services. The gatekeepers should therefore be obliged to ensure access *free of charge* under equal conditions to, and interoperability with, the same operating system, hardware or software features that are available or used in the provision of any ancillary services by the gatekeeper. ***The gatekeeper should not be prevented from taking indispensable measures to ensure that third party ancillary services do not compromise the integrity of the operating system, hardware or software features it provides. The gatekeeper should however be obliged to duly justify such indispensable measures and provide, free of charge, an alternative access and interoperability solution to enable effective provision of ancillary services.***

Or. en

Amendment 193

Maria-Manuel Leitão-Marques, Miapetra Kumpula-Natri

Proposal for a regulation

Recital 52

Text proposed by the Commission

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

Amendment

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

Amendment 194**Marisa Matias**

on behalf of the The Left Group

Proposal for a regulation**Recital 52***Text proposed by the Commission*

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

Amendment

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

Amendment 195**Marisa Matias**

on behalf of the The Left Group

Proposal for a regulation**Recital 52***Text proposed by the Commission*

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

Amendment

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

Amendment 196

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Recital 52 a (new)

Text proposed by the Commission

Amendment

(52 a) Network effects, particularly strong for the core platform services of number-independent interpersonal communication services and online social networking, have significant negative effect for contestability and fairness on the internal market across the Union, undermining innovation, cost and quality competition and limiting business and end users choice. To prevent this, gatekeepers should be obligated to provide interoperability using globally recognised industry-standard service features of social networking services or number-independent interpersonal communications services to end users, business users and providers or potential providers of number-independent interpersonal communication services and online social networking at the request of these providers.

Or. en

Amendment 197

Miapetra Kumpula-Natri, Łukasz Kohut, Andris Ameriks, Maria-Manuel Leitão-Marques

Proposal for a regulation

Recital 53

Text proposed by the Commission

Amendment

(53) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This often leads to a lack of information for advertisers and publishers about the effect of a given ad. To further enhance fairness, transparency and contestability of online advertising services designated under this Regulation as well as those that are fully integrated with other core platform services of the same provider, the designated gatekeepers should therefore provide advertisers and publishers, when requested, with free of charge access to the performance measuring tools of the gatekeeper and the information necessary for advertisers, advertising agencies acting on behalf of a company placing advertising, as well as for publishers to carry out their own independent verification of the provision of the relevant online advertising services.

(53) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This often leads to a lack of information for advertisers and publishers about the effect of a given ad. To further enhance fairness, transparency and contestability of online advertising services designated under this Regulation as well as those that are fully integrated with other core platform services of the same provider, the designated gatekeepers should therefore provide advertisers and publishers, when requested, with free of charge access to the performance measuring tools of the gatekeeper and the information necessary, ***including non-aggregated data***, for advertisers, advertising agencies acting on behalf of a company placing advertising, as well as for publishers, ***or third parties authorised by publishers and advertisers*** to carry out their own independent verification of the provision of the relevant online advertising services.

Or. en

Amendment 198
Markus Buchheit, Elena Lizzi

Proposal for a regulation
Recital 53

Text proposed by the Commission

(53) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This often leads to a lack of information for advertisers and publishers about the effect of a given ad. To further enhance fairness, transparency and contestability of online advertising services designated under this Regulation as well as those that are fully integrated

Amendment

(53) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This often leads to a lack of information for advertisers and publishers about the effect of a given ad. To further enhance fairness, transparency and contestability of online advertising services designated under this Regulation as well as those that are fully integrated

with other core platform services of the same provider, the designated gatekeepers should therefore provide advertisers and publishers, when requested, with **free of charge** access to the performance measuring tools of the gatekeeper and the information necessary for advertisers, advertising agencies acting on behalf of a company placing advertising, as well as for publishers to carry out their own independent verification of the provision of the relevant online advertising services.

with other core platform services of the same provider, the designated gatekeepers should therefore provide advertisers and publishers, when requested, with access to the performance measuring tools of the gatekeeper and the information necessary for advertisers, advertising agencies acting on behalf of a company placing advertising, as well as for publishers to carry out their own independent verification of the provision of the relevant online advertising services.

Or. en

Amendment 199

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Recital 54

Text proposed by the Commission

(54) Gatekeepers benefit from access to vast amounts of data that they collect while providing the core platform services as well as other digital services. To ensure that gatekeepers do not undermine the contestability of core platform services as well as the innovation potential of the dynamic digital sector by restricting the ability of business users to effectively port their data, business users and end users should be granted effective and immediate access to the data they provided or generated in the context of their use of the relevant core platform services of the gatekeeper, in a structured, commonly used and machine-readable format. This should apply also to any other data at different levels of aggregation that may be necessary to effectively enable such portability. It should also be ensured that business users and end users can port that data in real time effectively, such as for example through

Amendment

(54) Gatekeepers benefit from access to vast amounts of data that they collect while providing the core platform services as well as other digital services. To ensure that gatekeepers do not undermine the contestability of core platform services as well as the innovation potential of the dynamic digital sector by restricting the ability of business users to effectively port their data, business users and end users **or third parties authorised by an end user** should be granted effective, **free of charge** and immediate access to the data they provided or generated in the context of their use of the relevant core platform services of the gatekeeper, in a structured, commonly used and machine-readable format. This should apply also to any other data at different levels of aggregation that may be necessary to effectively enable such portability. It should also be ensured that business users and end users can port

high quality application programming interfaces. Facilitating switching or multi-homing should lead, in turn, to an increased choice for business users and end users and an incentive for gatekeepers and business users to innovate.

that data in real time effectively, such as for example through high quality application programming interfaces. Facilitating switching or multi-homing should lead, in turn, to an increased choice for business users and end users and an incentive for gatekeepers and business users to innovate.

Or. en

Amendment 200

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 55

Text proposed by the Commission

(55) Business users that use large core platform services provided by gatekeepers and end users of such business users provide and generate a vast amount of data, ***including data inferred from such use***. In order to ensure that business users have access to the relevant data thus generated, the gatekeeper should, upon their request, allow unhindered access, free of charge, to ***such*** data. Such access should also be given to third parties contracted by the business user, who are acting as processors of this data for the business user. ***Data provided or generated by the same business users and the same end users of these business users in the context of other services provided by the same gatekeeper may be concerned where this is inextricably linked to the relevant request. To this end, a gatekeeper should not use any contractual or other restrictions to prevent business users from accessing relevant data and should enable business users to obtain consent of their end users for such data access and retrieval, where such consent is required under Regulation (EU) 2016/679 and Directive 2002/58/EC.*** Gatekeepers should

Amendment

(55) Business users that use large core platform services provided by gatekeepers and end users of such business users provide and generate a vast amount of data. In order to ensure that business users have access to the relevant data thus generated, the gatekeeper should, upon their request, allow unhindered access, free of charge, to ***aggregated and non-aggregated non-personal*** data. Such access should also be given to third parties contracted by the business user, who are acting as processors of this data for the business user. Gatekeepers should also facilitate access to these data in real time by means of appropriate technical measures, such as for example putting in place high quality application programming interfaces.

also facilitate access to these data in real time by means of appropriate technical measures, such as for example putting in place high quality application programming interfaces.

Or. en

Justification

Unhindered access to data is desirable, as long as personal data rules are respected.

Amendment 201

Miapetra Kumpula-Natri, Łukasz Kohut, Andris Ameriks, Maria-Manuel Leitão-Marques

Proposal for a regulation

Recital 55

Text proposed by the Commission

(55) Business users that use large core platform services provided by gatekeepers and end users of such business users provide and generate a vast amount of data, including data inferred from such use. In order to ensure that business users have access to the relevant data thus generated, the gatekeeper should, upon their request, allow unhindered access, free of charge, to such data. Such access should also be given to third parties contracted by the business user, who are acting as processors of this data for the business user. Data provided or generated by the same business users and the same end users of these business users in the context of other services provided by the same gatekeeper may be concerned where this is inextricably linked to the relevant request. To this end, a gatekeeper should not use any contractual or other restrictions to prevent business users from accessing relevant data and should enable business users to obtain consent of their end users for such data access and retrieval, where such consent is required under Regulation (EU) 2016/679 and Directive 2002/58/EC.

Amendment

(55) Business users that use large core platform services provided by gatekeepers and end users of such business users provide and generate a vast amount of data, including data inferred from such use. In order to ensure that business users have access to the relevant data thus generated, the gatekeeper should, upon their request, allow unhindered access, free of charge, to such data. Such access should also be given to third parties contracted by the business user, who are acting as processors ***or co-controllers*** of this data for the business user. ***For example, such parties can include providers of audience measurement metrics for the purpose of providing the market with impartial benchmarks on the use, effectiveness and reach of content viewed on gatekeepers' platforms.*** Data provided or generated by the same business users and the same end users of these business users in the context of other services provided by the same gatekeeper may be concerned where this is inextricably linked to the relevant request. To this end, a gatekeeper should not use any contractual or other restrictions to

Gatekeepers should also facilitate access to these data in real time by means of appropriate technical measures, such as for example putting in place high quality application programming interfaces.

prevent business users *or authorised third parties* from accessing relevant data and should enable business users to obtain consent of their end users for such data access and retrieval, where such consent is required under Regulation (EU) 2016/679 and Directive 2002/58/EC *or if lawful under special exemptions, such as access to end-user's data for audience measurement purposes*. Gatekeepers should also facilitate access to these data in real time by means of appropriate technical measures, such as for example putting in place high quality application programming interfaces

Or. en

Justification

The proposals in recital 55 are meant to clarify the addition in relation to privacy regulation references in article 6(1)i.

Amendment 202

François-Xavier Bellamy

Proposal for a regulation

Recital 55

Text proposed by the Commission

(55) Business users that use large core platform services provided by gatekeepers and end users of such business users provide and generate a vast amount of data, including data inferred from such use. In order to ensure that business users have access to the relevant data thus generated, the gatekeeper should, upon their request, allow unhindered access, free of charge, to such data. Such access should also be given to third parties contracted by the business user, who are acting as processors of this data for the business user. Data provided or generated by the same business users and the same end users of these business users in the context of other services provided by the same gatekeeper

Amendment

(55) Business users that use large core platform services provided by gatekeepers and end users of such business users provide and generate a vast amount of data, including data inferred from such use. In order to ensure that business users have access to the relevant data thus generated, the gatekeeper should, upon their request, allow unhindered access, free of charge, to such data. Such access should also be given to third parties contracted by the business user, who are acting as processors of this data for the business user. Data provided or generated by the same business users and the same end users of these business users in the context of other services provided by the same gatekeeper

may be concerned where this is inextricably linked to the relevant request. To this end, a gatekeeper should not use any contractual or other restrictions to prevent business users from accessing relevant data and should enable business users to obtain consent of their end users for such data access and retrieval, where such consent is required under Regulation (EU) 2016/679 and Directive 2002/58/EC. Gatekeepers should also facilitate access to these data in real time by means of appropriate technical measures, such as for example putting in place high quality application programming interfaces.

may be concerned where this is inextricably linked to the relevant request. To this end, a gatekeeper should not use any contractual or other restrictions to prevent business users from accessing relevant data and should enable business users to obtain consent of their end users for such data access and retrieval, where such consent is required under Regulation (EU) 2016/679 and Directive 2002/58/EC. ***The obtaining of this consent should be as user-friendly as possible and under the same conditions, such as the duration and renewal of consent, as those applied to the consent provided by the end user to the gatekeeper for the use of such data for its own services.*** Gatekeepers should also facilitate access to these data in real time by means of appropriate technical measures, such as for example putting in place high quality application programming interfaces.

Or. en

Amendment 203

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Recital 55

Text proposed by the Commission

(55) Business users that use large core platform services provided by gatekeepers and end users of such business users provide and generate a vast amount of data, including data inferred from such use. In order to ensure that business users have access to the relevant data thus generated, the gatekeeper should, upon their request, allow unhindered access, free of charge, to such data. Such access should also be given to third parties contracted by the

Amendment

(55) Business users that use large core platform services provided by gatekeepers and end users of such business users provide and generate a vast amount of data, including data inferred from such use. In order to ensure that business users have access to the relevant data thus generated, the gatekeeper should, upon their request, allow unhindered access, free of charge, to such data. Such access should also be given to third parties contracted by the

business user, who are acting as processors of this data for the business user. Data provided or generated by the same business users and the same end users of these business users in the context of other services provided by the same gatekeeper may be concerned where this is inextricably linked to the relevant request. To this end, a gatekeeper should not use any contractual or other restrictions to prevent business users from accessing relevant data and should enable business users to obtain consent of their end users for such data access and retrieval, where such consent is required under Regulation (EU) 2016/679 and Directive 2002/58/EC. Gatekeepers should also facilitate access to these data in real time by means of appropriate technical measures, such as for example putting in place high quality application programming interfaces.

business user, who are acting as processors of this data for the business user. Data provided or generated by the same business users and the same end users of these business users in the context of other services provided by the same gatekeeper may be concerned where this is inextricably linked to the relevant request. To this end, a gatekeeper should not use any contractual or other restrictions to prevent business users from accessing relevant data and should enable business users to obtain consent of their end users for such data access and retrieval, where such consent is required under Regulation (EU) 2016/679 and Directive 2002/58/EC. Gatekeepers should also facilitate access to these data in real time by means of appropriate technical measures, such as for example putting in place high quality application programming interfaces *or enabling access of data by the business user “in situ”, without a transfer by the gatekeeper.*

Or. en

Amendment 204

Markus Buchheit, Elena Lizzi

Proposal for a regulation

Recital 55

Text proposed by the Commission

(55) Business users that use large core platform services provided by gatekeepers and end users of such business users provide and generate a vast amount of data, including data inferred from such use. In order to ensure that business users have access to the relevant data thus generated, the gatekeeper should, upon their request, allow unhindered access, *free of charge*, to such data. Such access should also be given to third parties contracted by the business user, who are acting as processors of this data for the business user. Data

Amendment

(55) Business users that use large core platform services provided by gatekeepers and end users of such business users provide and generate a vast amount of data, including data inferred from such use. In order to ensure that business users have access to the relevant data thus generated, the gatekeeper should, upon their request, allow unhindered access to such data. Such access should also be given to third parties contracted by the business user, who are acting as processors of this data for the business user. Data provided or generated

provided or generated by the same business users and the same end users of these business users in the context of other services provided by the same gatekeeper may be concerned where this is inextricably linked to the relevant request. To this end, a gatekeeper should not use any contractual or other restrictions to prevent business users from accessing relevant data and should enable business users to obtain consent of their end users for such data access and retrieval, where such consent is required under Regulation (EU) 2016/679 and Directive 2002/58/EC. Gatekeepers should also facilitate access to these data in real time by means of appropriate technical measures, such as for example putting in place high quality application programming interfaces.

by the same business users and the same end users of these business users in the context of other services provided by the same gatekeeper may be concerned where this is inextricably linked to the relevant request. To this end, a gatekeeper should not use any contractual or other restrictions to prevent business users from accessing relevant data and should enable business users to obtain consent of their end users for such data access and retrieval, where such consent is required under Regulation (EU) 2016/679 and Directive 2002/58/EC. Gatekeepers should also facilitate access to these data in real time by means of appropriate technical measures, such as for example putting in place high quality application programming interfaces.

Or. en

Amendment 205

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 56

Text proposed by the Commission

(56) The value of online search engines to their respective business users and end users increases as the total number of such users increases. Providers of online search engines collect and store aggregated datasets containing information about what users searched for, and how they interacted with, the results that they were served. Providers of online search engine services collect these data from searches undertaken on their own online search engine service and, where applicable, searches undertaken on the platforms of their downstream commercial partners. Access by gatekeepers to such ranking, query, click and view data constitutes an important barrier to entry and expansion, which

Amendment

(56) The value of online search engines to their respective business users and end users increases as the total number of such users increases. Providers of online search engines collect and store aggregated datasets containing information about what users searched for, and how they interacted with, the results that they were served. Providers of online search engine services collect these data from searches undertaken on their own online search engine service and, where applicable, searches undertaken on the platforms of their downstream commercial partners. Access by gatekeepers to such ranking, query, click and view data constitutes an important barrier to entry and expansion, which

undermines the contestability of online search engine services. Gatekeepers should therefore be obliged to provide access, on fair, reasonable and non-discriminatory terms, to these ranking, query, click and view data in relation to free and paid search generated by consumers on online search engine services to other providers of such services, so that these third-party providers can optimise their services and contest the relevant core platform services. Such access should also be given to third parties contracted by a search engine provider, who are acting as processors of this data for that search engine. When providing access to its search data, a gatekeeper should ensure the protection of the personal data of end users by appropriate means, ***without substantially degrading the quality or usefulness of the data.***

undermines the contestability of online search engine services. Gatekeepers should therefore be obliged to provide access, on fair, reasonable and non-discriminatory terms, to these ranking, query, click and view data in relation to free and paid search generated by consumers on online search engine services to other providers of such services, so that these third-party providers can optimise their services and contest the relevant core platform services ***provided that the gatekeeper is able to demonstrate that anonymised query, click and view data have been adequately tested against possible re-identification risks.*** Such access should also be given to third parties contracted by a search engine provider, who are acting as processors of this data for that search engine. When providing access to its search data, a gatekeeper should ensure the protection of the personal data of end users by appropriate means.

Or. en

Justification

Personal data protection takes precedence.

Amendment 206

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 57

Text proposed by the Commission

(57) In particular gatekeepers which provide access to software application stores serve as an important gateway for business users that seek to reach end users. In view of the imbalance in bargaining power between those gatekeepers and business users of their software application stores, those gatekeepers should not be allowed to impose general conditions,

Amendment

(57) In particular gatekeepers which provide access to software application stores, ***online search engine and online social networking service*** serve as an important gateway for business users that seek to reach end users ***which can result in an adverse effect on end users' right to receive and impart information and ideas, and ultimately affect media pluralism,***

including pricing conditions, that would be unfair or lead to unjustified differentiation. Pricing or other general access conditions should be considered unfair if they lead to an imbalance of rights and obligations imposed on business users or confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users or lead to a disadvantage for business users in providing the same or similar services as the gatekeeper. The following benchmarks can serve as a **yardstick** to determine the fairness of general access conditions: prices charged or conditions imposed for the same or similar services by other providers of software application stores; prices charged or conditions imposed by the provider of the software application store for different related or similar services or to different types of end users; prices charged or conditions imposed by the provider of the software application store for the same service in different geographic regions; prices charged or conditions imposed by the provider of the software application store for the same service the gatekeeper offers to itself. This obligation should not establish an access right and it should be without prejudice to the ability of providers of software application stores to take the required responsibility in the fight against illegal and unwanted content as set out in Regulation [Digital Services Act].

diversity of opinion as well as competition. In view of the imbalance in bargaining power between those gatekeepers and business users of their software application stores, ***especially those that are SMEs on a given sectorial market, such as small press publishers, particularly when accessing online search engine and online social networks, on the other hand,*** those gatekeepers should not be allowed to impose general conditions, including pricing conditions, ***data usage conditions or conditions related to the licensing of rights held by the business user*** that would be unfair or lead to unjustified differentiation. Pricing or other general access conditions should be considered unfair if they lead to an imbalance of rights and obligations imposed on business users or confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users or lead to a disadvantage for business users in providing the same or similar services as the gatekeeper. The following benchmarks can serve as a ***yardstick*** to determine the fairness of general access conditions: prices charged or conditions imposed for the same or similar services by other providers of software application stores; prices charged or conditions imposed by the provider of the software application store for different related or similar services or to different types of end users; prices charged or conditions imposed by the provider of the software application store for the same service in different geographic regions; prices charged or conditions imposed by the provider of the software application store for the same service the gatekeeper offers to itself. ***Determining the fairness of general access conditions should lead to the opportunity to make the revenue stream of digital content providers, such as press publishers being in a dominant position on their market, more transparent, notably in terms of revenues deriving from advertisement, and in terms of distribution of appropriate shares of***

revenues to the authors of works incorporated in press publications. This obligation should not establish an access right and it should be without prejudice to the ability of providers of software application stores to take the required responsibility in the fight against illegal and unwanted content as set out in Regulation[Digital Services Act]. ***It should also be without prejudice to the ability of business that are SMEs on a given sectorial market, such as small press publishers, to offer royalty-free licenses in order to ensure access to their content, visibility on online search engines and online social networking services, and it should be without prejudice to the ability of end-users to perform acts of hyperlinking in according to Article 15(1) of Directive (EU)2019/790.***

Or. en

Justification

This changes reflect specific issues with gatekeepers business models.

Amendment 207

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Recital 57

Text proposed by the Commission

(57) ***In particular*** gatekeepers which provide access to ***software application stores*** serve as an important gateway for business users that seek to reach end users. In view of the imbalance in bargaining power between those gatekeepers and business users of their ***software application stores***, those gatekeepers should not be allowed to impose general conditions, including pricing conditions, that would be

Amendment

(57) Gatekeepers which provide access to ***core platform services*** serve as an important gateway for business users that seek to reach end users. In view of the imbalance in bargaining power between those gatekeepers and business users of their ***core platform services***, those gatekeepers should not be allowed to impose general conditions, including pricing conditions, that would be unfair or

unfair or lead to unjustified differentiation. Pricing or other general access conditions should be considered unfair if they lead to an imbalance of rights and obligations imposed on business users or confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users or lead to a disadvantage for business users in providing the same or similar services as the gatekeeper. The following benchmarks can serve as a yardstick to determine the fairness of general access conditions: prices charged or conditions imposed for the same or similar services by other providers of *software application stores*; prices charged or conditions imposed by the provider of *the software application store* for different related or similar services or to different types of end users; prices charged or conditions imposed by the provider of *the software application store* for the same service in different geographic regions; prices charged or conditions imposed by the provider of *the software application store* for the same service the gatekeeper offers to itself. This obligation should not establish an access right and it should be without prejudice to the ability of providers of *software application stores* to take the required responsibility in the fight against illegal and unwanted content as set out in Regulation [Digital Services Act].

lead to unjustified differentiation. Pricing or other general access conditions should be considered unfair if they lead to an imbalance of rights and obligations imposed on business users or confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users or lead to a disadvantage for business users in providing the same or similar services as the gatekeeper. The following benchmarks can serve as a yardstick to determine the fairness of general access conditions: prices charged or conditions imposed for the same or similar services by other providers of *core platform services*; prices charged or conditions imposed by the provider of *core platform services* for different related or similar services or to different types of end users; prices charged or conditions imposed by the provider of *core platform services* for the same service in different geographic regions; prices charged or conditions imposed by the provider of *core platform services* for the same service the gatekeeper offers to itself. This obligation should not establish an access right and it should be without prejudice to the ability of providers of *core platform services* to take the required responsibility in the fight against illegal and unwanted content as set out in Regulation [Digital Services Act].

Or. en

Amendment 208

Jessica Stegrud, Robert Roos

Proposal for a regulation

Recital 57

Text proposed by the Commission

(57) In particular gatekeepers which provide access to software application stores serve as an important gateway for

Amendment

(57) In particular gatekeepers which provide access to software application stores serve as an important gateway for

business users that seek to reach end users. In view of the imbalance in bargaining power between those gatekeepers and business users of their software application stores, those gatekeepers should not be allowed to impose general conditions, including pricing conditions, that would be unfair or lead to unjustified differentiation. Pricing or other general access conditions should be considered unfair if they lead to an imbalance of rights and obligations imposed on business users or confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users or lead to a disadvantage for business users in providing the same or similar services as the gatekeeper. The following benchmarks can serve as a yardstick to determine the fairness of general access conditions: prices charged or conditions imposed for the same or similar services by other providers of software application stores; prices charged or conditions imposed by the provider of the software application store for different related or similar services or to different types of end users; prices charged or conditions imposed by the provider of the software application store for the same service in different geographic regions; prices charged or conditions imposed by the provider of the software application store for the same service the gatekeeper offers to itself. This obligation should not establish an access right and it should be without prejudice to the ability of providers of software application stores to take the required responsibility in the fight against illegal *and unwanted* content as set out in Regulation [Digital Services Act].

business users that seek to reach end users. In view of the imbalance in bargaining power between those gatekeepers and business users of their software application stores, those gatekeepers should not be allowed to impose general conditions, including pricing conditions, that would be unfair or lead to unjustified differentiation. Pricing or other general access conditions should be considered unfair if they lead to an imbalance of rights and obligations imposed on business users or confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users or lead to a disadvantage for business users in providing the same or similar services as the gatekeeper. The following benchmarks can serve as a yardstick to determine the fairness of general access conditions: prices charged or conditions imposed for the same or similar services by other providers of software application stores; prices charged or conditions imposed by the provider of the software application store for different related or similar services or to different types of end users; prices charged or conditions imposed by the provider of the software application store for the same service in different geographic regions; prices charged or conditions imposed by the provider of the software application store for the same service the gatekeeper offers to itself. This obligation should not establish an access right and it should be without prejudice to the ability of providers of software application stores to take the required responsibility in the fight against illegal content as set out in Regulation [Digital Services Act].

Or. en

Amendment 209
Nicola Beer, Ivars Ijabs

Proposal for a regulation

Recital 58

Text proposed by the Commission

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

Amendment

(58) ***This Regulation should aim to ensure contestability and fairness of the digital economy, with a view to promoting innovation, high quality of digital products and services, fair and competitive prices, as well as a high quality and choice for end users in the digital sector.*** To ensure the effectiveness of the obligations laid down by this Regulation, while also making certain that these obligations are limited to what is necessary ***and proportionate*** to ensure contestability and tackling the harmful effects of the unfair behaviour by gatekeepers, it is important to clearly define and circumscribe them so as to allow the gatekeeper to immediately comply with them, in full respect of Regulation (EU) 2016/679 and Directive 2002/58/EC, consumer protection, cyber security and product safety. The gatekeepers should ensure the compliance with this Regulation by design. The necessary measures should therefore be as much as possible and where relevant integrated into the technological design used by the gatekeepers. ***In view of that, further specification should be possible where specific modalities of the implementation of an obligation set out in Article 6 can be affected by differences in business models where the provision concerned applies to a broad range of core platform services. To this end, the gatekeeper should be granted the opportunity to engage in a regulatory dialogue whereby the Commission may*** further specify some of the measures that the gatekeeper concerned should adopt in order to effectively comply with ***the objectives of*** those obligations that are susceptible of being further specified. This ***regulatory dialogue should be limited to the questions around ensuring effective compliance with the obligation in line with the protection of safety, security and***

privacy. During such regulatory dialogue, the Commission should be able to consult with interested third parties in relation to the measures that the gatekeeper is expected to implement. The Commission will nevertheless retain discretion in deciding when further specification should be provided. This would ensure that the regulatory dialogue is not used to circumvent the present regulation. Furthermore, the regulatory dialogue is without prejudice to the powers of the Commission to adopt a decision pursuant to Articles 25, 26 or 27. Such decisions would be normally adopted when the gatekeeper acts in bad faith during the regulatory dialogue or in case of blatant non-compliance with an obligation. The possibility of a regulatory dialogue should facilitate compliance by gatekeepers and expedite the correct implementation of the Regulation.

Or. en

Amendment 210

Eva Maydell

Proposal for a regulation

Recital 58

Text proposed by the Commission

(58) To ensure the effectiveness of the obligations laid down by this Regulation, while also making certain that these obligations are limited to what is necessary to ensure contestability and tackling the harmful effects of the unfair behaviour by gatekeepers, it is important to clearly define and circumscribe them so as to allow the gatekeeper to immediately comply with them, in full respect of Regulation (EU) 2016/679 and Directive 2002/58/EC, consumer protection, cyber security and product safety. The gatekeepers should ensure the compliance with this Regulation by design. The

Amendment

(58) To ensure the effectiveness of the obligations laid down by this Regulation, while also making certain **from the very beginning of the compliance period** that these obligations are limited to what is necessary to ensure contestability and tackling the harmful effects of the unfair behaviour by gatekeepers, it is important to clearly define and circumscribe them so as to allow the gatekeeper to immediately comply with them, in full respect of Regulation (EU) 2016/679 and Directive 2002/58/EC, consumer protection, cyber security and product safety. The gatekeepers should ensure the compliance

necessary measures should therefore be as much as possible and where relevant integrated into the technological design used by the gatekeepers. However, it may in certain cases be appropriate for the Commission, following a dialogue with the gatekeeper concerned, to further specify some of the measures that the gatekeeper concerned should adopt in order to effectively comply with those obligations that are susceptible of being further specified. This possibility of a regulatory dialogue should facilitate compliance by gatekeepers and expedite the correct implementation of the Regulation.

with this Regulation by design. The necessary measures should therefore be as much as possible and where relevant integrated into the technological design used by the gatekeepers. *As business practices and aspects of the core platform, services offered by gatekeepers might differ from one another, it is likely that uncertainties and misinterpretations about appropriateness of the implemented measures arise. To eliminate them even before the compliance period commences, it is necessary that gatekeepers could request the Commission to determine whether the measures that it intends to implement are effective in achieving the objective of the relevant obligation in the specific circumstances.* However, it may in certain cases be appropriate for the Commission, following a dialogue with the gatekeeper concerned, to further specify some of the measures that the gatekeeper concerned should adopt in order to effectively comply with those obligations that are susceptible of being further specified. *In this process, the Commission could need additional advice, insight knowledge and experience about the market of the core platform service subject to the dialogue. In such cases, the Commission can consult third parties like business users and competitors, civil society organisations, national competent authorities and others, which the Commission has determined as relevant for the respective core platform service. The Commission should act with respect and protection to sensitive business data during these consultations.* This possibility of a regulatory dialogue should facilitate compliance by gatekeepers and expedite the correct implementation of the Regulation.

Or. en

Amendment 211
Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 58

Text proposed by the Commission

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

Amendment

(58) To ensure the effectiveness of the obligations laid down by this Regulation, while also making certain that these obligations are limited to what is necessary to ensure contestability and tackling the harmful effects of the unfair behaviour by gatekeepers, it is important to clearly define and circumscribe them so as to allow the gatekeeper to immediately comply with them, in full respect of Regulation (EU) 2016/679 and Directive 2002/58/EC, consumer protection, cyber security and product safety. The gatekeepers should ensure the compliance with this Regulation by design. The necessary measures should therefore be as much as possible and where relevant integrated into the technological design used by the gatekeepers. However, it may in certain cases be appropriate for the Commission, following a dialogue with the gatekeeper concerned, to further specify some of the measures that the gatekeeper concerned should adopt in order to effectively comply with those obligations that are susceptible of being further specified. This possibility of a regulatory dialogue should facilitate compliance by gatekeepers and expedite the correct implementation of the Regulation ***and in no way be used to water down obligations and measures for gatekeepers.***

Or. en

Amendment 212

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Massimiliano Salini, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation
Recital 58

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 213
Rasmus Andresen
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 58

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

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

Or. en

Justification

Due to the extraordinary measures needed, and their urgency, the process needs to be clear for all stakeholders.

Amendment 214

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 58 a (new)

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

Or. en

Justification

This new recital introduces the changes for the Articles.

Amendment 215

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 59

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 216
Rasmus Andresen
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 59

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

This modification introduces the changes for the Articles.

Amendment 217
Adam Jarubas
on behalf of the PPE Group
Maria da Graça Carvalho, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation
Recital 60

Text proposed by the Commission

(60) In exceptional circumstances justified on the limited grounds of public

Amendment

(60) In exceptional circumstances justified on the limited grounds of public

morality, public health or public security, the Commission should be able to decide that the obligation concerned does not apply to a specific core platform service. Affecting these public interests can indicate that the cost to society as a whole of enforcing a certain obligation would in a certain exceptional case be too high and thus disproportionate. The regulatory dialogue to facilitate compliance with limited suspension and exemption possibilities should ensure the proportionality of the obligations in this Regulation without undermining the intended ex ante effects on fairness and contestability.

morality, public health or public security, the Commission should be able to decide that the obligation concerned does not apply to a specific core platform service. Affecting these public interests can indicate that the cost to society as a whole of enforcing a certain obligation would in a certain exceptional case be too high and thus disproportionate. The regulatory dialogue to facilitate compliance with limited suspension and exemption possibilities should ensure the proportionality of the obligations in this Regulation without undermining the intended ex ante effects on fairness and contestability. ***Where such an exemption is granted, the Commission should review its decision every two years.***

Or. en

Amendment 218
Markus Buchheit, Elena Lizzi

Proposal for a regulation
Recital 60

Text proposed by the Commission

(60) In exceptional circumstances justified on the limited grounds of public morality, public health or public security, the Commission should be able to decide that the obligation concerned does not apply to a specific core platform service. Affecting these public interests can indicate that the cost to society as a whole of enforcing a certain obligation would in a certain exceptional case be too high and thus disproportionate. The regulatory dialogue to facilitate compliance with limited suspension and exemption possibilities should ensure the proportionality of the obligations in this Regulation without undermining the intended ex ante effects on fairness and contestability.

Amendment

(60) In exceptional circumstances justified on the limited grounds of public morality, public health or public security, the Commission should be able to decide that the obligation concerned does not apply to a specific core platform service. ***This exemption must be transparent and comprehensible to the public.*** Affecting these public interests can indicate that the cost to society as a whole of enforcing a certain obligation would in a certain exceptional case be too high and thus disproportionate. The regulatory dialogue to facilitate compliance with limited suspension and exemption possibilities should ensure the proportionality of the obligations in this Regulation without undermining the intended ex ante effects

on fairness and contestability.

Or. en

Amendment 219

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 60

Text proposed by the Commission

(60) In exceptional circumstances justified on the limited grounds of public **morality**, public health or public security, the Commission should be able to decide that the obligation concerned does not apply to a specific core platform service. Affecting these public interests can indicate that the cost to society as a whole of enforcing a certain obligation would in a certain exceptional case be too high and thus disproportionate. The regulatory dialogue to facilitate compliance with limited suspension and exemption possibilities should ensure the proportionality of the obligations in this Regulation without undermining the intended ex ante effects on fairness and contestability.

Amendment

(60) In exceptional circumstances justified on the limited grounds of public **interest, such as** public health or public security, the Commission should be able to decide that the obligation concerned does not apply to a specific core platform service. Affecting these public interests can indicate that the cost to society as a whole of enforcing a certain obligation would in a certain exceptional case be too high and thus disproportionate. The regulatory dialogue to facilitate compliance with limited suspension and exemption possibilities should ensure the proportionality of the obligations in this Regulation without undermining the intended ex ante effects on fairness and contestability.

Or. en

Amendment 220

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 61

Text proposed by the Commission

(61) The data protection and privacy interests of end users are relevant to any assessment of potential negative effects of

Amendment

(61) The data protection and privacy interests of end users are relevant to any assessment of potential negative effects of

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

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

Or. en

Justification

In order to benefit from the expertise already existent at EU and national level, EU Data Protection Supervisor and the European Data Protection Board need to be included in the process.

Amendment 221
Eva Maydell

Proposal for a regulation
Recital 61

Text proposed by the Commission

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

Amendment

(61) The data protection and privacy interests of end users are relevant to any assessment of potential negative effects of the observed practice of gatekeepers to collect and accumulate large amounts of data from end users. Ensuring an adequate level of transparency of profiling practices employed by gatekeepers facilitates contestability of core platform services, by putting external pressure on gatekeepers to prevent making deep consumer profiling the industry standard, given that potential entrants or start-up providers cannot access data to the same extent and depth, and at a similar scale. Enhanced transparency should allow other providers of core platform services to differentiate themselves better through the use of superior privacy guaranteeing facilities. To ensure a minimum level of effectiveness of this transparency obligation, gatekeepers should at least provide a description of the basis upon which profiling is performed, including whether personal data and data derived from user activity is relied on, the processing applied, the purpose for which the profile is prepared and eventually used, the impact of such profiling on the gatekeeper's services, and the steps taken to enable end users to be aware of the relevant use of such profiling, as well as to seek their consent. ***AI could be used to nudge users to engage in certain actions or predict their actions without necessarily profiling them. The power of Big Data AI that is exclusively developed or brought up by undertakings which engage with a gatekeeper's position and practices should not be neglected.***

Amendment 222**Markus Buchheit, Elena Lizzi****Proposal for a regulation****Recital 62***Text proposed by the Commission*

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

Amendment

(62) Whether systematic non-compliance by a gatekeeper warrants imposing additional remedies; and whether the list of obligations addressing unfair practices by gatekeepers should be reviewed and additional practices that are similarly unfair and limiting the contestability of digital markets should be identified. Such assessment should be based on market investigations to be run in an appropriate timeframe, by using clear procedures and deadlines, in order to support the ex ante effect of this Regulation on contestability and fairness in the digital sector, and to provide the requisite degree of legal certainty.

Or. en

Amendment 223**Nicola Beer, Ivars Ijabs****Proposal for a regulation****Recital 62***Text proposed by the Commission*

(62) In order to ensure the full and

Amendment

(62) In order to ensure the full and

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

lasting achievement of the objectives of this Regulation, the Commission should be able to assess whether a provider of core platform services should be designated as a gatekeeper without meeting the quantitative thresholds laid down in this Regulation; whether systematic non-compliance by a gatekeeper warrants imposing additional remedies; and whether the list of obligations addressing unfair practices by gatekeepers should be reviewed and additional practices that are similarly unfair and limiting the contestability of digital markets should be identified; ***and whether the prior designation of gatekeepers or introduction of obligations has had a significant impact on business users, especially on small and medium-sized enterprises, or consumers.*** Such assessment should be based on market investigations to be run in an appropriate timeframe, by using clear procedures and deadlines, in order to support the ex ante effect of this Regulation on contestability and fairness in the digital sector, and to provide the requisite degree of legal certainty.

Or. en

Amendment 224

Jessica Stegrud, Robert Roos

Proposal for a regulation

Recital 62

Text proposed by the Commission

(62) In order to ensure the full and lasting achievement of the objectives of this Regulation, the Commission should be able to assess whether a provider of core platform services should be designated as a gatekeeper without meeting the quantitative thresholds laid down in this Regulation; whether systematic non-compliance by a gatekeeper warrants imposing additional remedies; and whether

Amendment

(62) In order to ensure the full and lasting achievement of the objectives of this Regulation, the Commission should be able to assess whether a provider of core platform services should be designated as a gatekeeper without meeting the quantitative thresholds laid down in this Regulation; whether systematic non-compliance by a gatekeeper warrants imposing additional remedies; and whether

the list of obligations addressing unfair practices by gatekeepers should be reviewed and additional practices that are similarly unfair and limiting the contestability of digital markets should be identified. Such assessment should be based on market investigations to be run in an appropriate timeframe, by using clear procedures and deadlines, in order to support the ex ante effect of this Regulation on contestability and fairness in the digital sector, and to provide the requisite degree of legal certainty.

the list of obligations addressing unfair practices by gatekeepers should be reviewed and additional practices that are similarly unfair and limiting the contestability of digital markets should be identified ***and whether there has been a significant impact on small and medium-sized enterprises and consumers***. Such assessment should be based on market investigations to be run in an appropriate timeframe, by using clear procedures and deadlines, in order to support the ex ante effect of this Regulation on contestability and fairness in the digital sector, and to provide the requisite degree of legal certainty.

Or. en

Amendment 225

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 62

Text proposed by the Commission

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

Amendment

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

Regulation on contestability and fairness in the digital sector, and to provide the requisite degree of legal certainty.

Regulation on contestability and fairness in the digital sector, and to provide the requisite degree of legal certainty.

Or. en

Amendment 226

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Pernille Weiss, Christian Ehler, Henna Virkkunen

Proposal for a regulation

Recital 63

Text proposed by the Commission

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

Amendment

(63) Following a market investigation, an undertaking providing a core platform service could be found to fulfil all of the overarching qualitative criteria for being identified as a gatekeeper. It should then, in principle, comply with all of the relevant obligations laid down by this Regulation.

Or. en

Amendment 227

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 63

Text proposed by the Commission

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

Amendment

(63) Following a market investigation, an undertaking providing a core platform service could be found to fulfil all of the overarching qualitative criteria for being identified as a gatekeeper. It should then comply with all of the relevant obligations laid down by this Regulation. However, for gatekeepers that have been designated by the Commission as likely to enjoy an entrenched and durable position in the near future, the Commission should only impose those obligations that are necessary and appropriate to prevent that the gatekeeper concerned achieves an entrenched and durable position in its operations. With respect to such emerging gatekeepers, the Commission should take into account that this status is temporary, ***and that a decision should be taken as soon as possible, according to Article 33***, whether such a provider of core platform services should be subjected to the full set of gatekeeper obligations because it has acquired an entrenched and durable position, or conditions for designation are ultimately not met and therefore all previously imposed obligations should be waived.

Or. en

Amendment 228

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 64

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

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

Or. en

Amendment 229
Rasmus Andresen
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 64

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

Change required for clarity.

Amendment 230

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 65

Text proposed by the Commission

(65) The services and practices in core platform services and markets in which these intervene can change quickly and to a significant extent. To ensure that this Regulation remains up to date and constitutes an effective and holistic regulatory response to the problems posed by gatekeepers, it is important to provide for a regular review of the lists of core platform services as well as of the obligations provided for in this Regulation. This is particularly important to ensure that behaviour that may limit the contestability of core platform services or is unfair is identified. While it is important to conduct a review on a regular basis, given the dynamically changing nature of the digital sector, in order to ensure legal certainty as to the regulatory conditions, any reviews should be conducted within a reasonable and appropriate time-frame. Market investigations should also ensure that the Commission has a solid evidentiary basis on which it can assess whether it should propose to amend this Regulation in order to expand, or further detail, the lists of core platform services. They should equally ensure that the Commission has a solid evidentiary basis on which it can assess whether it should propose to amend the obligations laid down in this Regulation or whether it should adopt a delegated act updating such obligations.

Amendment

(65) The services and practices in core platform services and markets in which these intervene can change quickly and to a significant extent. To ensure that this Regulation remains up to date and constitutes an effective and holistic regulatory response to the problems posed by gatekeepers, it is important to provide for a regular review of the lists of core platform services as well as of the obligations provided for in this Regulation. This is particularly important to ensure that behaviour that may limit the contestability of core platform services or is unfair is identified. While it is important to conduct a review on a regular basis, given the dynamically changing nature of the digital sector, in order to ensure legal certainty as to the regulatory conditions, any reviews should be conducted within a reasonable and appropriate time-frame, ***at least every two years, in line with Article 4.*** Market investigations should also ensure that the Commission has a solid evidentiary basis on which it can assess whether it should propose to amend this Regulation in order to expand, or further detail, the lists of core platform services. They should equally ensure that the Commission has a solid evidentiary basis on which it can assess whether it should propose to amend the obligations laid down in this Regulation or whether it should adopt a delegated act updating such obligations.

Or. en

Amendment 231

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Recital 65 a (new)

Text proposed by the Commission

Amendment

(65 a) Interim measures can be an important tool to ensure that, while an investigation is ongoing, the infringement being investigated does not lead to serious and immediate damage for business users or end users of gatekeepers. In case of urgency, where a risk of serious and immediate damage for business users or end-users of gatekeepers could result from new practices that may undermine contestability of core platform services, the Commission should be empowered to impose interim measures by temporarily imposing obligations to the gatekeeper concerned. These interim measures should be limited to what is necessary and justified. They should apply pending the conclusion of the market investigation and the corresponding final decision of the Commission pursuant to Article 17.

Or. en

Amendment 232

Eva Maydell

Proposal for a regulation

Recital 66

Text proposed by the Commission

Amendment

(66) In the event that gatekeepers engage in behaviour that is unfair or that limits the contestability of the core platform services that are already designated under this Regulation but without these behaviours being explicitly covered by the obligations, the Commission should be able to update this Regulation through *delegated acts*. Such

(66) In the event that gatekeepers engage in behaviour that is unfair or that limits the contestability of the core platform services that are already designated under this Regulation but without these behaviours being explicitly covered by the obligations, the Commission should be able to update this Regulation through *legislative acts in*

updates by way of delegated act should be subject to the same investigatory standard and therefore following a market investigation. The Commission should also apply a predefined standard in identifying such behaviours. This legal standard should ensure that the type of obligations that gatekeepers may at any time face under this Regulation are sufficiently predictable.

accordance with Article 294 of the TFEU. Such updates by way of delegated act should be subject to the same investigatory standard and therefore following a market investigation. The Commission should also apply a predefined standard in identifying such behaviours. This legal standard should ensure that the type of obligations that gatekeepers may at any time face under this Regulation are sufficiently predictable.

Or. en

Amendment 233

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 67

Text proposed by the Commission

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

Amendment

(67) Where, in the course of a proceeding into non-compliance or an investigation into systemic non-compliance, a gatekeeper offers commitments to the Commission, the latter should be able to adopt a decision making these commitments binding on the gatekeeper concerned, where it finds that the commitments ensure effective compliance with the obligations of this Regulation.

Or. en

Amendment 234

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Recital 67 a (new)

Text proposed by the Commission

Amendment

(67 a) The Commission should, where appropriate, be entitled to require the commitments to be tested, for example, by using split-run tests and other randomised experiments, in order to optimise their effectiveness. The commitments should be reviewed after they have been in place for an appropriate period. Where the review of the commitments by the Commission shows that they have not led to effective compliance, the Commission should be entitled to require amendment or revocation thereof.

Or. en

**Amendment 235
Markus Buchheit**

**Proposal for a regulation
Recital 68**

Text proposed by the Commission

Amendment

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

deleted

Or. en

**Amendment 236
Rasmus Andresen**

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 68

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

Increasing support and expertise for the Commission

Amendment 237

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 68 a (new)

Text proposed by the Commission

Amendment

(68 a) In order to ensure effective enforcement and compliance with this Regulation, it should be possible for

interested third-parties to lodge a complaint when there is sufficient doubt on the non-compliance of a gatekeeper with the obligations laid down in this Regulation. The Commission should decide within an appropriate timeline on further action based on the evidence submitted.

Or. en

Justification

Introducing a third party path.

Amendment 238

Markus Buchheit, Elena Lizzi

Proposal for a regulation

Recital 69

Text proposed by the Commission

(69) The Commission should be empowered to request information necessary for the purpose of this Regulation, throughout the Union. ***In particular, the Commission should have access to any relevant documents, data, database, algorithm and information necessary to open and conduct investigations and to monitor the compliance with the obligations laid down in this Regulation, irrespective of who possesses the documents, data or information in question, and regardless of their form or format, their storage medium, or the place where they are stored.***

Amendment

(69) The Commission should be empowered to request information necessary for the purpose of this Regulation, throughout the Union.

Or. en

Amendment 239

Eva Maydell

Proposal for a regulation

Recital 72

Text proposed by the Commission

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

Amendment

(72) The Commission should be able to take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in this Regulation. Such actions should include the ability of the Commission to appoint independent external experts, such as and auditors to assist the Commission in this process, including where applicable from competent independent authorities, such as data or consumer protection authorities. ***Considering the large number of business and end users of gatekeepers' core platform services resulting in exponentially larger number of non-compliance practices, cases and scenarios, a reporting mechanism for business and end users would facilitate the Commission in the swift identification of systemic non-compliance by gatekeepers. Such a reporting practice would additionally reduce the need for formal litigation practices and thus reduce the burden in national and EU courts of justice.***

Or. en

Amendment 240

Adriana Maldonado López, Lina Gálvez Muñoz, Alicia Homs Ginel, Nicolás González Casares

Proposal for a regulation

Recital 72

Text proposed by the Commission

(72) The Commission should be able to take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in this Regulation. Such actions should include the ability of the Commission to appoint independent external experts, such as and

Amendment

(72) The Commission should be able to take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in this Regulation. Such actions should include the ability of the Commission to appoint independent external experts, such as and

auditors to assist the Commission in this process, including where applicable from competent independent authorities, such as data or consumer protection authorities.

auditors to assist the Commission in this process, including where applicable from competent independent authorities, such as data or consumer protection authorities.

The Commission should set up rotating auditor teams with members from different organisations and with experience in the various sectors involved. The teams should rotate and be restructured on a regular basis. This should also apply to any external independent control authority. Auditors or staff from the external independent control authority should also be subject to an appropriate cooling-off period.

Or. es

Amendment 241

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 72

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

Ensuring effective implementation

Amendment 242

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 72

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 243

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Recital 72

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 244

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 75

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

Introducing and clarifying the right to be heard.

Amendment 245

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Recital 75

Text proposed by the Commission

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

Amendment

(75) In the context of proceedings carried out under this Regulation, the undertakings concerned should be accorded the right to be heard by the Commission and the decisions taken should be widely publicised. ***Other relevant stakeholders with sufficient interest, natural or legal persons, should also have a right to be heard, particularly parties directly affected by the obligations of Articles 5 and 6. Parties could be represented by associations applying on their behalf or other representatives.*** While ensuring the rights to good administration and the rights of defence of the undertakings concerned, in particular, the right of access to the file and the right to be heard, it is essential that confidential information be protected. Furthermore, while respecting the confidentiality of the information, the Commission should ensure that any information relied on for the purpose of the decision is disclosed to an extent that allows the addressee of the decision to understand the facts and considerations that led up to the decision. Finally, under certain conditions certain business records, such as communication between lawyers and their clients, may be considered confidential if the relevant conditions are met.

Or. en

Amendment 246

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 75

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 247

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Recital 75

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 248

Patrizia Toia

Proposal for a regulation

Recital 75 a (new)

Text proposed by the Commission

Amendment

(75 a) In order to enhance cooperation between the competent national authorities and the European Commission, it is appropriate to provide for the establishment of an advisory body composed of representatives of national regulatory authorities with competence in the subject matter covered by the Regulation, with a view to ensuring a

coordinated and consistent application of the regulatory provisions in relation to the different sectoral regulatory frameworks.

Or. en

Amendment 249

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Recital 75 a (new)

Text proposed by the Commission

Amendment

(75 a) In order to facilitate cooperation and coordination between the Commission and Member States in their enforcement actions, a group of regulators with responsibilities in the digital sector should be established with the power to advise the Commission on a number of decisions; it should enable the exchange of information and best practices among the Members States, better monitoring and thus strengthen the implementation of this Regulation.

Or. en

Amendment 250

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Recital 76

Text proposed by the Commission

Amendment

(76) In order to ensure uniform

(76) In order to ensure uniform

conditions for the implementation of Articles 3, 6, 12, 13, 15, 16, 17, 20, 22, 23, 25 and 30, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182//2011 of the European Parliament and of the Council³⁵ .

³⁵ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, (OJ L 55, 28.2.2011, p. 13).

conditions for the implementation of Articles 3, 5, 6, 12, 13, 15, 16, 17, 20, 22, 23, 25 and 30, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182//2011 of the European Parliament and of the Council³⁵.

³⁵ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, (OJ L 55, 28.2.2011, p. 13).

Or. en

Amendment 251

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 77

Text proposed by the Commission

(77) The advisory committee established in accordance with Regulation (EU) No 182//2011 should also deliver opinions on certain individual decisions of the Commission issued under this Regulation. In order to ensure contestable and fair markets in the digital sector across the Union where gatekeepers are present, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to supplement this Regulation. In particular, delegated acts should be adopted in respect of the methodology for determining the quantitative thresholds for designation of gatekeepers under this Regulation and in respect of the update of the obligations laid down in this Regulation where, based on a

Amendment

(77) The advisory committee established in accordance with Regulation (EU) No 182//2011 should also deliver opinions on certain individual decisions of the Commission issued under this Regulation. In order to ensure contestable and fair markets in the digital sector across the Union where gatekeepers are present, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to supplement this Regulation. In particular, delegated acts should be adopted in respect of the methodology for determining the quantitative thresholds for designation of gatekeepers under this Regulation and in respect of the update of the obligations laid down in this Regulation where, based on a

market investigation the Commission has identified the need for updating the obligations addressing practices that limit the contestability of core platform services or are unfair. It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016³⁶. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

³⁶ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p.1).

market investigation the Commission has identified the need for updating the obligations addressing practices that limit the contestability of core platform services or are unfair. It is of particular importance that the Commission carries out appropriate consultations, ***including with interested third-parties***, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016³⁶. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

³⁶ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p.1).

Or. en

Justification

Change intended to increase democratic accountability.

Amendment 252

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 78

Text proposed by the Commission

(78) The Commission should periodically evaluate this Regulation and closely monitor its effects on the contestability and fairness of commercial relationships in the online platform

Amendment

(78) The Commission should periodically evaluate this Regulation and closely monitor its effects on the contestability and fairness of commercial relationships in the online platform

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

economy, in particular with a view to determining the need for amendments in light of relevant technological or commercial developments **and according to Article 294 of the Treaty on the Functioning of the European Union**. This evaluation should include the regular review of the list of core platform services and the obligations addressed to gatekeepers as well as enforcement of these, in view of ensuring that digital markets across the Union are contestable and fair. In order to obtain a broad view of developments in the sector, the evaluation should take into account the experiences of Member States and relevant stakeholders. The Commission may in this regard also consider the opinions and reports presented to it by the Observatory on the Online Platform Economy that was first established by Commission Decision C(2018)2393 of 26 April 2018 **or from any consumers' right and fundamental right organisation**. Following the evaluation, the Commission should take appropriate measures. The Commission should to maintain a high level of protection and respect for the common EU rights and values, particularly equality and non-discrimination, as an objective when conducting the assessments and reviews of the practices and obligations provided in this Regulation.

Or. en

Amendment 253

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Recital 78

Text proposed by the Commission

(78) The Commission should periodically evaluate this Regulation and closely monitor its effects on the contestability and fairness of commercial

Amendment

(78) The Commission should periodically evaluate this Regulation and closely monitor its effects on the contestability and fairness of commercial

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

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

Or. en

Amendment 254

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 79 – introductory part

Text proposed by the Commission

(79) The objective of this Regulation is to ensure a contestable and fair digital sector in general and core platform services

Amendment

(79) The objective of this Regulation is to ensure a contestable and fair digital sector in general and core platform services

in particular, with a view to promoting innovation, high quality of digital products and services, fair and competitive prices, as well as a high quality and choice for end users in the digital sector. This cannot be sufficiently achieved by the Member States, but can only, by reason of the business model and operations of the gatekeepers and the scale and effects of their operations, be fully achieved at Union level. The Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

in particular, ***avoid lock-in effects***, with a view to promoting innovation, high quality of digital products and services, fair and competitive prices, as well as ***data protection, transparency, user informed and free choice and interoperability in order to guarantee a level playing field and consumer welfare***, a high quality and ***transparent*** choice for end users in the digital sector. This cannot be sufficiently achieved by the Member States, but can only, by reason of the business model and operations of the gatekeepers and the scale and effects of their operations, be fully achieved at Union level. The Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

Or. en

Amendment 255

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Recital 79 a (new)

Text proposed by the Commission

Amendment

(79 a) The Commission shall apply the provisions of this Regulation in close cooperation with the competent national competition authorities, acting within the framework of the European Competition Network, to ensure effective enforceability as well as coherent implementation of this Regulation and to facilitate the cooperation with national authorities.

Or. en

Amendment 256

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 79 a (new)

Text proposed by the Commission

Amendment

(79 a) In order to guarantee proper enforcement of this regulation, the Commission should be equipped with sufficient staff to guarantee harmonised enforcement, proper monitoring of compliance by gatekeepers and qualitative market investigations across the EU.

Or. en

Amendment 257

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Recital 79 b (new)

Text proposed by the Commission

Amendment

(79 b) Without prejudice to the budgetary procedure and through existing financial instruments, adequate human, financial and technical resources should be allocated to the Commission to ensure that it can effectively perform its duties and exercise its powers as necessary for the enforcement of this Regulation.

Or. en

Amendment 258

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Recital 79 b (new)

Text proposed by the Commission

Amendment

(79 b) *Obligations for gatekeepers and enforcement measures under this regulation should contribute to the development of ambitious global norms and policies.*

Or. en

Amendment 259

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1

Text proposed by the Commission

Amendment

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

1. This Regulation lays down harmonised rules ensuring contestable and fair markets in the digital sector across the Union where gatekeepers are present ***so as to contribute to the protection of fundamental rights and the integrity of democratic processes, as well as to foster innovation, increase consumer choice and ensure higher consumer protection standards.***

Or. en

Justification

Ensuring contestable and fair markets is a tool in reaching higher policy objective. This change clarifies those.

Amendment 260

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Article 1 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 261

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Article 1 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 262

Paul Tang, Eva Kaili

Proposal for a regulation

Article 1 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 263

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 2

Text proposed by the Commission

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

Amendment

2. This Regulation shall apply to core platform **commercial** services provided or offered by gatekeepers to business users established in the Union or end users established or located in the Union, irrespective of the place of establishment or residence of the gatekeepers and irrespective of the law otherwise applicable to the provision of service. ***This Regulation shall apply and be interpreted in full respect of fundamental rights and the principles recognised by the Charter of Fundamental Rights of the European Union, in particular Articles 11, 16, 47 and 50 thereof.***

Or. en

Justification

Clarifying that noncommercial services are not covered, and fundamental rights are fully respected.

Amendment 264

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Article 1 – paragraph 2

Text proposed by the Commission

2. This Regulation shall apply to core platform services provided or offered by gatekeepers to ***business users established in the Union*** or end users established or

Amendment

2. This Regulation shall apply to core platform services provided or offered by gatekeepers to end users established or located in the Union ***and business users,***

located in the Union, irrespective of the place of establishment or residence of the gatekeepers and irrespective of the law otherwise applicable to the provision of service.

irrespective of the place of establishment or residence of the gatekeepers *or business users* and irrespective of the law otherwise applicable to the provision of service.

Or. en

Amendment 265

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Article 1 – paragraph 3 – point b

Text proposed by the Commission

(b) related to electronic communications services as defined in point (4) of Article 2 of Directive (EU) 2018/1972 other than those related to interpersonal communication services as defined in point **(4)(b)** of Article 2 of that Directive.

Amendment

(b) related to electronic communications services as defined in point (4) of Article 2 of Directive (EU) 2018/1972 other than those related to **number-independent** interpersonal communication services as defined in point **(7)** of Article 2 of that Directive.

Or. en

Amendment 266

Markus Buchheit

Proposal for a regulation

Article 1 – paragraph 3 – point b a (new)

Text proposed by the Commission

Amendment

(b a) Due to the structural differences between B2C and B2B-only and industry-only platforms, the latter two shall be exempted from the regulation;

Or. en

Amendment 267
Nicola Beer, Ivars Ijabs

Proposal for a regulation
Article 1 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. This Regulation shall not apply to the data that is used to maintain or improve security of online transactions and prevent fraud.

Or. en

Amendment 268
Rasmus Andresen
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 1 – paragraph 4

Text proposed by the Commission

Amendment

4. With regard to interpersonal communication services this Regulation *is* without prejudice to the powers and tasks granted to the national regulatory and other competent authorities by virtue of Article **61 of Directive (EU) 2018/1972**.

4. With regard to interpersonal communication services this Regulation **builds on Article 61 of Directive (EU) 2018/1972 and establishes additional Union level obligations for gatekeepers**, without prejudice to the powers and tasks granted to the national regulatory and other competent authorities by virtue of **that** Article.

Or. en

Justification

Article 61 of Directive (EU) 2018/1972 allows national regulatory authorities to impose interoperability requirements for undertakings having significant market power. As this regulation deals with gatekeepers, deemed to have a significant market power, the obligations on relevant providers of number-independent interpersonal communications services to make their services interoperable shall be imposed.

Amendment 269
Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation
Article 1 – paragraph 5

Text proposed by the Commission

5. Member States shall not impose on gatekeepers further obligations by way of laws, regulations or administrative action for the purpose of ensuring contestable and fair markets. This is without prejudice to rules pursuing other legitimate public interests, in compliance with Union law. In particular, nothing in this Regulation precludes Member States from imposing obligations, which are compatible with Union law, on undertakings, including providers of core platform services where these obligations are unrelated to the relevant undertakings having a status of gatekeeper within the meaning of this Regulation in order to protect consumers or to fight against acts of unfair competition.

Amendment

5. ***In order to ensure the frictionless and coherent application of this Regulation throughout the internal market and to guarantee a fully harmonized approach, the European Commission shall be the sole enforcer and decision maker on the correct application of the rules and obligations set out in this Regulation.*** Member States shall not impose on gatekeepers further obligations by way of laws, regulations or administrative action for the purpose of ensuring contestable and fair markets. This is without prejudice to rules pursuing other legitimate public interests, in compliance with Union law. In particular, nothing in this Regulation precludes Member States from imposing obligations, which are compatible with Union law, on undertakings, including providers of core platform services where these obligations are unrelated to the relevant undertakings having a status of gatekeeper within the meaning of this Regulation in order to protect consumers or to fight against acts of unfair competition.

Or. en

Amendment 270

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation
Article 1 – paragraph 5

Text proposed by the Commission

5. ***Member States shall not impose on gatekeepers further obligations by way of laws, regulations or administrative action for the purpose of ensuring contestable***

Amendment

5. Nothing in this Regulation precludes Member States from imposing obligations, which are compatible with Union law, on undertakings, including

and fair markets. This is without prejudice to rules pursuing other legitimate public interests, in compliance with Union law. In particular, nothing in this Regulation precludes Member States from imposing obligations, which are compatible with Union law, on undertakings, including providers of core platform services where these obligations are unrelated to the relevant undertakings having a status of gatekeeper within the meaning of this Regulation in order to protect consumers or to fight against acts of unfair competition.

providers of core platform services where these obligations are unrelated to the relevant undertakings having a status of gatekeeper within the meaning of this Regulation in order to protect consumers or to fight against acts of unfair competition.

Or. en

Amendment 271
Jessica Stegrud

Proposal for a regulation
Article 1 – paragraph 5

Text proposed by the Commission

5. ***Member States shall not impose on gatekeepers further obligations by way of laws, regulations or administrative action for the purpose of ensuring contestable and fair markets. This is without prejudice to rules pursuing other legitimate public interests, in compliance with Union law. In particular,*** nothing in this Regulation precludes Member States from imposing obligations, which are compatible with Union law, on undertakings, including providers of core platform services where these obligations are unrelated to the relevant undertakings having a status of gatekeeper within the meaning of this Regulation in order to protect consumers or to fight against acts of unfair competition.

Amendment

5. Nothing in this Regulation precludes Member States from imposing obligations, which are compatible with Union law, on undertakings, including providers of core platform services where these obligations are unrelated to the relevant undertakings having a status of gatekeeper within the meaning of this Regulation in order to protect consumers or to fight against acts of unfair competition.

Or. en

Amendment 272

Adam Jarubas

on behalf of the PPE Group

Eva Maydell, Maria da Graça Carvalho, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Article 1 – paragraph 5

Text proposed by the Commission

5. Member States shall not impose on gatekeepers further obligations by way of laws, regulations or administrative action for the purpose of ensuring contestable and fair markets. This is without prejudice to rules pursuing other legitimate public interests, in compliance with Union law. In particular, nothing in this Regulation precludes Member States from imposing obligations, which are compatible with Union law, on undertakings, including providers of core platform services where these obligations are unrelated to the relevant undertakings having a status of gatekeeper within the meaning of this Regulation in order to protect consumers or to fight against acts of unfair competition.

Amendment

5. ***In order to avoid the fragmentation of the internal market,*** Member States shall not impose on gatekeepers further obligations by way of laws, regulations or administrative action for the purpose of ensuring contestable and fair markets. This is without prejudice to rules pursuing other legitimate public interests, in compliance with Union law. In particular, nothing in this Regulation precludes Member States from imposing obligations, which are compatible with Union law, on undertakings, including ***those undertakings controlling the*** providers of core platform services where these obligations are unrelated to the relevant ***providers of core platform services*** undertakings having a status of gatekeeper within the meaning of this Regulation in order to protect consumers or to fight against acts of unfair competition.

Or. en

Amendment 273

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Article 1 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. In addition to Article 32a, national competition authorities shall notify the Commission at least four weeks before the opening of any formal proceedings against any provider of core platform

services if there is any possible overlap with the scope of this Regulation, in order to ensure close coordination and cooperation at Union and national level.

Or. en

Amendment 274

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Article 1 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. The Commission or any national institution, shall not apply obligations or prohibitions, included in this Regulation and reserved for the gatekeepers, or obligations or prohibitions identical in substance, to core platform services providers not designated by the Commission as gatekeepers under this Regulation.

Or. en

Amendment 275

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 6

Text proposed by the Commission

Amendment

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

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

positions; national competition rules prohibiting other forms of unilateral conduct insofar as they are applied to undertakings other than gatekeepers or amount to imposing additional obligations on gatekeepers; Council Regulation (EC) No 139/2004³⁸ and national rules concerning merger control; Regulation (EU) 2019/1150 and Regulation (EU) .../.. of the European Parliament and of the Council³⁹.

positions; national competition rules prohibiting other forms of unilateral conduct insofar as they are applied to undertakings other than gatekeepers or amount to imposing additional obligations on gatekeepers; Council Regulation (EC) No 139/2004³⁸ and national rules concerning merger control; Regulation (EU) 2019/1150 and Regulation (EU) .../.. of the European Parliament and of the Council³⁹, **Regulation 2016/679, Directive 2002/58/EC, Directive (EU) 2019/882, Directive (EU) 2018/1808, as well as without prejudice to Union law on consumer protection and product safety.**

³⁸ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).

³⁹ Regulation (EU) .../.. of the European Parliament and of the Council – proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC.

³⁸ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).

³⁹ Regulation (EU) .../.. of the European Parliament and of the Council – proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC.

Or. en

Justification

Clarifying the hierarchy of the legal acts.

Amendment 276

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Article 1 – paragraph 6

Text proposed by the Commission

6. This Regulation is without prejudice to the application of Articles 101

Amendment

6. This Regulation is without prejudice to the application of Articles 101

and 102 TFEU. It is also without prejudice to the application of: national rules prohibiting anticompetitive agreements, decisions by associations of undertakings, concerted practices and abuses of dominant positions; national competition rules prohibiting other forms of unilateral conduct insofar as they are applied to undertakings other than gatekeepers or amount to imposing additional obligations on gatekeepers; Council Regulation (EC) No 139/2004³⁸ and national rules concerning merger control; Regulation (EU) 2019/1150 and Regulation (EU) .../.. of the European Parliament and of the Council³⁹ .

³⁸ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).

³⁹ Regulation (EU) .../.. of the European Parliament and of the Council – proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC.

and 102 TFEU. It is also without prejudice to the application of: national rules prohibiting anticompetitive agreements, decisions by associations of undertakings, concerted practices and abuses of dominant positions; national competition rules prohibiting other forms of unilateral conduct insofar as they are applied to undertakings other than gatekeepers or amount to imposing additional obligations on gatekeepers; Council Regulation (EC) No 139/2004³⁸ and national rules concerning merger control; Regulation (EU) 2019/1150; **Directive 2005/29/EC; Council Directive 93/13/EEC** and Regulation (EU) .../.. of the European Parliament and of the Council³⁹ .

³⁸ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).

³⁹ Regulation (EU) .../.. of the European Parliament and of the Council – proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC.

Or. en

Amendment 277

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Article 1 – paragraph 6

Text proposed by the Commission

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

Amendment

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

positions; national competition rules prohibiting other forms of unilateral conduct *insofar as they are applied to undertakings other than gatekeepers or amount to imposing* additional obligations on gatekeepers; Council Regulation (EC) No 139/2004³⁸ and national rules concerning merger control; Regulation (EU) 2019/1150 and Regulation (EU) .../.. of the European Parliament and of the Council³⁹ .

³⁸ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).

³⁹ Regulation (EU) .../.. of the European Parliament and of the Council – proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC.

positions; national competition rules prohibiting other forms of unilateral conduct, *including* additional obligations on gatekeepers; Council Regulation (EC) No 139/2004³⁸ and national rules concerning merger control; Regulation (EU) 2019/1150 and Regulation (EU) .../.. of the European Parliament and of the Council³⁹ .

³⁸ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).

³⁹ Regulation (EU) .../.. of the European Parliament and of the Council – proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC.

Or. en

Amendment 278 **Jessica Stegrud**

Proposal for a regulation **Article 1 – paragraph 7**

Text proposed by the Commission

7. ***National authorities shall not take decisions which would run counter to a decision adopted by the Commission under this Regulation.*** The Commission and Member States shall work in close cooperation and coordination in their enforcement actions.

Amendment

7. The Commission and Member States shall work in close cooperation and coordination in their enforcement actions.

Or. en

Amendment 279 **François-Xavier Bellamy**

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point a

Text proposed by the Commission

(a) online intermediation services;

Amendment

(a) online intermediation services
including digital voice assistants;

Or. en

Amendment 280

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point a

Text proposed by the Commission

(a) online intermediation services;

Amendment

(a) online intermediation services,
including online retail services;

Or. en

Amendment 281

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point b

Text proposed by the Commission

(b) online search engines;

Amendment

(b) online search engines *and*
browsers;

Or. en

Amendment 282

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Jerzy Buzek, Massimiliano Salini, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

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

Text proposed by the Commission

Amendment

(b a) Voice activated assistants;

Or. en

Amendment 283
Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

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

Text proposed by the Commission

Amendment

(c a) web browsers;

Or. en

Amendment 284
Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

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

Text proposed by the Commission

Amendment

(c b) virtual assistants;

Or. en

Amendment 285
Adam Jarubas
on behalf of the PPE Group
**Maria da Graça Carvalho, Jerzy Buzek, Massimiliano Salini, François-Xavier Bellamy,
Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo,
Henna Virkkunen**

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

Text proposed by the Commission

Amendment

(f a) web browsers;

Or. en

Amendment 286

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point g

Text proposed by the Commission

Amendment

(g) cloud computing services;

(g) cloud computing services,
***including enterprise software,
applications, and solution services;***

Or. en

Amendment 287

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point g

Text proposed by the Commission

Amendment

(g) cloud computing services;

(g) cloud computing services,
including business to business cloud;

Or. en

Amendment 288

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point g

Text proposed by the Commission

Amendment

(g) cloud computing services;

(g) cloud computing services ***including***

Justification

Clarification of the scope.

Amendment 289

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Pilar del Castillo Vera, Jerzy Buzek, Massimiliano Salini, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point h

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 290

Maria-Manuel Leitão-Marques, Miapetra Kumpula-Natri

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(h a) payment aggregation services, provided by a provider of any of the core platform services listed in points (a) to (g);

Or. en

Amendment 291
Rasmus Andresen
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

Amendment

(h a) embedded digital services in vehicles;

Or. en

Justification

New technological developments are introducing digital services to vehicles, thus creating a market that is vulnerable to the behaviours of gatekeepers.

Amendment 292
Jessica Stegrud

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

Text proposed by the Commission

Amendment

(h a) digital voice assistants;

Or. en

Amendment 293
Andrea Caroppo

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

Text proposed by the Commission

Amendment

(h a) productivity software;

Or. en

Amendment 294

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(h a) streaming services;

Or. en

Amendment 295

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(h a) web browsers;

Or. en

Amendment 296

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point h b (new)

Text proposed by the Commission

Amendment

(h b) voice-controlled virtual assistants;

Or. en

Amendment 297

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point h b (new)

Text proposed by the Commission

Amendment

(h b) virtual assistants;

Or. en

Amendment 298

Jessica Stegrud

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point h b (new)

Text proposed by the Commission

Amendment

(h b) web browsers;

Or. en

Amendment 299

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point h b (new)

Text proposed by the Commission

Amendment

(h b) web browsers;

Or. en

Justification

The market of web browsers must be treated independently of operating systems or general software applications.

Amendment 300

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point h c (new)

Text proposed by the Commission

Amendment

(h c) embedded digital services in vehicles;

Or. en

Amendment 301

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point h c (new)

Text proposed by the Commission

Amendment

(h c) virtual assistant;

Or. en

Justification

Services provided through virtual assistants can be influenced by the choice of software and provider.

Amendment 302

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point h d (new)

Text proposed by the Commission

Amendment

(h d) connected tv;

Or. en

Justification

Connected television sets are more similar to digital devices and the services provided through them are vulnerable to market issues.

Amendment 303

Rasmus Andresen

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point h e (new)

Text proposed by the Commission

Amendment

(h e) collaborative economy services;

Or. en

Justification

As a market combining digital and offline activities, collaborative economy services are vulnerable to concentration and abuse of power.

Amendment 304

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Article 2 – paragraph 1 – point 3 a (new)

Text proposed by the Commission

Amendment

(3 a) ‘Web browser’ means a client software program that runs against a Web server or other Internet server and enables a user to navigate the World Wide Web to access and display data, including standalone web browsers as well as web browsers integrated or embedded in software or similar;

Or. en

Amendment 305

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

Proposal for a regulation

Article 2 – paragraph 1 – point 6

Text proposed by the Commission

Amendment

(6) ‘Online search engine’ means a digital service as defined in point 5 of Article 2 of Regulation (EU) 2019/1150;

(6) ‘Online search engine’ means a digital service as defined in point 5 of Article 2 of Regulation (EU) 2019/1150, **thus excluding the search functions on other online intermediation services;**

Amendment 306

Marisa Matias

on behalf of the The Left Group

Proposal for a regulation

Article 2 – paragraph 1 – point 6 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 307

Adam Jarubas

on behalf of the PPE Group

Maria da Graça Carvalho, Jerzy Buzek, Massimiliano Salini, Pernille Weiss, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation

Article 2 – paragraph 1 – point 6 a (new)

Text proposed by the Commission

Amendment

(6 a) ‘Voice activated assistants’ means voice-activated pieces of software that can perform a variety of tasks, acting both as a platform for voice applications and a user interface;

Or. en

Amendment 308

Nicola Beer, Valérie Hayer, Ivars Ijabs, Christophe Grudler

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

Text proposed by the Commission

Amendment

(7 a) ‘Virtual assistant’ means software that responds to oral or written commands expressed in natural language by end users and performs tasks or services independently or through IT systems if needed and on behalf of the end user;

Or. en

Amendment 309
Christophe Grudler, Valérie Hayer

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

Text proposed by the Commission

Amendment

(7 a) ‘Virtual assistant’ means software that responds to oral or written commands expressed in natural language by end users and performs tasks or services independently or through IT systems if needed and on behalf of the end user;

Or. en

Amendment 310
Adam Jarubas
on behalf of the PPE Group
Maria da Graça Carvalho, Jerzy Buzek, Christian Ehler, Andrea Caroppo, Aldo Patriciello, Salvatore De Meo, Henna Virkkunen

Proposal for a regulation
Article 2 – paragraph 1 – point 9

Text proposed by the Commission

Amendment

(9) ‘Number-independent interpersonal communications service’ means a service as defined in point 7 of Article 2 of

(9) ‘Number-independent interpersonal communications service’ means a service as defined in point 7 of Article 2 of

Directive (EU) 2018/1972;

Directive (EU) 2018/1972, *including interpersonal communications services using publicly assigned numbering resources, namely, a number or numbers in national or international numbering plans, for the purpose of identifying users and which enable communication with a number or numbers in national or international numbering plans other than instant voice communication;*

Or. en