



2020/0361(COD)

27.5.2021

DRAFT OPINION

of the Committee on Industry, Research and Energy

for the Committee on the Internal Market and Consumer Protection

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

Rapporteur for opinion: Henna Virkkunen

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

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SHORT JUSTIFICATION

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

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

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

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

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

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

AMENDMENTS

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

Amendment 1

Proposal for a regulation

Recital 12

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 2

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) Considering the particular

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Amendment

(13) Considering the particular

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

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

Or. en

Amendment 3

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) The concept of ‘dissemination to the public’, as used in this Regulation, should entail the making available of information to a potentially unlimited number of persons, that is, making the information easily accessible to users in general without further action by the recipient of the service providing the information being required, irrespective of whether those persons actually access the information in question. The mere possibility to create groups of users of a given service should not, in itself, be understood to mean that the information disseminated in that manner is not disseminated to the public. However, the concept should exclude dissemination of information within closed groups consisting of a finite number of pre-determined persons. Interpersonal communication services, as defined in Directive (EU) 2018/1972 of the European Parliament and of the Council,³⁹ such as emails or private messaging services, fall outside the scope of this Regulation. Information should be considered disseminated to the public within the meaning of this Regulation only where that occurs upon the direct request by the recipient of the service that provided the information.

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

Amendment

(14) The concept of ‘dissemination to the public’, as used in this Regulation, should entail the making available of information to a potentially unlimited number of persons, that is, making the information easily accessible to users in general without further action by the recipient of the service providing the information being required, irrespective of whether those persons actually access the information in question. The mere possibility to create groups of users of a given service should not, in itself, be understood to mean that the information disseminated in that manner is not disseminated to the public. However, the concept should exclude dissemination of information within closed groups consisting of a finite number of pre-determined persons. Interpersonal communication services, as defined in Directive (EU) 2018/1972 of the European Parliament and of the Council,³⁹ such as emails or private messaging services, fall outside the scope of this Regulation. ***To the extent they qualify as ‘mere conduit’, ‘caching’ or ‘hosting’ services, those services should be able to benefit from liability exemptions under Chapter II of this Regulation.*** Information should be considered disseminated to the public within the meaning of this Regulation only where that occurs upon the direct request by the recipient of the service that provided the information.

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

Or. en

Amendment 4

Proposal for a regulation Recital 20

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 5

Proposal for a regulation Recital 22

Text proposed by the Commission

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

Amendment

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

the allegedly illegal content.

economic operator to reasonably identify, assess and where appropriate act against the allegedly illegal content.

Or. en

Amendment 6

Proposal for a regulation

Recital 23

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 7

Proposal for a regulation

Recital 25

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 8

Proposal for a regulation

Recital 27

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 9

Proposal for a regulation

Recital 37

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 10

Proposal for a regulation

Recital 40

Text proposed by the Commission

(40) Providers of hosting services play a particularly important role in tackling

Amendment

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

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

Or. en

Amendment 11

Proposal for a regulation Recital 44 a (new)

Text proposed by the Commission

Amendment

(44 a) Out-of-court dispute settlement can offer online platforms and their users the means to resolve disputes in a satisfactory manner, without having to use judicial proceedings, which can be lengthy and costly. In order to safeguard those benefits of out-of-court dispute settlement, online platforms should designate in their terms and conditions,

and for each Member State separately, two or more out-of-court dispute settlement bodies which the online platform approves. These out-of-court dispute settlement bodies need to be certified by the Digital Services Coordinator and meet the relevant criteria of independence and expertise. If an online platform fails to designate two or more out-of-court dispute settlement bodies, or designates bodies whose expertise does not relate to the dispute in question or who are not capable of settling disputes in the language of the complainant, the complainant should be entitled to select any duly certified out-of-court dispute settlement body. For those reasons, it is not to the detriment of the consumer if the online platform fails to designate these bodies, but instead broadens the range of bodies available for the claimant to select.

Or. en

Amendment 12

Proposal for a regulation Recital 44 b (new)

Text proposed by the Commission

Amendment

(44 b) If an out-of-court dispute settlement body decides the dispute in favour of the recipient of the service, the online platform should reimburse the recipient for any fees and other reasonable expenses that the recipient has paid or is to pay in relation to the dispute settlement. If the body decides the dispute in favour of the online platform and finds the complaint manifestly unfounded or abusive, the recipient should only be required to reimburse 10 % of any fees or other expenses that the online platform paid or is to pay in relation to the dispute settlement. That maximum is intended to

reflect the disproportionate financial means available to online platforms, whilst deterring abusive repeat requests or other misuses of the out-of-court dispute settlements.

Or. en

Amendment 13

Proposal for a regulation

Recital 46

Text proposed by the Commission

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

Amendment

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

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

holders *specifically created for that purpose* could be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions *and that their assessment of what constitutes an IPR infringement is unbiased and consistent*. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council.⁴³

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

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

Or. en

Amendment 14

Proposal for a regulation Recital 47

Text proposed by the Commission

(47) The misuse of services of online platforms by frequently providing *manifestly* illegal content or by frequently submitting *manifestly* unfounded notices or complaints under the mechanisms and systems, respectively, established under this Regulation undermines trust and harms the rights and legitimate interests of the parties concerned. Therefore, there is a

Amendment

(47) The misuse of services of online platforms by frequently providing illegal content or by frequently submitting unfounded notices or complaints under the mechanisms and systems, respectively, established under this Regulation undermines trust and harms the rights and legitimate interests of the parties concerned. Therefore, there is a need to put

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

in place appropriate and proportionate safeguards against such misuse. Under certain conditions, online platforms should temporarily suspend their relevant activities in respect of the person engaged in abusive behaviour. This is without prejudice to the freedom by online platforms to determine their terms and conditions and establish stricter measures in the case of illegal content related to serious crimes. For reasons of transparency, this possibility should be set out, clearly and in sufficiently detail, in the terms and conditions of the online platforms. Redress should always be open to the decisions taken in this regard by online platforms and they should be subject to oversight by the competent Digital Services Coordinator. The rules of this Regulation on misuse should not prevent online platforms from taking other measures to address the provision of illegal content by recipients of their service or other misuse of their services, in accordance with the applicable Union and national law. Those rules are without prejudice to any possibility to hold the persons engaged in misuse liable, including for damages, provided for in Union or national law.

Or. en

Amendment 15

Proposal for a regulation Recital 63 a (new)

(63 a) In order to take further measures against counterfeit products, online platforms that are considered to be very large online platforms should, when they find that consumers have purchased counterfeit products from third party sellers through their platform, notify those customers of their finding, including by electronic means and using the contact details provided by the customer. The notification should include the name of the seller, the name by which the counterfeit product has been sold and information on the remedies available for the consumer. Where a third party seller has been found to have sold several counterfeit items and the specific nature of each product cannot be determined, it should be possible for the platform to issue a notification to all customers that have purchased products from the third party trader through the online marketplace. The Commission and the Board should draw up a code of conduct concerning the more specific content of the notifications.

Or. en

Amendment 16

Proposal for a regulation Recital 64

Text proposed by the Commission

(64) In order to appropriately supervise the compliance of very large online platforms with the obligations laid down by this Regulation, the Digital Services Coordinator of establishment or the Commission may require access to or reporting of specific data. Such a requirement may include, for example, the data necessary to assess the risks and

Amendment

(64) In order to appropriately supervise the compliance of very large online platforms with the obligations laid down by this Regulation, the Digital Services Coordinator of establishment or the Commission may require access to or reporting of specific ***information or*** data. Such a requirement may include, for example, the data necessary to assess the

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

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

Or. en

Amendment 17

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(b a) facilitate innovations, support digital transition, encourage economic growth and create a level playing field for digital services within the internal market.

Or. en

Amendment 18

Proposal for a regulation

Article 1 – paragraph 5 – point b a (new)

Text proposed by the Commission

Amendment

(b a) Directive (EU) 2018/1808;

Or. en

Amendment 19

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(i a) Directive (EU) 2019/882;

Or. en

Amendment 20

Proposal for a regulation

Article 2 – paragraph 1 – point h

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 21

Proposal for a regulation

Article 2 – paragraph 1 – point 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 22

Proposal for a regulation

Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 23

Proposal for a regulation

Article 5 – paragraph 3

Text proposed by the Commission

Amendment

3. Paragraph 1 shall not apply with respect to liability under consumer protection law of online platforms allowing consumers to conclude distance contracts with traders, where such an online platform

3. Paragraph 1 shall not apply with respect to liability under consumer protection law of online platforms allowing consumers to conclude distance contracts with traders ***on the platform***, where such

presents the specific item of information or otherwise enables the specific transaction at issue in a way that would lead an average and reasonably well-informed consumer to believe that the information, or the product or service that is the object of the transaction, is provided either by the online platform itself or by a recipient of the service who is acting under its authority or control.

an online platform presents the specific item of information or otherwise enables the specific transaction at issue in a way that would lead an average and reasonably well-informed consumer to believe that the information, or the product or service that is the object of the transaction, is provided either by the online platform itself or by a recipient of the service who is acting under its authority or control.

Or. en

Amendment 24

Proposal for a regulation Article 6 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 25

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

Text proposed by the Commission

Amendment

5 a. Providers of intermediary services that qualify as micro or small enterprises within the meaning of the Annex to Recommendation 2003/361/EC, and who

have been unsuccessful in obtaining the services of a legal representative after reasonable effort, shall be able to request that the Digital Service Coordinator of the Member State where the enterprise intends to obtain a legal representative facilitates further cooperation and recommends possible solutions, including possibilities for collective representation.

Or. en

Amendment 26

Proposal for a regulation

Article 13 – paragraph 1 – point a

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 27

Proposal for a regulation

Article 13 – paragraph 1 – point b

Text proposed by the Commission

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

Amendment

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

Amendment 28

Proposal for a regulation

Article 13 – paragraph 1 – point c

Text proposed by the Commission

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

Amendment

(c) the content moderation engaged in at the providers' own initiative, including the number and type of measures taken that affect the availability, visibility and accessibility of information provided by the recipients of the service;

Or. en

Amendment 29

Proposal for a regulation

Article 13 – paragraph 1 – point d

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 30

Proposal for a regulation

Article 13 – paragraph 2

Text proposed by the Commission

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

Amendment

2. Paragraph 1 shall not apply to providers of intermediary services that qualify as micro or small enterprises within the meaning of the Annex to Recommendation 2003/361/EC. ***In addition, paragraph 1 shall not apply to enterprises that previously qualified for the status of a small or microenterprise within the meaning of the Annex to Recommendation 2003/361/EC during the twelve months following their loss of that status pursuant to Article 4(2) thereof.***

Or. en

Amendment 31

Proposal for a regulation

Article 14 – paragraph 2 – introductory part

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 32

Proposal for a regulation

Article 14 – paragraph 2 – point b

Text proposed by the Commission

(b) a clear indication of the electronic

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Amendment

(b) a clear indication of the electronic

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

location of that information, and, where necessary, additional information enabling the identification of the illegal content;

Or. en

Amendment 33

Proposal for a regulation

Article 14 – paragraph 2 – point d

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 34

Proposal for a regulation

Article 14 – paragraph 3

Text proposed by the Commission

3. Notices that include the elements referred to in paragraph 2 shall be considered to give rise to actual knowledge or awareness for the purposes of Article 5 in respect of the specific item of information concerned.

Amendment

3. Notices that include the elements referred to in paragraph 2 shall be considered to give rise to actual knowledge or awareness for the purposes of Article 5 in respect of the specific item of information concerned, ***if the illegality of the specific item of information is sufficiently precise and adequately substantiated based on the assessment of the provider.***

Or. en

Amendment 35

Proposal for a regulation Article 14 – paragraph 5

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 36

Proposal for a regulation Article 14 – paragraph 6

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 37

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 38

Proposal for a regulation Article 15 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Where a provider of hosting services decides to remove, **limit** or disable access to specific items of information provided by the recipients of the service, irrespective of the means used for detecting, identifying or removing or disabling access to that information and of the reason for its decision, it shall inform the recipient **without undue delay and at latest within 24 hours after such removing, limiting** or disabling of access, of the decision and provide a clear and specific statement of reasons for that decision.

Or. en

Amendment 39

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

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 40

Proposal for a regulation

Article 15 – paragraph 2 – point c

Text proposed by the Commission

Amendment

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

(c) where applicable, information on the use made of automated means in taking the decision;

Or. en

Amendment 41

Proposal for a regulation

Article 15 – paragraph 4

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 42

Proposal for a regulation

Article 15 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 43

Proposal for a regulation

Article 15 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4 b. *Providers of hosting services shall not be obliged to provide a statement of reasons referred to in paragraph 1 where doing so would infringe a legal obligation. In addition, providers of hosting services shall not be obliged to provide a statement of reasons referred to in paragraph 1 where the provider can demonstrate that the recipient of the service has repeatedly provided illegal content.*

Or. en

Amendment 44

Proposal for a regulation

Article 16 – paragraph 1

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 45

Proposal for a regulation Article 17 – paragraph 5

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 46

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

Text proposed by the Commission

Amendment

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

1. ***After internal complaint handling mechanisms are exhausted,*** recipients of the service addressed by the decisions referred to in Article 17(1), shall be entitled to select **an** out-of-court dispute ***settlement body*** that has been certified in accordance with paragraph 2 ***and designated by the online platform as an approved out-of-court dispute settlement body*** in order to resolve disputes relating to

in good faith, with the body selected with a view to resolving the dispute and shall be bound by the decision taken by the body.

those decisions, including complaints that could not be resolved by means of the internal complaint-handling system referred to in that Article. Online platforms shall **designate two or more independent dispute settlement bodies for each Member State and** engage, in good faith, with the body selected **by the complainant** with a view to resolving the dispute and shall be bound by the decision taken by the body.

Or. en

Amendment 47

Proposal for a regulation Article 18 – paragraph 2 – point c

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 48

Proposal for a regulation Article 18 – paragraph 2 – point e

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 49

Proposal for a regulation

Article 18 – paragraph 3 – introductory part

Text proposed by the Commission

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

Amendment

3. If the body decides the dispute in favour of the recipient of the service, the online platform shall reimburse the recipient for any fees and other reasonable expenses that the recipient has paid or is to pay in relation to the dispute settlement. If the body decides the dispute in favour of the online platform **and finds the complaint manifestly unfounded or abusive**, the recipient shall be required to reimburse **10 % of** any fees or other expenses that the online platform paid or is to pay in relation to the dispute settlement.

Or. en

Amendment 50

Proposal for a regulation

Article 18 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. Online platforms shall designate in their terms and conditions, and for each Member State separately, two or more out-of-court dispute settlement bodies which they approve. In order to be eligible for the designation, these out-of-court dispute settlement bodies need to be certified by the Digital Services Coordinator for the Member State in question in accordance with this Article.

Or. en

Amendment 51

Proposal for a regulation

Article 18 – paragraph 5 b (new)

Text proposed by the Commission

Amendment

5 b. *When an online platform chooses not to designate two or more out-of-court dispute settlement bodies, or designates bodies whose expertise does not relate to the dispute in question or is not capable of settling disputes in the language of the complainant, the complainant is entitled to select any out-of-court dispute settlement body that has been certified in accordance with paragraph 2.*

Or. en

Amendment 52

Proposal for a regulation Article 19 – paragraph 1

Text proposed by the Commission

Amendment

1. Online platforms shall take the necessary technical and organisational measures to ensure that notices submitted by trusted flaggers through the mechanisms referred to in Article 14, are processed and decided upon with priority and without delay.

1. Online platforms shall take the necessary technical and organisational measures to ensure that notices submitted by trusted flaggers through the mechanisms referred to in Article 14, are processed and decided upon with priority and without delay. ***The priority given to notices submitted by trusted flaggers shall not delay the treatment of other notices, when the trustworthiness of those submitting them and the severity and urgency of the situations concerned is considered to be exceptional***

Or. en

Amendment 53

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 54

Proposal for a regulation Article 20 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 55

Proposal for a regulation Article 20 – paragraph 2

Text proposed by the Commission

2. Online platforms shall suspend, for a reasonable period of time and after having issued a prior warning, the processing of notices and complaints submitted through the notice and action mechanisms and internal complaints-handling systems referred to in Articles 14 and 17, respectively, by individuals or entities or by complainants that frequently submit notices or complaints that are **manifestly** unfounded.

Amendment

2. Online platforms shall suspend, for a reasonable period of time and after having issued a prior warning, the processing of notices and complaints submitted through the notice and action mechanisms and internal complaints-handling systems referred to in Articles 14 and 17, respectively, by individuals or entities or by complainants that frequently submit notices or complaints that are unfounded.

Or. en

Amendment 56

Proposal for a regulation

Article 20 – paragraph 3 – point a

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 57

Proposal for a regulation

Article 20 – paragraph 3 – point d

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 58

Proposal for a regulation

Article 22 – paragraph 1 – introductory part

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 59

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

Text proposed by the Commission

(c) *the bank account details of the trader, where the trader is a natural person;*

Amendment

deleted

Or. en

Amendment 60

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

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 61

Proposal for a regulation Article 25 – paragraph 1

Text proposed by the Commission

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

Amendment

1. This Section shall apply to online platforms which provide their services to a number of average monthly active recipients of the service in the Union equal to or higher than 45 million, *or where the operating model and nature of the platform is considered to constitute a*

3.

systemic risk assessed in accordance with the methodology set out in the delegated acts referred to in paragraph 3. ***This Section shall not apply to online platforms that qualify as micro, small or medium-sized enterprises (SMEs) within the meaning of the Annex to Recommendation 2003/361/EC. In addition, this Section shall not apply to enterprises that previously qualified for the status of a micro, small or medium-sized enterprise within the meaning of the Annex to Recommendation 2003/361/EC during the twelve months following their loss of that status pursuant to Article 4(2) thereof.***

Or. en

Amendment 62

Proposal for a regulation Article 25 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 63

Proposal for a regulation Article 25 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. The delegated acts referred to in paragraph 3 shall base the methodology on the following criteria:

a) the role of the online platform in facilitating public debate;

b) the role, nature and volume of economic transactions on the online platform;

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

d) the depth and scope of the societal risks posed by the platform, as well as the historical prevalence of illegal content on the service.

Online platforms that pose a low systemic risk based on an assessment following the criteria outlined in this paragraph shall not be considered to be very large online platforms.

Or. en

Amendment 64

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

Text proposed by the Commission

Amendment

(c) **intentional** manipulation of their service, including by means of inauthentic use or automated exploitation of the service, with an actual or foreseeable

(c) manipulation of their service, including by means of inauthentic use or automated exploitation of the service, with an actual or foreseeable negative effect on

negative effect on the protection of public health, minors, civic discourse, or actual or foreseeable effects related to electoral processes and public security.

the protection of public health, minors, civic discourse, or actual or foreseeable effects related to electoral processes and public security.

Or. en

Amendment 65

Proposal for a regulation Article 29 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 66

Proposal for a regulation Article 29 – paragraph 2

Text proposed by the Commission

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

Amendment

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

them.

them, *including any technically possible option to entirely deactivate the algorithmic selection within the recommender system.*

Or. en

Amendment 67

Proposal for a regulation Article 30 – paragraph 1

Text proposed by the Commission

1. Very large online platforms that display advertising on their online interfaces shall compile and make publicly available through application programming interfaces a repository containing the information referred to in paragraph 2, until one year after the advertisement was displayed for the last time on their online interfaces. They shall ensure that the repository does not contain any personal data of the recipients of the service to whom the advertisement was or could have been displayed.

Amendment

1. Very large online platforms that display advertising on their online interfaces shall compile and make publicly available through application programming interfaces a repository containing the information referred to in paragraph 2, *for advertisements that have been seen by more than 5 000 recipients of the service and* until one year after the advertisement was displayed for the last time on their online interfaces. They shall ensure that the repository does not contain any personal data of the recipients of the service to whom the advertisement was or could have been displayed.

Or. en

Amendment 68

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

Text proposed by the Commission

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

Amendment

deleted

Amendment 69

Proposal for a regulation Article 31 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 70

Proposal for a regulation Article 31 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 71

Proposal for a regulation Article 31 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Or. en