



2020/0361(COD)

11.10.2021

OPINION

of the Committee on Legal Affairs

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 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: Geoffroy Didier

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

PA_Legam

SHORT JUSTIFICATION

The DSA should cover all digital services that play an important role in the dissemination of illegal content, in order to subject their content moderation practices to adequate regulation. That is why I clarified the scope of the DSA in order to explicitly target 3 types of services that play a major role in the dissemination of content: search engines, live-streaming services of user-generated content and messaging services.

These three categories of services should be subject, firstly, to the obligations currently provided for all intermediary services, and secondly, to the risk assessment and mitigation obligations applied to very large platforms, when they exceed the relevant thresholds. Live-streaming services and messaging services should also fall under certain obligations applicable to hosting services and online platforms, to the extent that these obligations can be applied to them. For example, these services can and should comply with obligations related to suspension of accounts and to guarantees offered to users in case of sanctions.

In the background of the fast expansion in recent years and in particular during the Covid-19 pandemic, online marketplaces have induced a number of threats regarding consumer protection, both in terms of enforcement of consumers' rights and of product safety and product compliance. Furthermore, these marketplaces give rise to growing concerns as to industrial property rights and counterfeiting, and more generally to growing concerns about the setting of an unlevel playing field, whereby compliant companies increasingly undergo unfair competition from non-compliant ones.

For example, the investigations of the 10 main online marketplaces illustrated that, on average, 63 % of the products proposed to European consumers were non-compliant and 28% of these products were actually dangerous, such rates being significantly higher than those found for "brick and mortar" retailers.

Such situation is undoubtedly linked to a loophole in the current legal framework, which allows online marketplaces to escape from a number of basic requirements, the lack of which makes it impossible to ensure a reasonable and satisfactory level of protection of the European consumers purchasing online. The wider the market share of online marketplaces, the higher such risk, and the more worrisome it is.

Given the foregoing, in order to bring this loophole to an end, and thus to rule out such increasing risk, it appears indispensable to add to the DSA a number of additional specific provisions for online platforms offering marketplaces services.

Another one problem is the application of the so-called "country of origin principle" that could result, given the current establishment of content platforms in the EU, in a few national authorities being the only authorities empowered to enforce the DSA. These authorities might not be able to fulfill their roles. Furthermore, the proposed scheme would not allow national specificities to be properly taken into account for the regulation of content. The DSA must therefore be adjusted in order to explicitly confer prerogatives of intervention upon the competent authorities of the country of destination (e.g. power of access to data, involvement in the investigation and decision-making, power to take action on a problem affecting its territory, direct intervention in the event of unjustified inaction by the authority of the country of establishment).

AMENDMENTS

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

Amendment 1

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) Information society services and especially intermediary services have become an important part of the Union's economy and daily life of Union citizens. Twenty years after the adoption of the existing legal framework applicable to such services laid down in Directive 2000/31/EC of the European Parliament and of the Council²⁵, new and innovative business models and services, such as online social networks and marketplaces, have allowed business users and consumers to impart and access information and engage in transactions in novel *ways*. A majority of Union citizens now uses those services on a daily basis. However, the digital transformation and increased use of those services has also resulted in new risks and challenges, both for individual users and for society as a whole.

²⁵ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (OJ L 178, 17.7.2000, p. 1).

Amendment

(1) Information society services and especially intermediary services have become an important part of the Union's economy and daily life of Union citizens. Twenty years after the adoption of the existing legal framework applicable to such services laid down in Directive 2000/31/EC of the European Parliament and of the Council²⁵, new and innovative business models and services, such as online social networks and marketplaces, have allowed business users and consumers to impart and access information and engage in transactions in novel ***and innovative ways, transforming their communication, connection, consumption and business habits on the one hand, and bringing about societal and economic transformations in the Union on the other***. A majority of Union citizens now uses those services on a daily basis. However, the digital transformation and increased use of those services has also resulted in new risks and challenges, both for individual users ***for example in the form of financial fraud and scams on social networks*** and for society as a whole.

²⁵ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (OJ L 178, 17.7.2000, p. 1).

Amendment 2

Proposal for a regulation

Recital 2

Text proposed by the Commission

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

Amendment

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

Amendment 3

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) Responsible and diligent behaviour by providers of intermediary services is essential for a safe, predictable and trusted

Amendment

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online environment and for allowing Union citizens and other persons to exercise their fundamental rights guaranteed in the Charter of Fundamental Rights of the European Union ('Charter'), in particular the freedom of expression and information **and** the freedom to conduct a business, **and** the right to non-discrimination.

and trusted online environment and for allowing Union citizens and other persons to exercise their fundamental rights guaranteed in the Charter of Fundamental Rights of the European Union ('Charter'), in particular the freedom of expression and information, the freedom to conduct a business, **privacy and personal data protection**, the right to non-discrimination **and access to justice**.

Amendment 4

Proposal for a regulation

Recital 4

Text proposed by the Commission

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

Amendment

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

Amendment 5

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) Such a substantial connection to the

Amendment

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Union should be considered to exist where the service provider has an establishment in the Union or, in its absence, on the basis of the existence of a significant number of users in one or more Member States, or the targeting of activities towards one or more Member States. The targeting of activities towards one or more Member States *can* be determined on the basis of all relevant circumstances, including factors such as the use of a language or a currency generally used in that Member State, or the possibility of ordering products or services, or using a national top level domain. The targeting of activities towards a Member State could also be derived from the availability of an application in the relevant national application store, from the provision of local advertising or advertising in the language used in that Member State, or from the handling of customer relations such as by providing customer service in the language generally used in that Member State. A substantial connection should also be assumed where a service provider directs its activities to one or more Member State as set out in Article 17(1)(c) of Regulation (EU) 1215/2012 of the European Parliament and of the Council²⁷. On the other hand, mere technical accessibility of a website from the Union cannot, on that ground alone, be considered as establishing a substantial connection to the Union.

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

Union should be considered to exist where the service provider has an establishment in the Union or, in its absence, on the basis of the existence of a significant number of users in one or more Member States. The targeting of activities towards one or more Member States *should* be determined on the basis of all relevant circumstances, including factors such as the use of a language or a currency generally used in that Member State, or the possibility of ordering products or services, or using a national top level domain. The targeting of activities towards a Member State could also be derived from the availability of an application in the relevant national application store, from the provision of local advertising or advertising in the language used in that Member State, or from the handling of customer relations such as by providing customer service in the language generally used in that Member State. A substantial connection should also be assumed where a service provider directs its activities to one or more Member State as set out in Article 17(1)(c) of Regulation (EU) 1215/2012 of the European Parliament and of the Council²⁷. On the other hand, mere technical accessibility of a website from the Union cannot, on that ground alone, be considered as establishing a substantial connection to the Union.

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

Amendment 6

Proposal for a regulation

Recital 9

(9) This Regulation should complement, yet not affect the application of rules resulting from other acts of Union law regulating certain aspects of the provision of intermediary services, in particular Directive 2000/31/EC, with the exception of those changes introduced by this Regulation, Directive 2010/13/EU of the European Parliament and of the Council as amended,²⁸ and Regulation (EU) .../.. of the European Parliament and of the Council²⁹ – proposed Terrorist Content Online Regulation. Therefore, this Regulation leaves those other acts, which are to be considered *lex specialis* in relation to the generally applicable framework set out in this Regulation, unaffected. **However, the rules of this Regulation apply in respect of issues that are not or not fully addressed by those other acts as well as** issues on which those other acts leave Member States the possibility of adopting certain measures at national level.

²⁸ 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

(9) This Regulation should complement, yet not affect the application of rules resulting from other acts of Union law regulating certain aspects of the provision of intermediary services, in particular Directive 2000/31/EC, with the exception of those changes introduced by this Regulation, Directive 2010/13/EU of the European Parliament and of the Council as amended,²⁸ and Regulation (EU) .../.. of the European Parliament and of the Council²⁹ – proposed Terrorist Content Online Regulation. Therefore, this Regulation leaves those other acts, **among others**, which are to be considered *lex specialis* in relation to the generally applicable framework set out in this Regulation, unaffected. **This Regulation should also respect the competences of Member States to adopt laws promoting freedom and pluralism of the media as well as cultural and linguistic diversity. This Regulation should not affect Member States' freedom to regulate more strongly** issues on which those other acts leave Member States the possibility of adopting certain measures at national level. **In the event of a conflict between Directive 2010/13/EU as amended and this Regulation, Directive 2010/13/EU as well as the national measures taken in accordance with that Directive should prevail. To assist Member States and providers, the Commission should provide guidelines as to how to interpret the interaction between different Union acts and how to prevent any duplication of requirements on providers or potential conflicts in the interpretation of similar requirements.**

²⁸ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States

concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (Text with EEA relevance), OJ L 95, 15.4.2010, p. 1 .

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

concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (Text with EEA relevance), OJ L 95, 15.4.2010, p. 1 .

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

Amendment 7

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) For reasons of clarity, it should also be specified that this Regulation is without prejudice to Regulation (EU) 2019/1148 of the European Parliament and of the Council³⁰ and Regulation (EU) 2019/1150 of the European Parliament and of the Council,³¹ Directive 2002/58/EC of the European Parliament and of the Council³² and Regulation [...] on temporary derogation from certain provisions of Directive 2002/58/EC³³ as well as Union law on consumer protection, in particular Directive 2005/29/EC of the European Parliament and of the Council³⁴, Directive 2011/83/EU of the European Parliament and of the Council³⁵ and Directive 93/13/EEC of the European Parliament and of the Council³⁶, as amended by Directive (EU) 2019/2161 of the European Parliament and of the Council³⁷, and on the protection of personal data, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council.³⁸ The protection of individuals with regard to the processing of personal data is solely governed by the rules of Union law on that subject, in particular Regulation (EU) 2016/679 and Directive 2002/58/EC. This Regulation is also without prejudice to the rules of Union law on working conditions.

Amendment

(10) For reasons of clarity, it should also be specified that this Regulation is without prejudice to Regulation (EU) 2019/1148 of the European Parliament and of the Council³⁰ and Regulation (EU) 2019/1150 of the European Parliament and of the Council,³¹ Directive 2002/58/EC of the European Parliament and of the Council³² and Regulation [...] on temporary derogation from certain provisions of Directive 2002/58/EC³³ as well as Union law on consumer protection, in particular Directive 2005/29/EC of the European Parliament and of the Council³⁴, Directive 2011/83/EU of the European Parliament and of the Council³⁵ and Directive 93/13/EEC of the European Parliament and of the Council³⁶, as amended by Directive (EU) 2019/2161 of the European Parliament and of the Council³⁷, ***Directive 2013/11/EU of the European Parliament and of the Council^{37a}, Directive 2006/123/EC of the European Parliament and of the Council^{37b}***, and on the protection of personal data, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council.³⁸ The protection of individuals with regard to the processing of personal data is solely governed by the rules of Union law on that subject, in particular Regulation (EU) 2016/679 and Directive 2002/58/EC. This

Regulation is also without prejudice to the rules of Union law on working conditions.

³⁰ Regulation (EU) 2019/1148 of the European Parliament and of the Council on the marketing and use of explosives precursors, amending Regulation (EC) No 1907/2006 and repealing Regulation (EU) No 98/2013 (OJ L 186, 11.7.2019, p. 1).

³¹ 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).

³² 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.

³³ Regulation [...] on temporary derogation from certain provisions of Directive 2002/58/EC.

³⁴ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive')

³⁵ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European

³⁰ Regulation (EU) 2019/1148 of the European Parliament and of the Council on the marketing and use of explosives precursors, amending Regulation (EC) No 1907/2006 and repealing Regulation (EU) No 98/2013 (OJ L 186, 11.7.2019, p. 1).

³¹ 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).

³² 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.

³³ Regulation [...] on temporary derogation from certain provisions of Directive 2002/58/EC.

³⁴ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive')

³⁵ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European

Parliament and of the Council.

³⁶ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts.

³⁷ Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as regards the better enforcement and modernisation of Union consumer protection rules

³⁸ 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).

Amendment 8

Proposal for a regulation

Recital 11

Text proposed by the Commission

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

Parliament and of the Council.

³⁶ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts.

³⁷ Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as regards the better enforcement and modernisation of Union consumer protection rules

^{37a} ***Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR) (OJ L 165, 18.6.2013, p. 63).***

^{37b} ***Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).***

³⁸ 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).

Amendment

(11) It should be clarified that this Regulation is without prejudice to the rules of Union law on copyright and related rights, ***in particular Directive (EU)***

procedures that should remain unaffected.

2019/790 of the European Parliament and of the Council^{1a}, which establish specific rules and procedures that should remain unaffected **and are *lex specialis*, prevailing over this Regulation.**

^{1a} 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/EC (OJ L 130, 17.5.2019, p. 92).

Amendment 9

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

Amendment

(12) In order to achieve the objective of ensuring a safe, **accessible**, predictable and trusted online environment, for the purpose of this Regulation the concept of “illegal content” should **underpin the general idea that what is illegal offline should also be illegal online. The concept 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 **is not in compliance with Union law since it refers** 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, **illegal trading of animals, plants and substances**, the non-authorised use of copyright protected material, **the provision of illegal services such as hosting services on short-**

or subject matter is of the law in question.

term accommodation rental platforms which do not conform to Union or national law, 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 10

Proposal for a regulation Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) Material disseminated for educational, journalistic, artistic or research purposes or for the purposes of preventing or countering illegal content including the content which represents an expression of polemic or controversial views in the course of public debate should not be considered as illegal content. Similarly, material, such as an eye-witness video of a potential crime, should not be considered as illegal, merely because it depicts an illegal act. An assessment should determine the true purpose of that dissemination and whether material is disseminated to the public for those purposes.

Amendment 11

Proposal for a regulation Recital 13

Text proposed by the Commission

Amendment

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

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

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

within the broader category of providers of hosting services as defined in this Regulation, the subcategory of online platforms. Online platforms, *search engines*, social networks, *content-sharing platforms*, or online marketplaces *and live streaming platforms or instant messaging services providers* 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 *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.

Amendment 12

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

Amendment

(14) The concept of ‘dissemination to the public’, as used in this Regulation, should entail the making available of information to a *large or* 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 13

Proposal for a regulation Recital 16

Text proposed by the Commission

(16) The legal certainty provided by the horizontal framework of conditional exemptions from liability for providers of intermediary services, laid down in Directive 2000/31/EC, has allowed many novel services to emerge and scale-up across the internal market. That framework should therefore be preserved. However, in view of the divergences when transposing and applying the relevant rules at national

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 number of pre-determined. 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

(16) The legal certainty provided by the horizontal framework of conditional exemptions from liability for providers of intermediary services, laid down in Directive 2000/31/EC, has allowed many novel services to emerge and scale-up across the internal market. That framework should therefore be preserved. However, in view of the divergences when transposing and applying the relevant rules at national

level, and for reasons of clarity and coherence, that framework should be incorporated in this Regulation. It is also necessary to clarify certain elements of that framework, having regard to case law of the Court of Justice of the European Union.

level, and for reasons of clarity, **consistency, predictability, accessibility** and coherence, that framework should be incorporated in this Regulation. It is also necessary to clarify certain elements of that framework, having regard to case law of the Court of Justice of the European Union.

Amendment 14

Proposal for a regulation

Recital 18

Text proposed by the Commission

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

Amendment

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

Amendment 15

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***

Amendment

(20) A provider of intermediary services ***the main purpose of which is to engage in or facilitate*** illegal activities does not

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.

provide its service neutrally and should therefore not be able to benefit from the exemptions from liability provided for in this Regulation.

Amendment 16

Proposal for a regulation Recital 21

Text proposed by the Commission

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

Amendment

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

Amendment 17

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

Amendment

(22) In order to benefit from the exemption from liability for hosting services, the provider should, upon obtaining actual knowledge or awareness of illegal content, act expeditiously to remove or to disable access to that content. The removal or disabling of access should be undertaken in the observance of the ***Charter of Fundamental Rights of the European Union, including the*** principle of freedom of expression. The provider can obtain such actual knowledge or awareness

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

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

Amendment 18

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, *including online financial transactions*, providers of hosting services, online platforms *and other service providers such as marketplaces* 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, *including online financial transactions*, 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 19

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 20

Proposal for a regulation

Amendment

(25) In order to create legal certainty, ***ensuring that the regulatory framework provisions are applied in a proportional manner***, 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 ***and accompanied by additional safeguards***. In addition, it is appropriate to clarify that the mere fact that those providers take measures, in good faith, to comply with the requirements of Union ***or national*** law, including those set out in this Regulation as regards the implementation of their terms and conditions, should not lead to the unavailability of those exemptions from liability ***set out in this Regulation***. Therefore, any such activities and measures that a given provider may have taken ***in order to detect, identify and act against illegal content on a voluntary basis*** 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.

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 21

Proposal for a regulation

Recital 28

Amendment

(27) Since 2000, new technologies have emerged that improve the availability, efficiency, speed, reliability, capacity and security of systems for the transmission and storage of data online, leading to an increasingly complex online ecosystem. In this regard, it should be recalled that providers of services establishing and facilitating the underlying logical architecture and proper functioning of the internet, including technical auxiliary functions, can also benefit from the exemptions from liability set out in this Regulation, to the extent that their services qualify as ‘mere conduits’, ‘caching’ or hosting services. Such services include, as the case may be, wireless local area networks, domain name system (DNS) services, top-level domain name registries, certificate authorities that issue digital certificates, or content delivery networks, that enable or improve the functions of other providers of intermediary services. Likewise, services used for communications purposes, and the technical means of their delivery, have also evolved considerably, giving rise to online services such as Voice over IP, messaging services and web-based e-mail services, where the communication is delivered via an internet access service. Those services, ***although they do not fall within the obligations under this Regulation***, too, can benefit from the exemptions from liability, to the extent that they qualify as ‘mere conduit’, ‘caching’ or hosting service.

Text proposed by the Commission

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

Amendment

(28) ***Member States are prevented from imposing*** a monitoring obligation ***on service providers only*** with respect to obligations of a general nature, ***imposing constant content identification from the entirety of available content***. This does not concern monitoring obligations in a specific case, ***where set down in Union acts*** and, in particular, does not affect orders by national authorities in accordance with national legislation, ***that implements Union acts*** in accordance with national legislation, in accordance with the conditions established in this Regulation ***and other Union lex specialis***. Nothing in this Regulation should be construed as an imposition of a general monitoring obligation or active fact-finding obligation or as a general obligation for providers to take proactive measures to relation to illegal content ***or as an obligation to use automated content-filtering tools. Equally, nothing in this Regulation should prevent providers from enacting end-to-end encrypting of their services.***

Amendment 22

Proposal for a regulation
Recital 28 a (new)

Text proposed by the Commission

Amendment

(28a) Providers of intermediary services should not be obliged to use automated tools for content moderation as such tools have difficulties of effectively understanding the subtlety of context and meaning in human communication, which is necessary to determine whether assessed content violates the law or terms of service.

Amendment 23

Proposal for a regulation
Recital 29

Text proposed by the Commission

(29) Depending on the legal system of each Member State and the field of law at issue, national judicial or administrative authorities may order providers of intermediary services to act against certain specific items of illegal content or to provide certain specific items of information. The national laws on the basis of which such orders are issued differ considerably and the orders are increasingly addressed in cross-border situations. In order to ensure that those orders can be complied with in an effective and efficient manner, so that the public authorities concerned can carry out their tasks and the providers are not subject to any disproportionate burdens, without unduly affecting the rights and legitimate interests of any third parties, it is necessary to set certain conditions that those orders should meet and certain complementary requirements relating to the processing of those orders.

Amendment

(29) Depending on the legal system of each Member State and the field of law at issue, national judicial or administrative authorities may order providers of intermediary services to act against certain specific items of illegal content or to provide certain specific items of information. The national laws ***in conformity with the Union law, including the Charter of Fundamental Rights of the European Union***, on the basis of which such orders are issued differ considerably and the orders are increasingly addressed in cross-border situations, ***often leading to fragmentation of the internal market***. In order to ensure that those orders can be complied with in an effective and efficient manner, so that the public authorities concerned can carry out their tasks and the providers are not subject to any disproportionate burdens, without unduly affecting the rights and legitimate interests of any third parties, it is necessary to set certain ***uniform*** conditions that those orders should meet and certain complementary requirements relating to the ***effective*** processing of those orders. ***The applicable rules on the mutual recognition of court decisions should be unaffected.***

Amendment 24

Proposal for a regulation
Recital 30

Text proposed by the Commission

(30) Orders to act against illegal content or to provide information should be issued in compliance with Union law, in particular Regulation (EU) 2016/679 and the prohibition of general obligations to

Amendment

(30) Orders to act against illegal content or to provide information should be issued in compliance with Union law, ***including the Charter of Fundamental Rights of the European Union and*** in particular

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

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

Amendment 25

Proposal for a regulation

Recital 31

Text proposed by the Commission

(31) The territorial scope of such orders to act against illegal content should be clearly set out on the basis of the applicable Union or national law enabling the issuance of the order and should not exceed what is strictly necessary to achieve its objectives. In that regard, the national judicial or administrative authority issuing the order should balance the objective that the order seeks to achieve, in accordance with the legal basis enabling its issuance,

Amendment

(31) The territorial scope of such orders to act against illegal content should be clearly set out on the basis of the applicable Union or national law enabling the issuance of the order and should not exceed what is strictly necessary to achieve its objectives. In that regard, the national judicial or administrative authority issuing the order should balance the objective that the order seeks to achieve, in accordance with the legal basis enabling its issuance,

with the rights and legitimate interests of all third parties that may be affected by the order, in particular their fundamental rights under the Charter. In addition, where the order referring to the specific information may have effects beyond the territory of the Member State of the authority concerned, the authority should assess whether the information at issue is likely to constitute illegal content in other Member States concerned and, where relevant, take account of the relevant rules of Union law or international law and the interests of international comity.

with the rights and legitimate interests of all third parties that may be affected by the order, in particular their fundamental rights under the Charter. In addition, where the order referring to the specific information may have effects beyond the territory of the Member State of the authority concerned, the authority should assess whether the information at issue is likely to constitute illegal content in other Member States concerned and, where relevant, take account of the relevant rules of Union law or international law and the interests of international comity. ***In this context and to maintain proportionality, orders addressed to a provider that has its main establishment in another Member State or outside the Union should be limited to the Member State issuing the order, unless the legal basis for the order is Union law.***

Amendment 26

Proposal for a regulation

Recital 32

Text proposed by the Commission

(32) The orders to provide information regulated by this Regulation concern the production of specific information about individual recipients of the intermediary service concerned who are identified in those orders for the purposes of determining compliance by the recipients of the services with applicable Union or national rules. Therefore, orders about information on a group of recipients of the service who are not specifically identified, including orders to provide aggregate information required for statistical purposes or evidence-based policy-making, should remain unaffected by the rules of this Regulation on the provision of information.

Amendment

(32) The orders to provide information regulated by this Regulation concern the production of specific information about individual recipients of the intermediary service concerned who are identified in those orders for the purposes of determining compliance by the recipients of the services with applicable Union or national rules. ***This information should include legally collected information, such as the relevant e-mail addresses, telephone numbers, and other contact details necessary to ensure such compliance.*** Therefore, orders about information on a group of recipients of the service who are not specifically identified, including orders to provide aggregate information required for statistical purposes or evidence-based policy-making, should remain unaffected by the rules of

this Regulation on the provision of information.

Amendment 27

Proposal for a regulation Recital 33

Text proposed by the Commission

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

Amendment

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

Amendment 28

Proposal for a regulation Recital 34

Text proposed by the Commission

Amendment

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

(34) In order to achieve the objectives of this Regulation, and in particular to improve the functioning of the internal market and ensure *an accessible*, safe and transparent online environment, it is necessary to establish a clear, *predictable* and balanced set of harmonised due diligence obligations for providers of intermediary services. Those obligations should aim in particular to guarantee different public policy objectives such as the safety and trust of the recipients of the service, including minors and vulnerable users, *such as those with protected characteristics under Article 21 of the Charter*, protect the relevant fundamental rights enshrined in the Charter, to ensure meaningful accountability of those providers and to empower recipients and other affected parties, whilst facilitating the necessary oversight by competent authorities, *ensuring the right balance between support for innovation on the one hand and protection for consumers and users on the other*.

Amendment 29

Proposal for a regulation Recital 35

Text proposed by the Commission

(35) *In that regard, it is important* that the *due diligence* obligations are *adapted to the type and nature of the intermediary service concerned. This Regulation therefore sets out basic obligations applicable to all* providers of intermediary services, *as well as additional obligations for providers of hosting services and, more specifically, online platforms and very large online platforms.* To the extent that providers of intermediary services *may fall within those different categories in view of the nature of their services and their size, they should comply with all of the corresponding obligations of this*

Amendment

(35) *In order to make sure* that the obligations are *only applied to those* providers of intermediary services *where the benefit would outweigh the burden on the provider, the Commission should be empowered to issue a waiver to the requirements of chapter III, in whole or in parts, to those* providers of intermediary services *that are non-for-profit or pursue a public interest mission and are SMEs without any systemic risk related to illegal content. Providers shall present justified reasons for why they should be issued a waiver. The Commission should examine such an application and has the authority*

Regulation. *Those harmonised due diligence obligations, which should be reasonable and non-arbitrary, are needed to achieve the identified public policy concerns, such as safeguarding the legitimate interests of the recipients of the service, addressing illegal practices and protecting fundamental rights online.*

to issue or revoke a waiver at any time. The Commission should maintain a public list of all waivers issued and their conditions containing a description on why the provider is justified a waiver.

Amendment 30

Proposal for a regulation Recital 36

Text proposed by the Commission

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

Amendment

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

Amendment 31

Proposal for a regulation Recital 37

Text proposed by the Commission

(37) Providers of intermediary services that are established in a third country that offer services in the Union should designate a sufficiently mandated legal representative in the Union and provide information relating to their legal

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.

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. ***In order to avoid disproportionate burden, micro and small enterprises as defined in Commission Recommendation 2003/361/EC^{1a} should be exempt from the obligation to designate a legal representative.***

^{1a} Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

Amendment 32

Proposal for a regulation Recital 38

Text proposed by the Commission

(38) Whilst the freedom of contract of providers of intermediary services should in principle be respected, it is appropriate to set certain rules on the content, application and enforcement of the terms and conditions of those providers in the interests of transparency, the protection of recipients of the service and the avoidance of unfair or arbitrary outcomes.

Amendment

(38) Whilst the freedom of contract of providers of intermediary services should in principle be respected, it is appropriate to set certain rules on the content, application and enforcement of the terms and conditions of those providers in the interests of transparency, the protection of recipients of the service and the avoidance of unfair or arbitrary outcomes. ***In particular, it is important to ensure that terms and conditions are fair, non-discriminatory and transparent, and are drafted in a clear and unambiguous language in line with applicable Union law. The terms and conditions should include information on any policies, procedures, measures and tools used for the purpose of content moderation, including algorithmic decision-making, human review, the legal consequences to be faced by the users for knowingly***

storing or uploading illegal content as well as on the right to terminate the use of the service. Providers of intermediary services should also provide recipients of services with a concise and easily readable summary of the main elements of the terms and conditions, including the remedies available.

Amendment 33

Proposal for a regulation Recital 38 a (new)

Text proposed by the Commission

Amendment

(38a) Providers can take voluntary measures for general risk assessments of potential risks related to their services, for example in relations with minors. Those measures should not lead to any new profiling, tracking or identification obligations on providers of intermediary services.

Amendment 34

Proposal for a regulation Recital 38 b (new)

Text proposed by the Commission

Amendment

(38b) The exemptions from liability established in this Regulation should not be available to providers of intermediary services that do not comply with the obligations set out in this Regulation. The non-compliance may affect the possibility of benefiting from the liability exemption, as the aim of this Regulation is to ensure that the standards to qualify for such exemptions contribute to a high level of safety and trust in the online environment.

Amendment 35

Proposal for a regulation Recital 39

Text proposed by the Commission

(39) To ensure an adequate level of transparency and accountability, providers of intermediary services should annually report, in accordance with the harmonised requirements contained in this Regulation, on the content moderation they engage in, including the measures taken as a result of the application and enforcement of their terms and conditions. However, so as to avoid disproportionate burdens, those transparency reporting obligations should not apply to providers that are micro- or small enterprises as defined in *Commission Recommendation 2003/361/EC*.⁴⁰

⁴⁰ *Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).*

Amendment 36

Proposal for a regulation Recital 40

Text proposed by the Commission

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

Amendment

(39) To ensure an adequate level of transparency and accountability, providers of intermediary services should annually report, in accordance with the harmonised requirements contained in this Regulation, on the content moderation they engage in, including the measures taken as a result of the application and enforcement of their terms and conditions. However, so as to avoid disproportionate burdens, those transparency reporting obligations should not apply to providers that are micro- or small enterprises as defined in Recommendation 2003/361/EC. ***In any public versions of such reports providers of intermediary services should remove any information that may prejudice ongoing activities for the prevention, detection, or removal of illegal content or content counter to a hosting provider's terms and conditions.***

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.

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 *easily accessible, comprehensive and* user-friendly notice and action mechanisms that facilitate the notification of specific items of information that the notifying party considers to be illegal content to the provider of hosting services concerned ('notice'), pursuant to which that provider can decide, *based on its own assessment*, 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. *Online platforms should try to prevent that a content which has already been identified as illegal and that has been removed on the basis of a prior notice, reappears again. The application of it should not lead to any general obligation and should be subject to human review.* 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. *Furthermore, the notice and action mechanism should be complemented by 'stay down' provisions whereby providers of hosting services should demonstrate their best efforts in order to prevent from reappearing content which is identical to another piece of content that has already been identified and removed by them as illegal. The application of this requirement should not lead to any general monitoring obligation.*

Amendment 37

Proposal for a regulation

Recital 40 a (new)

Text proposed by the Commission

Amendment

(40a) Notices should be directed to the actor that has the technical and operational ability to act and the closest relationship to the recipient of the service that provided the information or content, such as to an online platform and not to the hosting service provider on which provides services to that online platform. Such hosting service providers should redirect such notices to the particular online platform and inform the notifying party of this fact.

Amendment 38

Proposal for a regulation Recital 40 b (new)

Text proposed by the Commission

Amendment

(40b) Hosting providers should seek to act only against the items of information notified. This may include acts such as disabling hyperlinking to the items of information. Where the removal or disabling of access to individual items of information is technically or operationally unachievable due to legal, contractual, or technological reasons, such as encrypted file and data storage and sharing services, hosting providers should inform the recipient of the service of the notification and seek action. If a recipient fails to act or delays action, or the provider has reason to believe has failed to act or otherwise acts in bad faith, the hosting provider may suspend their service in line with their terms and conditions.

Amendment 39

Proposal for a regulation Recital 41 a (new)

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(41a) Where a hosting service provider decides to remove or disable information provided by a recipient of the service, either because it is illegal or is not allowed under its terms and conditions, it should do so in a timely manner, taking into account the potential harm of the infraction and the technical abilities of the provider.

Amendment 40

Proposal for a regulation

Recital 42

Text proposed by the Commission

Amendment

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

(42) Where a hosting service provider decides to remove or disable information provided by a recipient of the service, for instance following receipt of a notice or acting on its own initiative, including through the use of automated means, ***that have proven to be efficient, proportionate and reliable***, that provider ***may prevent the reappearance of the notified or equivalent illegal information. The provider should also*** inform the recipient of its decision, the reasons for its decision and the available redress possibilities to contest the decision, in view of the negative consequences that such decisions may have for the recipient, including as regards the exercise of its fundamental right to freedom of expression. That obligation should apply irrespective of the reasons for the decision, in particular whether the action has been taken because the information notified is considered to be illegal content or incompatible with the applicable terms and conditions. Available recourses to challenge the decision of the hosting service provider should always include judicial redress. ***However, the information to the recipient should not be required if it***

relates to spam, removal of content similar or identical to content already removed from the same recipient, who has already received a statement.

Amendment 41

Proposal for a regulation

Recital 43

Text proposed by the Commission

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

⁴¹ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

Amendment

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

⁴¹ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

Amendment 42

Proposal for a regulation

Recital 43 a (new)

(43a) Providers of hosting services play a particularly important role in tackling illegal content online, as they store information provided by and at the request of the recipients of the service and typically give other recipients access thereto, sometimes on a large scale. It is important that all providers of hosting services, regardless of their size, put in place user-friendly notice and action mechanisms that facilitate the notification of specific items of information that the notifying party considers to be illegal content to the provider of hosting services concerned ('notice'), pursuant to which that provider can decide, based on its own assessment, whether or not it agrees with that assessment and wishes to remove or disable access to that content ('action'). Provided the requirements on notices are met, it should be possible for individuals or entities to notify multiple specific items of allegedly illegal content through a single notice. The obligation to put in place notice and action mechanisms should apply, for instance, to file storage and sharing services, web hosting services, advertising servers and paste bins, in as far as they qualify as providers of hosting services covered by this Regulation.

Amendment 43

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

(43b) The rules on such notice and action mechanisms should be harmonised at Union level, so as to provide for the timely, diligent and objective processing of notices on the basis of rules that are uniform, transparent and clear and that provide for robust safeguards to protect

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

Amendment 44

Proposal for a regulation Recital 44

Text proposed by the Commission

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

Amendment

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

contest decisions of online platforms thus created should complement, yet leave unaffected in all respects, the possibility to seek judicial redress in accordance with the laws of the Member State concerned.

a fair, swift and cost-effective manner.
Dispute resolution proceedings should be concluded within a reasonable period of time. The possibilities to contest decisions of online platforms thus created should complement, yet leave unaffected in all respects, the possibility to seek judicial redress in accordance with the laws of the Member State concerned.

Amendment 45

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,

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 ***or those of individual rightholders*** 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

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

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 same should be granted to applicants within the meaning of Regulation (EU) No 608/2013 or in case of complaints pursuant to Regulation (EU) 2019/1020 so as to ensure that existing rules regarding custom enforcement or consumer protection are effectively implemented to online sale.*** 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

Amendment 46

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

Amendment

(47) The misuse of services of online platforms by ***repeatedly*** providing ***illegal content, facilitating the repeated uploading of*** illegal content or by frequently submitting manifestly

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

unfounded notices or complaints under the mechanisms and systems, respectively, established under this Regulation undermines trust and harms the rights and legitimate interests of the parties concerned. Therefore, there is a need to put in place appropriate and proportionate *and effective* safeguards against such misuse. Information should be considered to be illegal content and notices or complaints should be considered manifestly unfounded where it is evident to a layperson, without any substantive analysis, that the content is illegal respectively that the notices or complaints are unfounded. Under certain conditions, online platforms should temporarily suspend *or terminate* 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.

Amendment 47

Proposal for a regulation

Recital 48

Text proposed by the Commission

(48) An online platform may in some instances become aware, such as through a notice by a notifying party or through its own voluntary measures, of information relating to certain activity of a recipient of the service, such as the provision of certain types of illegal content, that reasonably justify, having regard to all relevant circumstances of which the online platform is aware, the suspicion that the recipient may have committed, may be committing or is likely to commit a serious criminal offence involving *a* threat to the life or safety of person, such as offences specified in Directive 2011/93/EU of the European Parliament and of the Council⁴⁴. In such instances, the online platform should inform without delay the competent law enforcement authorities of such suspicion, providing all relevant information available to it, including where relevant the content in question and an explanation of its suspicion. This Regulation does not provide the legal basis for profiling of recipients of the services with a view to the possible identification of criminal offences by online platforms. Online platforms should also respect other applicable rules of Union or national law for the protection of the rights and freedoms of individuals when informing law enforcement authorities.

⁴⁴ Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 335, 17.12.2011, p. 1).

Amendment

(48) An online platform may in some instances become aware, such as through a notice by a notifying party or through its own voluntary measures, of information relating to certain activity of a recipient of the service, such as the provision of certain types of illegal content, that reasonably justify, having regard to all relevant circumstances of which the online platform is aware, the suspicion that the recipient may have committed, may be committing or is likely to commit a serious criminal offence involving *an imminent* threat to the life or safety of person, such as offences specified in Directive 2011/93/EU of the European Parliament and of the Council⁴⁴. In such instances, the online platform should inform without delay the competent law enforcement authorities of such suspicion, providing *upon request* all relevant information available to it, including where relevant the content in question and an explanation of its suspicion. This Regulation does not provide the legal basis for profiling of recipients of the services with a view to the possible identification of criminal offences by online platforms. Online platforms should also respect other applicable rules of Union or national law for the protection of the rights and freedoms of individuals when informing law enforcement authorities.

⁴⁴ Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 335, 17.12.2011, p. 1).

Amendment 48

Proposal for a regulation
Recital 48 a (new)

Text proposed by the Commission

Amendment

(48a) Where an online platform becomes aware of any information giving rise to a suspicion that a serious criminal offence involving a threat to the life or safety of persons has taken place, is taking place or is likely to take place, it shall remove or disable the content and promptly inform the law enforcement or judicial authorities of the Member State or Member States concerned of its suspicion and provide all available relevant information.

Amendment 49

Proposal for a regulation
Recital 49

Text proposed by the Commission

Amendment

(49) In order to contribute to a safe, trustworthy and transparent online environment for consumers, as well as for other interested parties such as competing traders and holders of intellectual property rights, and to deter traders from selling products or services in violation of the applicable rules, online ***platforms allowing consumers to conclude distance contracts with traders*** should ensure that such traders are traceable. The trader should therefore be required to provide certain essential information to the online ***platform***, including for purposes of promoting messages on or offering products. That requirement should also be applicable to traders that promote messages on products or services on behalf of brands, based on underlying agreements. Those online ***platforms*** should store all information in a secure manner for a reasonable period of time that does not exceed what is necessary, so that it can be

(49) In order to contribute to a safe, trustworthy and transparent online environment for consumers, as well as for other interested parties such as competing traders and holders of intellectual property rights, and to deter traders from selling products or services in violation of the applicable rules, online ***marketplaces*** should ensure that such traders are traceable. The trader should therefore be required to provide certain essential ***and accurate*** information to the ***providers of online marketplace***, including for purposes of promoting messages on products or offering products. That requirement should also be applicable to traders that promote messages on products or services on behalf of brands, based on underlying agreements. Those online ***marketplaces*** should store all information in a secure manner for a reasonable period of time that does not exceed what is necessary, so that it can be accessed, in accordance with the applicable

accessed, in accordance with the applicable law, including on the protection of personal data, by public authorities and private parties with a legitimate interest, including through the orders to provide information referred to in this Regulation.

Amendment 50

Proposal for a regulation Recital 50

Text proposed by the Commission

(50) To ensure an efficient and adequate application of that obligation, without imposing any disproportionate burdens, the online **platforms** covered should make reasonable efforts to verify the reliability of the information provided by the traders concerned, in particular by using freely available official online databases and online interfaces, such as national trade registers and the VAT Information Exchange System⁴⁵, or by requesting the traders concerned to provide trustworthy supporting documents, such as copies of identity documents, certified bank statements, company certificates and trade register certificates. They may also use other sources, available for use at a distance, which offer a similar degree of reliability for the purpose of complying with this obligation. However, the online **platforms** covered should not be required to engage in excessive or costly online fact-finding exercises or to carry out verifications on the spot. Nor should such online **platforms**, which have made the reasonable efforts required by this Regulation, be understood as guaranteeing the reliability of the information towards consumer or other interested parties. Such online **platforms** should also design and organise their online interface in a way that enables traders to comply with their obligations under Union law, in particular the requirements set out in Articles 6 and 8

law, including on the protection of personal data, by public authorities and private parties with a legitimate interest, including through the orders to provide information referred to in this Regulation.

Amendment

(50) To ensure an efficient and adequate application of that obligation, without imposing any disproportionate burdens, the online **marketplaces** covered should make reasonable efforts to verify the reliability of the information provided by the traders concerned, in particular by using freely available official online databases and online interfaces, such as national trade registers and the VAT Information Exchange System⁴⁵, or by requesting the traders concerned to provide trustworthy supporting documents, such as copies of identity documents, certified bank statements, company certificates and trade register certificates. They may also use other sources, available for use at a distance, which offer a similar degree of reliability for the purpose of complying with this obligation. ***Additionally this information provided by the trader should be sufficiently specific and supported, where possible.*** However, the online **marketplaces** covered should not be required to engage in excessive or costly online fact-finding exercises or to carry out verifications on the spot. Nor should such online **marketplaces**, which have made the reasonable efforts required by this Regulation, be understood as guaranteeing the reliability of the information towards consumer or other interested parties. Such online **marketplaces** should also design and organise their online interface in a

of Directive 2011/83/EU of the European Parliament and of the Council⁴⁶, Article 7 of Directive 2005/29/EC of the European Parliament and of the Council⁴⁷ and Article 3 of Directive 98/6/EC of the European Parliament and of the Council⁴⁸.

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https://ec.europa.eu/taxation_customs/vies/vieshome.do?selectedLanguage=en

⁴⁶ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council

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

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

user-friendly way that enables traders to comply with their obligations under Union law, in particular the requirements set out in Articles 6 and 8 of Directive 2011/83/EU of the European Parliament and of the Council⁴⁶, Article 7 of Directive 2005/29/EC of the European Parliament and of the Council⁴⁷ and Article 3 of Directive 98/6/EC of the European Parliament and of the Council⁴⁸

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https://ec.europa.eu/taxation_customs/vies/vieshome.do?selectedLanguage=en

⁴⁶ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council

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

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

Amendment 51

Proposal for a regulation Recital 52

(52) Online advertisement plays an important role in the online environment, including in relation to the provision of the services of online platforms. However, online advertisement can contribute to significant risks, ranging from advertisement that is itself illegal content, to contributing to financial incentives for the publication or amplification of illegal or otherwise harmful content and activities online, or the discriminatory display of advertising with an impact on the equal treatment and opportunities of citizens. In addition to the requirements resulting from Article 6 of Directive 2000/31/EC, online platforms should therefore be required to ensure that the recipients of the service have certain individualised information necessary for them to understand when and on whose behalf the advertisement is displayed. In addition, recipients of the service should have information on the main parameters used for determining that specific advertising is to be displayed to them, providing meaningful explanations of the logic used to that end, including when this is based on profiling. The requirements of this Regulation on the provision of information relating to advertisement is without prejudice to the application of the relevant provisions of Regulation (EU) 2016/679, in particular those regarding the right to object, automated individual decision-making, including profiling and specifically the need to obtain consent of the data subject prior to the processing of personal data for targeted advertising. Similarly, it is without prejudice to the provisions laid down in Directive 2002/58/EC in particular those regarding the storage of information in terminal equipment and the access to information stored therein.

(52) Online advertisement plays an important role in the online environment, including in relation to the provision of the services of online platforms. However, online advertisement can contribute to significant risks, ranging from advertisement that is itself illegal content, to contributing to financial incentives for the publication or amplification of illegal or otherwise harmful content and activities online, or the discriminatory display of advertising with an impact on the equal treatment and opportunities of citizens. In addition to the requirements resulting from Article 6 of Directive 2000/31/EC, online platforms should therefore be required to ensure that the recipients of the service have certain individualised information necessary for them to understand when and on whose behalf the advertisement is displayed. In addition, recipients of the service should have ***an easy access to*** information on the main parameters used for determining that specific advertising is to be displayed to them, providing meaningful explanations of the logic used to that end, including when this is based on profiling. The requirements of this Regulation on the provision of information relating to advertisement is without prejudice to the application of the relevant provisions of Regulation (EU) 2016/679, in particular those regarding the right to object, automated individual decision-making, including profiling and specifically the need to obtain consent of the data subject prior to the processing of personal data for targeted advertising. Similarly, it is without prejudice to the provisions laid down in Directive 2002/58/EC in particular those regarding the storage of information in terminal equipment and the access to information stored therein.

Amendment 52

Proposal for a regulation
Recital 53

Text proposed by the Commission

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

Amendment

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

Amendment 53

Proposal for a regulation
Recital 54

Text proposed by the Commission

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

Amendment

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

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

Amendment 54

Proposal for a regulation

Recital 57

Text proposed by the Commission

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

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

Amendment

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

of the platform's service, with a foreseeable impact on health, civic discourse, electoral processes, public security and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or incompatible with an online platform's terms and conditions.

conditions, including content moderation policies, when enforced. A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform's service, with a foreseeable impact on health, ***fundamental rights***, civic discourse, electoral processes, public security and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or incompatible with an online platform's terms and conditions.

Amendment 55

Proposal for a regulation Recital 58

Text proposed by the Commission

(58) Very large online platforms should deploy the necessary means to diligently mitigate the systemic risks identified in the risk assessment. Very large online platforms should under such mitigating measures consider, for example, enhancing or otherwise adapting the design and functioning of their content moderation, algorithmic recommender systems and online interfaces, so that they discourage and limit the dissemination of illegal content, adapting their decision-making processes, or adapting their terms and conditions. They may also include corrective measures, such as discontinuing advertising revenue for specific content, or other actions, such as improving the visibility of authoritative information sources. Very large online platforms may reinforce their internal processes or supervision of any of their activities, in

Amendment

(58) Very large online platforms should deploy the necessary ***and proportionate*** means to diligently mitigate the systemic risks identified in the risk assessment. Very large online platforms should under such mitigating measures consider, for example, enhancing or otherwise adapting the design and functioning of their content moderation, algorithmic recommender systems and online interfaces, so that they discourage and limit the dissemination of illegal content, ***prevent the intentional manipulation and exploitation of the service, including by the amplification of illegal content***, adapting their decision-making processes, or adapting their terms and conditions ***as well as making content moderation policies and the way they are enforced fully transparent for the users.*** They may also include corrective measures, such as discontinuing

particular as regards the detection of systemic risks. They may also initiate or increase cooperation with trusted flaggers, organise training sessions and exchanges with trusted flagger organisations, and cooperate with other service providers, including by initiating or joining existing codes of conduct or other self-regulatory measures. Any measures adopted should respect the due diligence requirements of this Regulation and be effective and appropriate for mitigating the specific risks identified, in the interest of safeguarding public order, protecting privacy and fighting fraudulent and deceptive commercial practices, and should be proportionate in light of the very large online platform's economic capacity and the need to avoid unnecessary restrictions on the use of their service, taking due account of potential negative effects on the fundamental rights of the recipients of the service.

advertising revenue for specific content, or other actions, such as improving the visibility of authoritative information sources. Very large online platforms may reinforce their internal processes or supervision of any of their activities, in particular as regards the detection of systemic risks. They may also initiate or increase cooperation with trusted flaggers, organise training sessions and exchanges with trusted flagger organisations, and cooperate with other service providers, including by initiating or joining existing codes of conduct or other self-regulatory measures. Any measures adopted should respect the due diligence requirements of this Regulation and be effective and appropriate for mitigating the specific risks identified, in the interest of safeguarding public order, protecting privacy and fighting fraudulent and deceptive commercial practices, and should be proportionate in light of the very large online platform's economic capacity and the need to avoid unnecessary restrictions on the use of their service, taking due account of potential negative effects on the fundamental rights of the recipients of the service.

Amendment 56

Proposal for a regulation

Recital 59

Text proposed by the Commission

(59) Very large online platforms should, where appropriate, conduct their risk assessments and design their risk mitigation measures with the involvement of representatives of the recipients of the service, representatives of groups potentially impacted by their services, independent experts and *civil society organisations*.

Amendment

(59) Very large online platforms should, where appropriate, conduct their risk assessments and design their risk mitigation measures with the involvement of representatives of the recipients of the service, representatives of groups potentially impacted by their services, independent experts and *relevant public actors*.

Amendment 57

Proposal for a regulation Recital 60

Text proposed by the Commission

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

Amendment 58

Proposal for a regulation Recital 61

Text proposed by the Commission

(61) The audit report should be substantiated, so as to give a meaningful account of the activities undertaken and the conclusions reached. It should help inform, and where appropriate suggest improvements to the measures taken by the

Amendment

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

Amendment

(61) The audit report should be **independent and** substantiated, so as to give a meaningful account of the activities undertaken and the conclusions reached. It should help inform, and where appropriate suggest improvements to the measures

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

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

Amendment 59

Proposal for a regulation

Recital 62

Text proposed by the Commission

(62) A core part of a very large online platform's business is the manner in which information is prioritised and presented on its online interface to facilitate and optimise access to information for the recipients of the service. This is done, for example, by algorithmically suggesting, ranking and prioritising information, distinguishing through text or other visual representations, or otherwise curating

Amendment

(62) A core part of a very large online platform's business is the manner in which information is prioritised and presented on its online interface to facilitate and optimise access to information for the recipients of the service. This is done, for example, by algorithmically suggesting, ranking and prioritising information, distinguishing through text or other visual representations, or otherwise curating

information provided by recipients. Such recommender systems can have *a significant* impact on the ability of recipients to retrieve and interact with information online. They also play an important role in the amplification of certain messages, the viral dissemination of information and the stimulation of online behaviour. Consequently, very large online platforms should ensure that recipients are appropriately informed, and can influence the information presented to them. They should clearly present the main parameters for such recommender systems in an easily comprehensible manner to ensure that the recipients understand how information is prioritised for them. They should also ensure that the recipients enjoy alternative options for the main parameters, including options that are not based on profiling of the recipient.

information provided by recipients. Such recommender systems can have *an* impact on the ability of recipients to retrieve and interact with information online. They also play an important role in the amplification of certain messages, the viral dissemination of information and the stimulation of online behaviour. Consequently, very large online platforms should ensure that recipients are appropriately informed, and can influence the information presented to them. They should clearly present the main parameters for such recommender systems in an easily comprehensible manner to ensure that the recipients understand how information is prioritised for them. They should also ensure that the recipients enjoy alternative options for the main parameters, including options that are not based on profiling of the recipient.

Amendment 60

Proposal for a regulation Recital 62 a (new)

Text proposed by the Commission

Amendment

(62a) The practice of very large online platforms to associate advertisement with content uploaded by users could indirectly lead to the monetisation and promotion of illegal content, or content that is in breach of their terms and conditions and could risk to considerably damage the brand image of the buyers of advertising space. In order to prevent such practice, the very large online platforms should ensure, including through standard contractual guarantees to the buyers of advertising space, that the content to which they associate advertisements is legal, and compliant with their terms and conditions. Furthermore, the very large online platforms should allow advertisers to have direct access to the results of audits carried out independently and

evaluating the commitments and tools of platforms for protecting the brand image of the buyers of advertising space ('brand safety').

Amendment 61

Proposal for a regulation

Recital 63

Text proposed by the Commission

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

Amendment

(63) Advertising systems used by very large online platforms ***could*** pose particular risks and require further public and regulatory supervision. Very large online platforms should ensure public access to repositories of advertisements displayed on their online interfaces to facilitate supervision and research into emerging risks brought about by the distribution of advertising online, for example in relation to illegal advertisements or manipulative techniques and disinformation with a real and foreseeable negative impact on public health, public security, civil discourse, political participation and equality. Repositories should include the content of advertisements and related data on the advertiser and the delivery of the advertisement. ***In addition, very large online platforms should label any known deep fake video, audio or other files.***

Amendment 62

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

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

by this Regulation, the Digital Services Coordinator of establishment or the Commission may require access to or reporting of specific data. Such a requirement may include, for example, the data necessary to assess the risks and possible harms, ***such as the dissemination of illegal content or amplification of illegal content*** 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 ***providing information or*** compelling access to data from very large online platforms to vetted researchers, ***which meet the conditions set out in this regulation, where relevant to a research project.*** All requests for ***providing information or*** 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.

Amendment 63

Proposal for a regulation Recital 65 a (new)

Text proposed by the Commission

Amendment

(65a) Minimum interoperability requirements for very large online platforms could create new opportunities for the development of innovative services, limit lock-in effects of existing platforms due to network effect and could therefore improve competition and users choice. In order to facilitate free choice of recipients between different services, interoperability for industry-standard features of very large online platforms should be considered. Such interoperability could empower recipients to choose a service based on its functionality and features.

Amendment 64

Proposal for a regulation

Recital 67

Text proposed by the Commission

(67) The Commission and the Board should encourage the drawing-up of codes of conduct to contribute to the application of this Regulation. While the implementation of codes of conduct should be measurable and subject to public oversight, this should not impair the voluntary nature of such codes and the freedom of interested parties to decide whether to participate. In certain circumstances, it is important that very large online platforms cooperate in the drawing-up and adhere to specific codes of conduct. Nothing in this Regulation prevents other service providers from adhering to the same standards of due diligence, adopting best practices and benefitting from the guidance provided by the Commission and the Board, by participating in the same codes of conduct.

Amendment

(67) The Commission and the Board should encourage the drawing-up of codes of conduct to contribute to the application of this Regulation, ***as well as the compliance of online platforms with the provisions of these codes***. While the implementation of codes of conduct should be measurable and subject to public oversight, this should not impair the voluntary nature of such codes and the freedom of interested parties to decide whether to participate. In certain circumstances, it is important that very large online platforms cooperate in the drawing-up and adhere to specific codes of conduct. Nothing in this Regulation prevents other service providers from adhering to the same standards of due diligence, adopting best practices and benefitting from the guidance provided by the Commission and the Board, by participating in the same codes of conduct.

Amendment 65

Proposal for a regulation Recital 68

Text proposed by the Commission

(68) It is appropriate that this Regulation identify certain areas of consideration for such codes of conduct. In particular, risk mitigation measures concerning specific types of illegal content should be explored via self- and co-regulatory agreements. Another area for consideration is the possible negative impacts of systemic risks on society and democracy, such as disinformation or manipulative and abusive activities. This includes coordinated operations aimed at amplifying information, including disinformation, such as the use of bots or fake accounts for the creation of fake or misleading information, sometimes with a purpose of obtaining economic gain, which are particularly harmful for vulnerable recipients of the service, such as children. In relation to such areas, adherence to and compliance with a given code of conduct by a very large online platform may be considered as an appropriate risk mitigating measure. The refusal without proper explanations by an online platform of the Commission's invitation to participate in the application of such a code of conduct could be taken into account, where relevant, when determining whether the online platform has infringed the obligations laid down by this Regulation.

Amendment 66

Proposal for a regulation Recital 69

Text proposed by the Commission

(69) The rules on codes of conduct under this Regulation could serve as a basis

Amendment

(68) It is appropriate that this Regulation identify certain areas of consideration for such codes of conduct. In particular, risk mitigation measures concerning specific types of illegal content should be explored via self- and co-regulatory agreements. Another area for consideration is the possible negative impacts of systemic risks on society and democracy, such as disinformation, ***illegal content*** or manipulative and abusive activities. This includes coordinated operations aimed at amplifying information, including disinformation, such as the use of bots or fake accounts for the creation of fake or misleading information, sometimes with a purpose of obtaining economic gain, which are particularly harmful for vulnerable recipients of the service, such as children. In relation to such areas, adherence to and compliance with a given code of conduct by a very large online platform may be considered as an appropriate risk mitigating measure. The refusal without proper explanations by an online platform of the Commission's invitation to participate in the application of such a code of conduct could be taken into account, where relevant, when determining whether the online platform has infringed the obligations laid down by this Regulation.

Amendment

(69) The rules on codes of conduct under this Regulation could serve as a basis

for already established self-regulatory efforts at Union level, including the Product Safety Pledge, the Memorandum of Understanding against counterfeit goods, the Code of Conduct against illegal hate speech *as well as the Code of practice on disinformation. In particular for the latter, the Commission will issue guidance for strengthening the Code of practice on disinformation as announced in the European Democracy Action Plan.*

Amendment 67

Proposal for a regulation Recital 70

Text proposed by the Commission

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

Amendment 68

Proposal for a regulation Recital 76

for already established self-regulatory efforts at Union level, including the Product Safety Pledge, the Memorandum of Understanding against counterfeit goods, the Code of Conduct against illegal hate speech.

Amendment

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

Text proposed by the Commission

(76) In the absence of a general requirement for providers of intermediary services to ensure a physical presence within the territory of one of the Member States, there is a need to ensure clarity under which Member State's jurisdiction those providers fall for the purposes of enforcing the rules laid down in Chapters III and IV by the national competent authorities. A provider should be under the jurisdiction of the Member State where its main establishment is located, that is, where the provider has its head office or registered office within which the principal financial functions and operational control are exercised. In respect of providers that do not have an establishment in the Union but that offer services in the Union and therefore fall within the scope of this Regulation, the Member State where those providers appointed their legal representative should have jurisdiction, considering the function of legal representatives under this Regulation. In the interest of the effective application of this Regulation, all Member States should, however, have jurisdiction in respect of providers that failed to designate a legal representative, provided that the principle of ne bis in idem is respected. To that aim, each Member State that exercises jurisdiction in respect of such providers should, without undue delay, inform all other Member States of the measures they have taken in the exercise of that jurisdiction.

Amendment 69

Proposal for a regulation

Recital 77

Text proposed by the Commission

(77) Member States should provide the

Amendment

(76) In the absence of a general requirement for providers of intermediary services to ensure a physical presence within the territory of one of the Member States, there is a need to ensure clarity under which Member State's jurisdiction those providers fall for the purposes of enforcing the rules laid down in Chapters III and IV **and Articles 8 and 9** by the national competent authorities. A provider should be under the jurisdiction of the Member State where its main establishment is located, that is, where the provider has its head office or registered office within which the principal financial functions and operational control are exercised. In respect of providers that do not have an establishment in the Union but that offer services in the Union and therefore fall within the scope of this Regulation, the Member State where those providers appointed their legal representative should have jurisdiction, considering the function of legal representatives under this Regulation. In the interest of the effective application of this Regulation, all Member States should, however, have jurisdiction in respect of providers that failed to designate a legal representative, provided that the principle of ne bis in idem is respected. To that aim, each Member State that exercises jurisdiction in respect of such providers should, without undue delay, inform all other Member States of the measures they have taken in the exercise of that jurisdiction.

Amendment

(77) Member States should provide the

Digital Services Coordinator, and any other competent authority designated under this Regulation, with sufficient powers and means to ensure effective investigation and enforcement. Digital Services Coordinators should in particular be able to search for and obtain information which is located in its territory, including in the context of joint investigations, with due regard to the fact that oversight and enforcement measures concerning a provider under the jurisdiction of another Member State should be adopted by the Digital Services Coordinator of that other Member State, where relevant in accordance with the procedures relating to cross-border cooperation.

Digital Services Coordinator, and any other competent authority designated under this Regulation, with sufficient powers and means to ensure effective investigation and enforcement. Digital Services Coordinators should in particular be able to search for and obtain information which is located in its territory, including in the context of joint investigations, with due regard to the fact that oversight and enforcement measures concerning a provider under the jurisdiction of another Member State should be adopted by the Digital Services Coordinator of that other Member State, where relevant in accordance with the procedures relating to cross-border cooperation. ***Member States should also consider specialised training, in cooperation with Union bodies, offices and agencies, for relevant national authorities, in particular administrative authorities, who are responsible for issuing orders to act against illegal content and provide information.***

Amendment 70

Proposal for a regulation

Recital 78

Text proposed by the Commission

(78) Member States should set out in their national law, in accordance with Union law and in particular this Regulation and the Charter, the detailed conditions and limits for the exercise of the investigatory and enforcement powers of their Digital Services Coordinators, and other competent authorities where relevant, under this Regulation.

Amendment

(78) Member States should set out in their national law, in accordance with Union law and in particular this Regulation and the Charter, the detailed conditions and limits for the exercise of the investigatory and enforcement powers of their Digital Services Coordinators, and other competent authorities where relevant, under this Regulation. ***In order to ensure coherence between the Member States, the Commission should adopt guidance on the procedures and rules related to the powers of Digital Services Coordinators.***

Amendment 71

Proposal for a regulation

Recital 91

Text proposed by the Commission

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

Amendment

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

Amendment 72

Proposal for a regulation

Recital 97 a (new)

Text proposed by the Commission

Amendment

(97a) The Commission should ensure that it is independent and impartial in its decision making in regards to both Digital Services Coordinators and providers of services under this Regulation.

Amendment 73

Proposal for a regulation

Recital 99

(99) In particular, the Commission should have access to any relevant documents, data and information necessary to open and conduct investigations and to monitor the compliance with the relevant 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 precise place where they are stored. The Commission should be able to directly require that the very large online platform concerned or relevant third parties, or than individuals, provide any relevant evidence, data and information. In addition, the Commission should be able to request any relevant information from any public authority, body or agency within the Member State, or from any natural person or legal person for the purpose of this Regulation. The Commission should be empowered to require access to, and explanations relating to, data-bases and algorithms of relevant persons, and to interview, with their consent, any persons who may be in possession of useful information and to record the statements made. The Commission should also be empowered to undertake such inspections as are necessary to enforce the relevant provisions of this Regulation. Those investigatory powers aim to complement the Commission's possibility to ask Digital Services Coordinators and other Member States' authorities for assistance, for instance by providing information or in the exercise of those powers.

(99) In particular, the Commission, ***where it can show grounds for believing that a very large online platform is not compliant with this Regulation***, should have access to any relevant documents, data and information necessary to open and conduct investigations and to monitor the compliance with the relevant 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 precise place where they are stored. The Commission should be able to directly require that the very large online platform concerned or relevant third parties, or than individuals, provide any relevant evidence, data and information ***related to those concerns***. In addition, the Commission should be able to request any relevant information from any public authority, body or agency within the Member State, or from any natural person or legal person for the purpose of this Regulation. The Commission should be empowered to require access to, and explanations relating to, data-bases and algorithms of relevant persons, and to interview, with their consent, any persons who may be in possession of useful information and to record the statements made. The Commission should also be empowered to undertake such inspections as are necessary to enforce the relevant provisions of this Regulation. Those investigatory powers aim to complement the Commission's possibility to ask Digital Services Coordinators and other Member States' authorities for assistance, for instance by providing information or in the exercise of those powers.

Amendment 74

Proposal for a regulation

Recital 106 a (new)

Text proposed by the Commission

Amendment

(106a) In order to promote the freedom of expression and media pluralism online, the importance of editorial content and services must be recognised, requiring intermediary service providers to refrain from removing, suspending or disabling access to it. It follows that intermediary service providers should be exempt from liability for editorial content and services. Intermediary service providers should put mechanisms in place to facilitate the practical application, for example, the flagging of lawful editorial content and services by content providers. Providers of editorial content and services should be identified by the Member State in which the provider is established. Those providers should be understood as performing an economic activity within the meaning of Articles 56 and 57 TFEU.

Amendment 75

Proposal for a regulation

Article 1 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. This Regulation lays down harmonised rules on the provision of intermediary services in the internal market. In particular, it establishes:

1. This Regulation lays down harmonised rules on the provision of intermediary services in ***order to improve the functioning of*** the internal market ***whilst ensuring the rights enshrined in the Charter of Fundamental Rights of the European Union, in particular the freedom of expression and information in an open and democratic society.*** In particular, it establishes:

Amendment 76

Proposal for a regulation

Article 1 – paragraph 2 – point b

Text proposed by the Commission

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

Amendment

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

Amendment 77

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ba) facilitate innovation, support digital transition, encourage economic growth and create a level playing field for digital services within the internal market;

Amendment 78

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(bb) protect consumers making use of services falling under this Regulation.

Amendment 79

Proposal for a regulation

Article 1 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. This Regulation shall apply to instant messaging services used for purposes others than private or non-commercial.

Amendment 80

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

Text proposed by the Commission

(b) Directive 2010/13/EC;

Amendment

(b) Directive 2010/13/EC *as amended by Directive 2018/1808/EU*;

Amendment 81

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

Text proposed by the Commission

(c) Union law on copyright and related rights;

Amendment

(c) Union law on copyright and related rights, *in particular Directive (EU) 2019/790*;

Amendment 82

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

Text proposed by the Commission

(h) Union law on consumer protection and product safety, including Regulation (EU) 2017/2394;

Amendment

(h) Union law on consumer protection and product safety, including Regulation (EU) 2017/2394, *Regulation (EU) 2019/1020 and Regulation XXX (General Product Safety Regulation)*;

Amendment 83

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

Text proposed by the Commission

Amendment

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

Amendment 84

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

Text proposed by the Commission

Amendment

(ib) Directive 2006/123/EC.

Amendment 85

Proposal for a regulation

Article 1 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. The Commission shall by ... [within one year of the adoption of this Regulation] publish guidelines with regard to the relations between this Regulation and legislative acts listed in paragraph 5. Those guidelines shall clarify any potential conflicts between the conditions and obligations listed in those legislative acts and which act prevails where actions, in line with this Regulation, fulfil the obligations of another legislative act and which regulatory authority is competent.

Amendment 86

Proposal for a regulation

Article 1 a (new)

Text proposed by the Commission

Amendment

Article 1a

Contractual provisions

Any contractual provisions between an intermediary service provider and a trader, business user or a recipient of its service which are contrary to this Regulation shall be unenforceable.

Amendment 87

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ba) 'active end user' means an individual successfully accessing an online interface and having significant interaction with it, its product or service;

Amendment 88

Proposal for a regulation

Article 2 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) 'consumer' means any natural person who is acting for purposes which are outside his or her trade, business or profession;

(c) 'consumer' means any natural person who is acting for purposes which are outside his or her trade, business, **craft** or profession;

Amendment 89

Proposal for a regulation

Article 2 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) 'trader' means any natural person, or any legal person irrespective of whether privately or publicly owned, who is acting, including through any person **acting** in his or her name or on his or her behalf, for purposes relating to his or her trade, business, craft or profession;

(e) 'trader' means any natural person, or any legal person irrespective of whether privately or publicly owned, who is acting, including through any person **marketing products and/or services** in his or her name or on his or her behalf, for purposes relating to his or her trade, business, craft or profession, **or any natural or legal person that is offering goods, digital content or services on a commercial scale;**

Amendment 90

Proposal for a regulation

Article 2 – paragraph 1 – point f – introductory part

Text proposed by the Commission

Amendment

(f) 'intermediary service' means one of

(f) 'intermediary service' means one of

the following services:

the following *information society* services:

Amendment 91

Proposal for a regulation

Article 2 – paragraph 1 – point f – indent 3

Text proposed by the Commission

– a ‘hosting’ service that consists of the storage of information provided by, and at the request of, a recipient of the service;

Amendment

– a ‘hosting’ service that consists of the storage of information provided by, and at the request of, a recipient of the service, ***and which does not have any active role in data processing;***

Amendment 92

Proposal for a regulation

Article 2 – paragraph 1 – point f – indent 4 (new)

Text proposed by the Commission

Amendment

– ***an online platform within the meaning of point (h);***

Amendment 93

Proposal for a regulation

Article 2 – paragraph 1 – point f – indent 5 (new)

Text proposed by the Commission

Amendment

– ***an online search engine as defined in point (5) of Article 2 of Regulation (EU) 2019/1150;***

Amendment 94

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(fa) ‘live streaming platform services’ means information society services of

which the main or one of the main purposes is to give the public access to audio or video material that is live broadcasted by its users, which it organises and promotes for profit-making purposes;

Amendment 95

Proposal for a regulation

Article 2 – paragraph 1 – point g

Text proposed by the Commission

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

Amendment

(g) ‘illegal content’ means any information which, in itself or by its reference to *illegal content, products, services or* activity, including *financial fraud*, is not in compliance with Union law or *the criminal, administrative or civil legal framework* of a Member State, irrespective of the precise subject matter or nature of that law;

Amendment 96

Proposal for a regulation

Article 2 – paragraph 1 – point h

Text proposed by the Commission

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

Amendment

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

Amendment 97

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

Text proposed by the Commission

Amendment

(ha) ‘online marketplace’ means a service using software, including a website or an application, operated by or on behalf of a trader which allows consumers to conclude distance contracts with other traders or consumers;

Amendment 98

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

Text proposed by the Commission

Amendment

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

Amendment 99

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

Text proposed by the Commission

Amendment

(hc) ‘online social networking service’ means a platform that enables end users to connect, share, discover and communicate with each other across multiple devices and, in particular, via chats, posts, videos and recommendations;

Amendment 100

Proposal for a regulation

Article 2 – paragraph 1 – point i

Text proposed by the Commission

(i) ‘dissemination to the public’ means making information available, at the request of the recipient of the service who provided the information, to a potentially unlimited number of third parties;

Amendment

(i) ‘dissemination to the public’ means **taking an active role in** making information available, at the request of the recipient of the service who provided the information, to a **significant and** potentially unlimited number of third parties;

Amendment 101

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ia) ‘deep fake’ means a generated or manipulated image, audio or video content that appreciably resembles existing persons, objects, places or other entities or events and falsely appears to a person to be authentic or truthful;

Amendment 102

Proposal for a regulation

Article 2 – paragraph 1 – point o

Text proposed by the Commission

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

Amendment

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

Amendment 103

Proposal for a regulation

Article 2 – paragraph 1 – point p

Text proposed by the Commission

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

Amendment

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

Amendment 104

Proposal for a regulation

Article 2 – paragraph 1 – point q

Text proposed by the Commission

(q) ‘terms and conditions’ means all terms and conditions or specifications, irrespective of their name or form, which govern the contractual relationship between the provider of intermediary services and the recipients of the services.

Amendment

(q) ‘terms and conditions’ means all terms and conditions or specifications ***provided by the provider of intermediary services***, irrespective of their name or form, which govern the contractual relationship between the provider of intermediary services and the recipients of the services;

Amendment 105

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(qa) ‘dark pattern’ means a user interface designed or manipulated with the substantial effect of subverting or impairing user autonomy, decision-making or choice.

Amendment 106

Proposal for a regulation Article 2 a (new)

Text proposed by the Commission

Amendment

Article 2a

Digital privacy

- 1. Where technically possible, a provider of an information society service shall enable the use of and payment for that service without collecting personal data of the recipient.**
- 2. A provider of an information society service shall process personal data concerning the use of the service by a recipient only to the extent strictly necessary to enable the recipient to use the service or to charge the recipient for the use of the service.**

Amendment 107

Proposal for a regulation Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Where an information society service is provided that consists of the transmission in a communication network of information provided by a recipient of the service, or the provision of access to a communication network, the service provider shall not be liable for the information transmitted, on condition that

1. Where an information society service is provided that consists of the transmission in a communication network of information provided by a recipient of the service, or the provision of access to a communication network, **or an improvement of the security of that transmission**, the service provider shall not be liable for the information transmitted,

the provider:

on condition that the provider:

Amendment 108

Proposal for a regulation Article 3 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 109

Proposal for a regulation Article 4 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 110

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

Text proposed by the Commission

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

Amendment

(b) upon obtaining such knowledge or awareness, expeditiously, **decisively and permanently removes or disables** access to the illegal content **if the content or activity is to be deemed illegal within the meaning of Article 2(g);**

Amendment 111

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

Text proposed by the Commission

Amendment

1a. *Without prejudice to specific deadlines, set out in Union law or within administrative or legal orders, providers of hosting services shall, upon obtaining actual knowledge or awareness, remove or disable access to illegal content as soon as possible and in any event:*

(a) *within 30 minutes where the illegal content pertains to the broadcast of a live sports or entertainment event;*

(b) *within 24 hours where the illegal content can seriously harm public policy, public security or public health or seriously harm consumers' health or safety;*

(c) *within 72 hours in all other cases where the illegal content does not seriously harm public policy, public security, public health or consumers' health or safety;*

Amendment 112

Proposal for a regulation
Article 5 – paragraph 2

Text proposed by the Commission

Amendment

2. Paragraph 1 shall not apply where the recipient of the service is acting under the authority or the control of the provider.

2. Paragraph 1 shall not apply:

(a) *where the recipient of the service is acting under the authority or the control of the provider;*

(b) *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;

(c) where the provider of intermediary services plays an active role in, for instance, providing, controlling, optimising, classifying, organising, referencing or promoting of the content.

Amendment 113

Proposal for a regulation Article 5 – Paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 114

Proposal for a regulation Article 5 – Paragraph 4

Text proposed by the Commission

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

Amendment

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

Amendment 115

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

1. 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, **or national law, in accordance with Union law**, including **the Charter of Fundamental Rights of the European Union, and the requirements** set out in this Regulation.

Amendment 116

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

Text proposed by the Commission

Amendment

1a. **Paragraph 1 shall apply only when intermediary services are compliant with due diligence obligations laid down in this Regulation.**

Amendment 117

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

Text proposed by the Commission

Amendment

1b. **Voluntary own-initiative investigations shall not lead to ex-ante control measures based on automated content moderation tools.**

Amendment 118

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

Text proposed by the Commission

Amendment

1c. Providers of intermediary services shall ensure that measures taken pursuant to paragraph 1 shall be effective, specific and targeted. Such measures should be accompanied with appropriate safeguards, such as human oversight, documentation, traceability or any additional measures to ensure that own initiative investigations are accurate, non-discriminatory, proportionate, transparent and not lead to over-removal of content.

Amendment 119

Proposal for a regulation
Article 7 – title

Text proposed by the Commission

Amendment

No general monitoring or active fact-finding obligations

No general monitoring or ***automated content moderation or*** active fact-finding obligations

Amendment 120

Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission

Amendment

No general obligation to monitor the information which providers of intermediary services transmit or store, nor actively to seek facts or circumstances indicating illegal activity shall be imposed on those providers.

1. No general obligation to monitor the information which providers of intermediary services transmit or store, nor actively to seek facts or circumstances indicating illegal activity shall be imposed on those providers. Providers of intermediary services shall not be obliged to use automated tools for content moderation.

Amendment 121

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

Text proposed by the Commission

Amendment

2. This Regulation shall not prevent providers from offering end-to-end encrypted services. The provision of such services shall not constitute a reason for liability or for becoming ineligible for the exemptions from liability.

Amendment 122

Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission

Amendment

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

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

Amendment 123

Proposal for a regulation
Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. If the provider cannot comply with the removal order because it contains manifest errors or does not contain sufficient information for its execution, it shall, without undue delay, inform the authority that has issued the order.

Amendment 124

Proposal for a regulation

Article 8 – paragraph 2 – point a – indent 2 a (new)

Text proposed by the Commission

Amendment

- **identification of the competent judicial or administrative authority;**

Amendment 125

Proposal for a regulation

Article 8 – paragraph 2 – point a – indent 2 b (new)

Text proposed by the Commission

Amendment

- **reference to the legal basis for the order;**

Amendment 126

Proposal for a regulation

Article 8 – paragraph 2 – point a – indent 3

Text proposed by the Commission

Amendment

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

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

Amendment 127

Proposal for a regulation

Article 8 – paragraph 2 – point c

Text proposed by the Commission

Amendment

- (c) the order is drafted in the language declared by the provider and is sent to the point of contact, appointed by the provider, in accordance with Article 10.

- (c) the order is drafted in the language declared by the provider and is sent to the point of contact, appointed by the provider, in accordance with Article 10, **or in the official language of the Member State**

that issues the order against the specific item of illegal content. In such case, the point of contact may request the competent authority to provide translation into the language declared by the provider;

Amendment 128

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

Text proposed by the Commission

Amendment

(ca) the order is issued only where no other effective means are available to bring about the cessation or the prohibition of the infringement;

Amendment 129

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

Text proposed by the Commission

Amendment

2a. The Commission shall adopt delegated acts in accordance with Article 69, after consulting the Board, to lay down a specific template and form for such orders.

Amendment 130

Proposal for a regulation Article 8 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. Member States shall ensure that providers have a right to appeal and object to implementing the order and shall facilitate the use and access to that right.

Amendment 131

Proposal for a regulation
Article 8 – paragraph 4

Text proposed by the Commission

4. The conditions and requirements laid down in this article shall be without prejudice to requirements under national criminal procedural law in conformity with Union law.

Amendment

4. The conditions and requirements laid down in this article shall be without prejudice to ***civil court decisions and*** requirements under national criminal procedural law in conformity with Union law.

Amendment 132

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

Text proposed by the Commission

Amendment

4a. The conditions and requirements laid down in this article shall be without prejudice to data confidentiality and commercial secrecy requirements, in conformity with Union law, including the Charter of Fundamental Rights of the European Union.

Amendment 133

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

Text proposed by the Commission

Amendment

4b. The Commission shall adopt implementing acts, organising a European information exchange system, allowing for secure communication and authentication of authorised orders between relevant authorities, Digital Services Coordinators and providers, as referred to in Articles 8(1), 8a(1) and 9(1). Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 70.

Amendment 134

Proposal for a regulation Article 8 a (new)

Text proposed by the Commission

Amendment

Article 8a

Orders to restore lawful content

1. Providers of intermediary services shall, upon the receipt of an order via a secure communications channel to restore a specific item or multiple items of removed content, issued by the relevant national judicial or administrative authorities on the basis of the applicable Union or national law, in conformity with Union law, inform the authority issuing the order of the effect given to the orders without undue delay, specifying the action taken and the moment when the action was taken.

2. Member States shall ensure that the orders referred to in paragraph 1 meet the following conditions:

(a) the orders contain the following elements:

(i) a statement of reasons explaining why the content in question is legal, by reference to the specific provision of Union or national law or court ruling;

(ii) one or more exact uniform resource locators and, where necessary, additional information enabling the identification of the legal content concerned;

(iii) information about redress available to the provider of the service who removed the content and to the recipient of the service who notified the content;

(b) the territorial scope of the order, on the basis of the applicable rules of Union and national law, including the Charter, and, where relevant, general principles of international law, does not

exceed what is strictly necessary to achieve its objective; and

(c) the order is drafted in the language declared by the provider and is sent to the point of contact, appointed by the provider, in accordance with Article 10.

Amendment 135

Proposal for a regulation Article 9 – paragraph 1

Text proposed by the Commission

1. Providers of intermediary services shall, upon receipt of an order to provide a specific item of information about one or more specific individual recipients of the service, issued by the relevant national judicial or administrative authorities on the basis of the applicable Union or national law, in conformity with Union law, inform without undue delay the authority of issuing the order of its receipt and the effect given to the order.

Amendment

1. Providers of intermediary services shall, upon receipt of an order to provide a specific item of information about one or more specific individual recipients of the service, ***received from and*** issued by the relevant national judicial or administrative authorities on the basis of the applicable Union or national law, in conformity with Union law, inform without undue delay the authority of issuing the order of its receipt and the effect given to the order. ***Where no effect has been given to the order, a statement of the provider shall explain the reasons why the information cannot be provided to the national judicial or administrative authority that issued the order.***

Amendment 136

Proposal for a regulation Article 9 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. If the provider cannot comply with the information order because it contains manifest errors or does not contain sufficient information for its execution, it shall, without undue delay, inform the authority that issued the information

order.

Amendment 137

Proposal for a regulation

Article 9 – paragraph 2 – point a – indent 1

Text proposed by the Commission

– a statement of reasons ***explaining the objective for*** which the information is required and why ***the requirement to provide the information is necessary and proportionate*** to determine compliance by the recipients of the intermediary services with applicable Union or national rules, unless such a statement cannot be provided for reasons related to the prevention, investigation, detection and prosecution of criminal offences;

Amendment

– a statement of reasons ***according to*** which the information is required and why ***this requirement is necessary and*** to determine compliance by the recipients of the intermediary services with applicable Union or national rules, unless such a statement cannot be provided for ***official*** reasons related to the prevention, investigation, detection and prosecution of criminal offences;

Amendment 138

Proposal for a regulation

Article 9 – paragraph 2 – point a – indent 1 a (new)

Text proposed by the Commission

Amendment

– ***identification of the competent judicial or administrative authority;***

Amendment 139

Proposal for a regulation

Article 9 – paragraph 2 – point a – indent 1 b (new)

Text proposed by the Commission

Amendment

– ***reference to the legal basis for the order;***

Amendment 140

Proposal for a regulation

Article 9 – paragraph 2 – point a – indent 2

Text proposed by the Commission

- information about redress available to the provider and to the recipients of the service concerned;

Amendment

- information about redress ***mechanisms*** available to the provider and to the recipients of the service concerned;

Amendment 141

Proposal for a regulation

Article 9 – paragraph 2 – point b

Text proposed by the Commission

- (b) the order only requires the provider to provide information already collected for the purposes of providing the service and which lies within its control;

Amendment

- (b) the order only requires the provider to provide information already ***legally*** collected for the purposes of providing the service and which lies within its control, ***such as e-mail addresses, telephone numbers and other contact details necessary to determine the compliance referred to in point (a);***

Amendment 142

Proposal for a regulation

Article 9 – paragraph 2 – point c

Text proposed by the Commission

- (c) the order is drafted in the language declared by the provider and is sent to the point of contact appointed by that provider, in accordance with Article 10;

Amendment

- (c) the order is drafted in the language declared by the provider and is sent to the point of contact appointed by that provider, in accordance with Article 10, ***or in the official language of the Member State that issues the order against the specific item of illegal content. In such case, the point of contact may request the competent authority to provide translation into the language declared by the provider;***

Amendment 143

Proposal for a regulation

Article 9 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) the order is issued only where no other effective means are available to receive the same specific item of information;

Amendment 144

Proposal for a regulation

Article 9 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Commission shall adopt delegated acts in accordance with Article 69, after consulting the Board, to lay down a specific template and form for such orders. It shall ensure that form means the standards set down in the Annex of [XXX the regulation on European Production and Preservation Orders for electronic evidence in criminal matters].

Amendment 145

Proposal for a regulation

Article 9 – paragraph 4

Text proposed by the Commission

Amendment

4. The conditions and requirements laid down in this article shall be without prejudice to requirements under national criminal procedural law in conformity with Union law.

4. The conditions and requirements laid down in this article shall be without prejudice to ***civil court decisions and*** requirements under national criminal procedural law in conformity with Union law.

Amendment 146

Proposal for a regulation

Article 9 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. *The conditions and requirements laid down in this Article shall be without prejudice to data confidentiality and commercial secrecy requirements, in conformity with Union law including the Charter of Fundamental Rights of the European Union.*

Amendment 147

Proposal for a regulation Article 9 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4b. *The obligations under this Article shall not oblige providers of intermediary services to introduce new tracking of profiling techniques for recipients of the service in order to comply with orders to provide information.*

Amendment 148

Proposal for a regulation Article -10 (new)

Text proposed by the Commission

Amendment

Article -10

Waiver

1. *Providers of intermediary services may apply to the Commission for a waiver from the requirements of Chapter III, if they prove that they are:*

(a) *micro, small and medium enterprises within the meaning of the Annex to Recommendation 2003/361/EC, including when carrying out their activities on a non-for-profit basis or pursuant a public interest mission or;*

(b) *a medium enterprises within the meaning of the Annex to*

Recommendation 2003/361/EC without any systemic risk related to illegal content. The Providers shall present justified reasons for their request;

(c) editorial platforms within the meaning of Article 2 (ha) of this Regulation;

2. The providers of intermediary services carrying out their activities on a non-for-profit basis or pursuant a public interest mission shall be independent from any entity that operates on a for-profit basis for the purposes of this article;

3. The Commission shall examine such an application and, after consulting the Board, may issue a waiver in whole or in parts to the requirements of this Chapter.

4. Upon the request of the Board or the provider, or on its own initiative, the Commission may review a waiver issued and revoke the waiver in whole or in parts.

5. The Commission shall maintain a list of all waivers issued and their conditions and shall publish this list to the public.

Amendment 149

Proposal for a regulation Article 11 – paragraph 1

Text proposed by the Commission

1. Providers of intermediary services which do not have an establishment in the Union but which offer services in the Union shall designate, in writing, a legal or natural person as their legal representative in one of the Member States where the provider offers its services.

Amendment

1. Providers of intermediary services which do not have an establishment in the Union but which offer services in the Union shall designate, ***for those already existing as soon as possible, for those to be established prior to the establishment,*** in writing, a legal or natural person as their legal representative in one of the Member States where the provider offers its services. ***The Members States may require***

very large online platforms to designate a legal representative in their Member State.

Amendment 150

Proposal for a regulation Article 11 – paragraph 2

Text proposed by the Commission

2. Providers of intermediary services shall mandate their legal representatives to be addressed in addition to or instead of the provider by the Member States' authorities, the Commission and the Board on all issues necessary for the receipt of, compliance with and enforcement of decisions issued in relation to this Regulation. Providers of intermediary services shall provide their legal representative with the necessary powers and *resource to cooperate* with the Member States' authorities, the Commission and the Board and *comply* with those decisions.

Amendment

2. Providers of intermediary services shall mandate their legal representatives to be addressed in addition to or instead of the provider by the Member States' authorities, the Commission and the Board on all issues necessary for the receipt of, compliance with and enforcement of decisions issued in relation to this Regulation. Providers of intermediary services shall provide their legal representative with the necessary powers and *resources in order to guarantee their proper and timely cooperation* with the Member States' authorities, the Commission and the Board and *compliance* with those decisions.

Amendment 151

Proposal for a regulation Article 11 – paragraph 4

Text proposed by the Commission

4. Providers of intermediary services shall notify the name, address, the electronic mail address and telephone number of their legal representative to the Digital Service Coordinator in the Member State where that legal representative resides or is established. They shall ensure that that information is up to date.

Amendment

4. Providers of intermediary services shall notify the name, *postal* address, the electronic mail address and telephone number of their legal representative to the Digital Service Coordinator in the Member State where that legal representative resides or is established. They shall ensure that that information is up to date. *The Digital Service Coordinator in the Member State where that legal representative resides or is established shall, upon receiving that information,*

make reasonable efforts to assess its validity.

Amendment 152

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

Text proposed by the Commission

Amendment

5a. Providers of intermediary services that qualify as micro or small enterprises as defined in 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.

Amendment 153

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

Text proposed by the Commission

Amendment

5b. Providers of online social networking services designated as very large online platform according to Article 25 shall designate a legal representative to be bound to obligations laid down in this Article at the request of the Digital Services Coordinator of the Member States where this provider offers its services.

Amendment 154

Proposal for a regulation Article 12 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Providers of intermediary services shall ***ensure that their terms and conditions prohibit*** the recipients of ***their services from providing content that is not in compliance with Union law or the law of the Member State where such information is made*** available.

The terms and conditions shall include information on any restrictions that they impose in relation to the use of their service in respect of information provided by the recipients of the service. That information shall include information on any policies, procedures, measures and tools used for the purpose of content moderation, including algorithmic decision-making and human review. It shall be set out in clear, plain, intelligible and unambiguous language and shall be publicly available in an easily accessible format, in the languages in which the service is offered and include a searchable archive of previous versions with their date of application of the provider's terms and conditions. Providers of intermediary services shall provide recipients of services with a concise and easily readable summary of the terms and conditions, including information on the available remedies and the possibilities for opt-out, where relevant.

Amendment 155

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

Text proposed by the Commission

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

Amendment

2. Providers of intermediary services shall ***ensure that any additional restrictions that they impose in relation to the use of their service in respect of information provided by the recipients of the service are designed with due regard to the fundamental rights as enshrined in the Charter.***

Providers of intermediary services shall enforce the restrictions referred to in the first subparagraph in a diligent, objective and proportionate manner, with due regard to the rights and legitimate interests of all parties involved.

Amendment 156

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

Text proposed by the Commission

Amendment

2a. Where very large online platforms within the meaning of Article 25 of this Regulation otherwise allow for the dissemination to the public of press publications within the meaning of Article 2(4) of Directive (EU) 2019/790 and of audiovisual media services within the meaning in Article 1(a) of Directive (EU) 2018/1808, such platforms shall not remove, disable access to, suspend or otherwise interfere with such content or the related service or suspend or terminate the related account on the basis of the alleged incompatibility of such content with its terms and conditions, unless it is illegal content.

Amendment 157

Proposal for a regulation

Article 12 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. *The Digital Services Coordinator of each Member State has the right to request very large online platforms, to apply measures and tools of content moderation, including algorithmic decision-making and human review reflecting Member State’s socio-cultural context. The framework for this cooperation as well as specific measures related thereto may be laid down in national legislation and shall be notified to the Commission.*

Amendment 158

Proposal for a regulation

Article 12 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2c. *Providers of intermediary services shall refrain from any dark patterns or other techniques to encourage the acceptance of terms and conditions, including giving consent to sharing personal and non-personal data.*

Amendment 159

Proposal for a regulation

Article 12 – paragraph 2 d (new)

Text proposed by the Commission

Amendment

2d. *The Digital Services Coordinator of each Member State, by means of national legislation, may request a very large online platform to cooperate with the Digital Services Coordinator of the Member State in question in handling cases involving the removal of lawful content online that is taken down erroneously.*

Amendment 160

Proposal for a regulation Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12a

General Risk Assessment and Mitigation Measures

- 1. Providers of intermediary services shall identify, analyse and assess, at least once a year, the potential misuse or other risks stemming from the functioning and use made of their services in the Union. Such a general risk assessment shall be specific to each of their services and shall include at least risks related to the dissemination of illegal content through their services and any contents that might have a negative effect on potential recipients of the service.***
- 2. Providers of intermediary services shall wherever possible, attempt to put in place reasonable, proportionate and effective mitigation measures to the risk identified in line with applicable law and their terms and conditions.***
- 3. Providers of intermediary services shall, upon request, explain to the competent Digital Services Coordinator, how it undertook this risk assessment and what mitigation measures it undertook.***
- 4. Providers of intermediary services shall specially consider in the design, functioning and use of their services any actual, potential or foreseeable negative impact on fundamental rights, gender equality, and the protection of minors and people with disabilities.***

Amendment 161

Proposal for a regulation

Article 13 – paragraph 1 – introductory part

Text proposed by the Commission

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

Amendment

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

Amendment 162

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, and the average time needed **to inform the authority issuing the order of its receipt and the time** for taking the action specified in those orders;

Amendment 163

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**

Amendment

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

the action;

and conditions of the provider;

Amendment 164

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, the average time needed for taking those decisions and the number of instances where those decisions were reversed.

Amendment 165

Proposal for a regulation

Article 13 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Providers of intermediary services shall ensure that the identities, such as the trademark/logo or other characteristic traits of trade users providing goods or services on intermediary services are clearly visible alongside the goods or services provided.

Amendment 166

Proposal for a regulation

Article 13 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Where made available to the public, the annual transparency reports referred to in paragraph 1 shall not include information that may prejudice ongoing activities for the prevention,

detection, or removal of illegal content or content counter to a hosting provider's terms and conditions.

Amendment 167

Proposal for a regulation Article 13 a (new)

Text proposed by the Commission

Amendment

Article 13a

Online interface design

1. Providers of intermediary services shall refrain from subverting or impairing autonomous decision-making or free choice of a recipient of a service through the design, functioning or operation of online interfaces or a part thereof. In particular, providers shall refrain from:

- (a) according visual prominence to one option when asking the recipient of the service for consent or a decision;**
- (b) repeatedly requesting consent to data processing or requesting a change to a setting or configuration of the service after the recipient of the service has already made its choice;**
- (c) making the making the refusal of consent to data processing more difficult or time-consuming to the recipient of the service than giving consent;**
- (d) making the procedure of cancelling a service more difficult than signing up to it.**

2. A choice or decision made by the recipient of the service using an online interface that does not comply with the requirements of paragraph 1 of this Article shall not constitute consent in the sense of Regulation (EU) 2016/679.

3. The Commission shall publish guidelines with a list of specific design patterns that qualify as subverting or

impairing the autonomy, decision-making, or choice of the recipients of the service.

Amendment 168

Proposal for a regulation Article 13 b (new)

Text proposed by the Commission

Amendment

Article 13b

Compliance with obligations for online marketplace

Online marketplace shall ensure compliance with the obligations laid down in this Regulation, in order to achieve the objectives of the relevant obligation in an effective manner.

The non-compliance with the obligations laid down in the Regulation may affect the possibility for online marketplace of benefiting from the liability exemption as laid down in Article 5(1).

Amendment 169

Proposal for a regulation Chapter III – Section 2 – title

Text proposed by the Commission

Amendment

Additional provisions applicable to providers of hosting services, including online platforms

Additional provisions applicable to providers of hosting services, including online platforms, ***and to providers of livestreaming platform services and of instant messaging services used for purposes other than private or non-commercial***

Amendment 170

Proposal for a regulation Article 14 – paragraph 1

Text proposed by the Commission

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

Amendment

1. **Instant messaging services used for purposes other than private or non-commercial and** providers of hosting services, **including online platforms**, shall put mechanisms in place to allow any individual or entity to notify them of the presence on their service of specific items of information that the individual or entity considers to be illegal content, **or content that is in breach with their terms and conditions**. Those mechanisms shall be easy to access, user-friendly, **clearly visible on the hosting service interface**, user-friendly and **located close to the content in question allowing** for the submission of notices exclusively by electronic means **in the language of the individual or entity submitting a notice**.

Amendment 171

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. **Notices submitted under** 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 reviewer can identify the illegality or the breach of the content in question with the terms and conditions. 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 172

Proposal for a regulation

Article 14 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) *an* explanation of the reasons why the individual or entity considers the information in question to be illegal content;

(a) *a sufficiently substantiated* explanation of the reasons why the individual or entity considers the information in question to be illegal content, *or content that is in breach with providers' terms and conditions*;

Amendment 173

Proposal for a regulation

Article 14 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) a clear indication of the electronic location of that information, *in particular the exact URL or URLs, and, where necessary, additional information* enabling the identification of the illegal content;

(b) a clear indication of the electronic location of that information, enabling the identification of the illegal content, *or why the content such as the trademark/logo or other characteristic traits, is in breach with providers' terms and conditions*;

Amendment 174

Proposal for a regulation

Article 14 – paragraph 3

Text proposed by the Commission

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.

3. Notices that include the elements referred to in paragraph 2 *on the basis of which a diligent economic provider can identify the illegality of the content in question* 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 175

Proposal for a regulation

Article 14 – paragraph 6

Text proposed by the Commission

Amendment

6. Providers of hosting services shall process any notices that they receive under the mechanisms referred to in paragraph 1, and take their decisions in respect of the information to which the notices relate, in a **timely, diligent** and 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.

6. **Instant messaging services used for purposes other than private or non-commercial and providers of hosting services, including online platforms without prejudice to Article 5 paragraph 1(b), 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 swift, non-discriminatory and objective manner and in any case within a maximum of 72 hours. Where decisions on the removal or deactivation of access to content are taken, providers of hosting services may take all measures necessary to prevent the same illegal content or equivalent illegal content from reappearing on their service. The application of this paragraph shall not lead to any general monitoring obligation and shall be subject to human review.** 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. **This means, in particular, key information on the procedure followed, the technology used, the criteria and reasoning underpinning the decision and the rationale behind any automated decision-making.**

Amendment 176

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

Text proposed by the Commission

Amendment

6a. Providers of hosting service shall, without undue delay and in any case within the deadlines set out in Article 5 of the receipt of the notification at the latest, inform consumers who have purchased illegal products between the moment they have been uploaded on the provider's website and the moment the listing has been taken down by the platform

following a valid notice. Those measures shall not lead to any new profiling, tracking or identification obligation of providers.

Amendment 177

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

Text proposed by the Commission

Amendment

6b. Where providers of hosting services, live streaming platform service and of instant messaging services used for purposes other than private or non-commercial have previously taken down, removed or deactivated access to illegal content as a result of a notice and a valid claim procedure which did not lead to a successful appeal, they may take all reasonable, proportional action to block, deactivate or permanently take down the illegal content or any identical content.

Amendment 178

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

Text proposed by the Commission

Amendment

6c. The taking down, removal or deactivation of access as defined in paragraph 6 may be annulled by the following measures: a successful appeal, or a judicial ruling by a court with jurisdiction in a Member State, the General Court or the Court of Justice of the European Union.

Amendment 179

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

6d. *This Article shall not apply to editorial content provided by a trader assuming editorial responsibility for that content and complying with rules which are in line with community and national law.*

Amendment 180

Proposal for a regulation Article 19

Text proposed by the Commission

Article 19

Trusted flaggers

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***.

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

(a) it has particular expertise and competence for the purposes of detecting, identifying and notifying illegal content;

(b) it represents collective interests and is independent from any online platform;

Amendment

Article 14a

Trusted flaggers

1. Online platforms ***and providers of hosting services*** 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 ***immediately*** processed and decided, without ***prejudice to the implementation of a complaint and redress mechanism***.

2. The status of trusted flaggers under this Regulation shall be awarded, upon application by any entities, by the Digital Services Coordinator of the Member State in which the applicant is established, where the applicant has demonstrated to meet all of the following conditions, ***without prejudice to the implementation of a complaint and redress mechanism***:

(a) it has particular expertise and competence ***that could be exercised in one or more Member States***, for the purposes of detecting, identifying and notifying illegal content, ***as well as intentional manipulation and exploitation of the service in the sense of Article 26(1)(c)***;

(b) it represents collective interests ***or as individual right holder*** and is independent from any online platform, ***law***

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

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

enforcement, or other government or relevant commercial entity;

(c) it carries out its activities for the purposes of submitting notices in a timely, diligent and objective manner, ***and in full respect of fundamental rights such as the freedom of expression and information, and it is independent;***

(ca) it publishes, at least once a year, clear, easily comprehensible and detailed reports on any notices submitted in accordance with Article 14 during the relevant period. The report shall list notices categorised by the identity of the hosting service provider, the type of alleged illegal or terms and conditions violating content concerned, and what action was taken by the provider. In addition, the reports shall identify relationships between the trusted flagger and any online platform, law enforcement, or other government or relevant commercial entity, and explain the means by which the trusted flagger maintains its independence.

2a. The conditions set in paragraph 2 allow trusted flaggers' notifications to be sufficient for immediate removal or disabling the content notified by them.

3. Digital Services Coordinators shall communicate to the Commission and the Board the names, addresses and electronic mail addresses of the entities to which they have awarded the status of the trusted flagger in accordance with paragraph 2. ***This communication shall include the geographical scope within which the trusted flagger competence was recognised based on the approval of a particular Digital Services Coordinator and information on expertise and competence declared by the trusted flagger.***

3a. Member States may recognise entities that were awarded the status of trusted flaggers in another Member State as a trusted flagger on their own territory.

Upon request by a Member State, trusted flaggers can be awarded the status of European trusted flagger by the Board, in accordance with Article 48(2). The Commission shall keep register of European trusted flaggers.

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

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

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

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

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

6. The Digital Services Coordinator that awarded the status of trusted flagger to an entity shall revoke that status if it determines, following an investigation either on its own initiative or on the basis information received by third parties, including the information provided by an online platform *or a provider of hosting services* pursuant to paragraph 5, that the entity no longer meets the conditions set out in paragraph 2. *The Digital Services Coordinator can also take into account any evidence according to which the entity would have used its status to distort competition.* Before revoking that status, the Digital Services Coordinator shall afford the entity an opportunity to react to the findings of its investigation and its

intention to revoke the entity's status as trusted flagger.

7. The Commission, after consulting the Board, *may* issue guidance to assist online platforms and Digital Services Coordinators in the application of paragraphs 5 and 6.

7. The Commission, after consulting the Board, *shall* issue guidance to assist online platforms and Digital Services Coordinators in the application of paragraphs 2, 4a, 6 and 7.

(Article 19 is placed after Article 14 and is amended.)

Amendment 181

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, disable access to *or otherwise restrict the visibility of* specific items of information provided by the recipients of the service, irrespective of the means used for detecting, identifying or removing, disabling access to *or reducing the visibility of* 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 *or the restriction of visibility*, of the decision and provide a clear and specific statement of reasons for that decision.

Amendment 182

Proposal for a regulation Article 15 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. When the removing or disabling access to specific items of information is followed by the transmission of these specific items of information in accordance with Article 15a, the requirement to inform the recipient set out in paragraph 1 of this Article may be postponed by a period of six weeks in

order to avoid interfere with potential ongoing criminal investigations. The period of six weeks can be renewed only following a motivated decision of the competent authority to which the specific items of information had been transmitted.

Amendment 183

Proposal for a regulation

Article 15 – paragraph 2 – point a

Text proposed by the Commission

(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;

Amendment

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

Amendment 184

Proposal for a regulation

Article 15 – paragraph 4

Text proposed by the Commission

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

Amendment

4. Providers of hosting services shall publish the decisions and the statements of reasons, referred to in paragraph 1 in a database managed by the Commission ***which is accessible to national and European authorities.*** That information shall not include personal data.

Amendment 185

Proposal for a regulation

Article 15 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. 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.

Amendment 186

Proposal for a regulation Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15a

Preservation of content and related data, and mandatory transmission of specific items of information

1. Providers of hosting services shall store the illegal content which has been removed or access to which has been disabled as a result of content moderation, or of an order to act against a specific item of illegal content as referred to in Article 8, as well as any related data removed as a consequence of the removal of such illegal content, which are necessary for:

(a) administrative or judicial review or out-of-court dispute settlement against a decision to remove or disable access to illegal content and related data; or

(b) the prevention, detection, investigation and prosecution of criminal offences.

2. Illegal content referred to in this article means related to human trafficking and child pornography, as well as content that publicly inciting to violence directed against a group of persons or a member of such a group defined by reference to

race, colour, religion, descent or national or ethnic origin in accordance with Council Framework Decision 2008/913/JHA^{1a} and Directive 2011/36/EU of the European Parliament and of the Council^{1b}.

3. Providers of hosting services shall store the illegal content and related data pursuant to in paragraph 1 for six months from the date of removal or disabling access to it. The illegal content shall, upon request from the competent authority or court, be stored for a further specified period only if and for as long as necessary for ongoing administrative or judicial review as referred to in paragraph 1, point (a).

4. Providers of hosting services shall ensure that the illegal content and related data stored pursuant to paragraph 1 are subject to appropriate technical and organisational safeguards. Those technical and organisational safeguards shall ensure that the illegal content and related data stored are accessed and processed only for the purposes referred to in paragraph 1 and shall ensure a high level of security of personal data concerned. Providers of hosting services shall review and update those safeguards where necessary.

5. Providers of hosting services shall transmit to the competent authorities of the Member States the illegal content which has been removed or access to which has been disabled, whether such a removing or disabling access to is a result of a voluntary content moderation or of a use of the notice and action mechanism referred to in Article 14. They shall transmit that illegal content under the following conditions:

(a) illegal content referred to in paragraph 2 of this Article; and

(b) the competent law enforcement authority to receive such illegal content is that of the Member State of the residence

or establishment of the person who made the illegal content available, or, failing that, the law enforcement authority is that of the Member State in which the provider of hosting services is established or has its legal representative, or, failing that, the provider of hosting services shall inform Europol;

(c) when the provider of hosting services is a very large online platform in accordance with the Section 4 of Chapter III, it shall, when transmitting the illegal content, add a flag indicating that the illegal content involves a threat to the life or safety of persons.

6. Each Member State shall notify to the Commission the list of its competent law enforcement authorities for the purposes of paragraph 5.

^{1a} Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law (OJ L 328, 6.12.2008, p. 55).

^{1b} Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1).

Amendment 187

Proposal for a regulation Article 15 b (new)

Text proposed by the Commission

Amendment

Article 15b

*Notification of suspicions of serious
criminal offences*

- 1. Where a provider of hosting services becomes aware of any information giving rise to a suspicion that a serious criminal offence involving a threat to the life or safety of persons has taken place, is taking place or is likely to take place, it shall promptly inform the law enforcement or judicial authorities of the Member State or Member States concerned of its suspicion and provide all relevant information available.*
- 2. Where provider of hosting services cannot identify with reasonable certainty the Member State concerned, it shall inform the law enforcement authorities of the Member State in which it is established or has its legal representative or shall inform Europol.*
- 3. Information obtained by a law enforcement or judicial authority of a Member State in accordance with paragraph 1 shall not be used for any purpose other than those directly related to the individual serious criminal offence notified.*
- 4. For the purpose of this Article, the Member State concerned shall be the Member State where the serious criminal offence is suspected to have taken place, to be taking place or to likely take place, or the Member State where the suspected offender resides or is located, or the Member State where the victim of the suspected serious criminal offence resides or is located.*
- 5. For the purpose of this Article, each Member State shall notify to the Commission the list of its competent law enforcement or judicial authorities.*

Amendment 188

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

Article 15c

Principles for content management

- 1. Content management shall be conducted in a fair, lawful and transparent manner. Content management practices shall be appropriate, proportionate to the type and volume of content, relevant and limited to what is necessary in relation to the purposes for which the content is managed. Content hosting platforms shall be accountable for ensuring that their content management practices are fair, transparent and proportionate.***
- 2. Users shall not be subjected to discriminatory practices, exploitation or exclusion, for the purposes of content moderation by the content hosting platforms, such as removal of user-generated content based on appearance, ethnic origin, gender, sexual orientation, religion or belief, disability, age, pregnancy or upbringing of children, language or social class.***
- 3. Content hosting platforms shall provide the users with sufficient information on their content curation profiles and the individual criteria according to which content hosting platforms curate content for them, including information as to whether algorithms are used and their objectives.***
- 4. Content hosting platforms shall provide users with an appropriate degree of influence over the curation of content made visible to them, including the choice of opting out of content curation altogether. In particular, users shall not be subject to content curation without their freely given, specific, informed and unambiguous prior consent.***

Amendment 189

Proposal for a regulation Article 16 – paragraph 1

Text proposed by the Commission

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

Amendment

This Section shall not apply to online platforms that qualify as micro or small enterprises ***as defined in Recommendation 2003/361/EC and to online platforms that no longer qualify as micro or small enterprises, and that are not owned by entities having their establishment outside the Union..***

Amendment 190

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

Text proposed by the Commission

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

Amendment

1. Online platforms shall provide recipients of the service, ***as well as individuals or entities that have submitted a notice***, for a period of at least six months following the decision referred to in this paragraph, the access to an effective internal complaint-handling system, which enables the complaints to be lodged electronically and free of charge, against ***the decision taken by the online platform not to act after having received a notice, and against the*** following decisions taken by the online platform on the ground that the information provided by the recipients is illegal content or incompatible with its terms and conditions:

Amendment 191

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

Text proposed by the Commission

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

Amendment

(a) decisions *whether or not* to remove, *suspend the possibility of purchase or rental*, disable access to *or restrict the visibility of* the information;

Amendment 192

Proposal for a regulation

Article 17 – paragraph 1 – point b

Text proposed by the Commission

(b) decisions to suspend or terminate the provision of the service, in whole or in part, to the recipients;

Amendment

(b) decisions *whether or not* to suspend or terminate the provision of the service, in whole or in part, to the recipients;

Amendment 193

Proposal for a regulation

Article 17 – paragraph 1 – point c

Text proposed by the Commission

(c) decisions to suspend or terminate the recipients' account.

Amendment

(c) decisions *whether or not* to suspend or terminate the recipients' account.

Amendment 194

Proposal for a regulation

Article 17 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) *decisions to restrict or not the ability to monetize content provided by the recipients.*

Amendment 195

Proposal for a regulation

Article 17 – paragraph 1 – point c b (new)

Text proposed by the Commission

Amendment

(cb) decisions of online marketplaces to suspend the provisions of their services to traders;

Amendment 196

Proposal for a regulation

Article 17 – paragraph 1 – point c c (new)

Text proposed by the Commission

Amendment

(cc) decisions that adversely affect the recipient's access to significant features of the platform's regular services;

Amendment 197

Proposal for a regulation

Article 17 – paragraph 1 – point c d (new)

Text proposed by the Commission

Amendment

(cd) decisions not to act upon a notice;

Amendment 198

Proposal for a regulation

Article 17 – paragraph 1 – point c e (new)

Text proposed by the Commission

Amendment

(ce) decisions whether or not to apply additional labels or additional information to content provided by the recipients.

Amendment 199

Proposal for a regulation

Article 17 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. *When the decision to remove or disable access to the information is followed by the transmission of this information in accordance with Article 15a, the period of at least six months as set out in paragraph 1 of this Article shall be considered to start from the day on which the recipient was informed in accordance with Article 15(2).*

Amendment 200

Proposal for a regulation Article 17 – paragraph 3

Text proposed by the Commission

Amendment

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

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

Amendment 201

Proposal for a regulation Article 17 – paragraph 4

Text proposed by the Commission

Amendment

4. Online platforms shall inform complainants without undue delay of the decision they have taken in respect of the information to which the complaint relates

4. Online platforms shall inform complainants without undue delay of the decision they have taken in respect of the information to which the complaint relates

and shall inform complainants of the possibility of out-of-court dispute settlement provided for in Article 18 and other available redress possibilities.

and shall inform complainants **and the individual or bodies which submitted a referral linked to the complainant's request** of the possibility of out-of-court dispute settlement provided for in Article 18 and other available redress possibilities. **The decision mentioned in this paragraph shall also include:**

- **information on whether the decision referred to in paragraph 1 was taken as a result of human review;**
- **in case the decision referred to in paragraph 1 is upheld, a detailed explanation on how the information to which the complaint relates to is in breach of the platform's terms and conditions or why the online platform considers the information to be unlawful.**

Amendment 202

Proposal for a regulation Article 17 – paragraph 5

Text proposed by the Commission

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

Amendment

5. Online platforms shall ensure **that recipients of the service may contact a human interlocutor at the time of the submission of the complaint and** that the decisions, referred to in paragraph 4, are not solely taken on the basis of automated means.

Amendment 203

Proposal for a regulation Article 17 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Online platforms shall ensure that any relevant information in relation to decisions taken by the internal complaint-handling mechanism is available to recipients of the service for the purpose of

seeking redress through an out-of-court dispute settlement body pursuant to Article 18 or before a court.

Amendment 204

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

Text proposed by the Commission

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

Amendment

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

Amendment 205

Proposal for a regulation Article 18 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The first subparagraph is without prejudice to the right of the recipient concerned to redress against the decision before a court in accordance with the applicable law.

Amendment

The first subparagraph is without prejudice to the right of the recipient concerned to redress against the decision before a court in accordance with the applicable law.
Judicial redress against a decision by an out-of-court dispute settlement body shall be directed against the online platform, not the settlement body.

Amendment 206

Proposal for a regulation
Article 18 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. *Where a recipient seeks a resolved to multiple complaints, either party may request that the out-of-court dispute settlement body treats and resolves these complaints in a single dispute decision.*

Amendment 207

Proposal for a regulation
Article 18 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

2. The Digital Services Coordinator of the Member State where the out-of-court dispute settlement body is established shall, ***at the request of that body***, certify the body, where the body has demonstrated that it meets all of the following conditions:

2. The Digital Services Coordinator of the Member State where the out-of-court dispute settlement body is established shall certify the body, where the body has demonstrated that it meets all of the following conditions:

Amendment 208

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

Text proposed by the Commission

Amendment

(a) it is impartial and independent of online platforms and recipients of the service provided by the online platforms;

(a) it is impartial and independent of online platforms and recipients of the service provided by the online platforms, ***including aspects such as financial resources and personnel, and is legally distinct from and functionally independent of the government of the Member State or any other public or private body as well as of individuals or entities that have submitted notices;***

Amendment 209

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) the dispute settlement is easily accessible, ***including for persons with disabilities***, through electronic communication technology;

Amendment 210

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

Text proposed by the Commission

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

Amendment

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

Amendment 211

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) the dispute settlement takes place in accordance with clear and fair rules of procedure ***which are easily and publicly accessible***.

Amendment 212

Proposal for a regulation
Article 18 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The Digital Services Coordinator shall, where applicable, specify in the certificate the particular issues to which the body's expertise relates and the official language

Amendment

The Digital Services Coordinator shall, where applicable, specify in the certificate the particular issues to which the body's expertise relates and the official language

or languages of the Union in which the body is capable of settling disputes, as referred to in points (b) and (d) of the first subparagraph, respectively.

or languages of the Union in which the body is capable of settling disputes, as referred to in points (b) and (d) of the first subparagraph, respectively.

Certified out-of-court dispute settlement bodies shall conclude dispute resolution proceedings within a reasonable period of time.

Amendment 213

Proposal for a regulation

Article 18 – paragraph 3 – subparagraph 2

Text proposed by the Commission

The fees charged by the body for the dispute settlement shall be reasonable and shall in any event not exceed the costs thereof.

Amendment

The fees charged by the body for the dispute settlement shall be reasonable and shall in any event not exceed the costs thereof. ***Out-of-court dispute settlement procedures shall preferably be free of charge for the recipient.***

Amendment 214

Proposal for a regulation

Article 18 – paragraph 3 – subparagraph 3

Text proposed by the Commission

Certified out-of-court dispute settlement bodies shall make the fees, or the mechanisms used to determine the fees, ***known to the recipient of the services and the online platform concerned before engaging in the dispute settlement.***

Amendment

Certified out-of-court dispute settlement bodies shall make ***information on*** the fees, or the mechanisms used to determine the fees, ***publicly available.***

Amendment 215

Proposal for a regulation

Article 18 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Decisions reached by an out-of-court dispute settlement body shall not be

disputable by another out-of-court dispute settlement body and the resolution of a particular dispute may only be discussed in one out-of-court dispute settlement body.

Amendment 216

Proposal for a regulation Article 19 a (new)

Text proposed by the Commission

Amendment

Article 19a

Accessibility requirements for online platforms

- 1. Providers of online platforms which offer services in the Union shall ensure that they design and provide services in accordance with the accessibility requirements set out in Section III, Section IV, Section VI, and Section VII of Annex I to Directive (EU) 2019/882.***
- 2. Providers of online platforms shall prepare the necessary information in accordance with Annex V to Directive (EU) 2019/882 as well as information, forms and measures provided pursuant to this Regulation and shall explain how the services meet the applicable accessibility requirements. The information shall be made available to the public including in a manner which is accessible to persons with disabilities. Providers of online platforms shall keep that information for as long as the service is in operation.***
- 3. Providers of online platforms which offer services in the Union shall ensure that procedures are in place so that the provision of services remains in conformity with the applicable accessibility requirements. Changes in the characteristics of the provision of the service, changes in applicable accessibility requirements and changes in the***

harmonised standards or in technical specifications by reference to which a service is declared to meet the accessibility requirements shall be adequately taken into account by the provider of intermediary services.

4. In the case of non-conformity, providers of online platforms shall take the corrective measures necessary to bring the service into conformity with the applicable accessibility requirements.

5. Provider of online platforms shall, further to a reasoned request from a competent authority, provide it with all information necessary to demonstrate the conformity of the service with the applicable accessibility requirements. They shall cooperate with that authority, at the request of that authority, on any action taken to bring the service into compliance with those requirements.

6. Online platforms which are in conformity with harmonised standards or parts thereof the references of which have been published in the Official Journal of the European Union, shall be presumed to be in conformity with the accessibility requirements of this Regulation in so far as those standards or parts thereof cover those requirements.

7. Online platforms which are in conformity with the technical specifications or parts thereof adopted for the Directive (EU) 2019/882 shall be presumed to be in conformity with the accessibility requirements of this Regulation in so far as those technical specifications or parts thereof cover those requirements.

Amendment 217

**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. ***Providers of hosting services and*** online platforms shall, ***after having issued a prior warning, enable***, suspend, for a ***specified*** period of time, ***or terminate*** the provision of their services to recipients of the service that ***repeatedly*** provide illegal content. ***The online platform may request support from the Digital Service Coordinator to establish the frequency for which account suspension is deemed necessary and to set the duration of the suspension.***

Amendment 218

**Proposal for a regulation
Article 20 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment 219

**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

Amendment

1a. Online marketplaces shall publish the information on traders suspended pursuant to paragraph 1 of this Article gathered in accordance with Article 22(1) in the database as referred to in Article 15(4). When the suspension expires, the data should be deleted from that database.

Amendment

2. ***Providers of hosting services and*** online platforms shall, ***after having issued at least three prior warnings***, suspend, for a ***specified*** period of time, ***or terminate*** 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

submit notices or complaints that are manifestly unfounded.

entities or by complainants that frequently submit notices or complaints that are manifestly unfounded.

Amendment 220

Proposal for a regulation

Article 20 – paragraph 3 – introductory part

Text proposed by the Commission

3. **Online** platforms shall assess, on a case-by-case basis and in a timely, diligent and objective manner, whether a recipient, individual, entity or complainant engages in the misuse referred to in paragraphs 1 and 2, taking into account all relevant facts and circumstances apparent from the information available to **the online platform**. Those circumstances shall include at least the following:

Amendment

3. **Providers of hosting services and online** platforms shall assess, on a case-by-case basis and in a timely, diligent and objective manner, whether a recipient, individual, entity or complainant engages in the misuse referred to in paragraphs 1 and 2, taking into account all relevant facts and circumstances apparent from the information available to **them**. Those circumstances shall include at least the following:

Amendment 221

Proposal for a regulation

Article 20 – paragraph 3 – point a

Text proposed by the Commission

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

Amendment

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

Amendment 222

Proposal for a regulation

Article 20 – paragraph 3 – point d

Text proposed by the Commission

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

Amendment

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

Amendment 223

Proposal for a regulation Article 20 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Suspensions referred to in paragraphs 1 and 2 may be declared permanent where:

(a) compelling reasons of law or public policy, including ongoing criminal investigations, justify avoiding or postponing notice to the recipient;

(b) the items removed were components of high-volume campaigns to deceive users or manipulate platform content moderation efforts; or

(c) the items removed were related to content covered by Directive 2011/93/EU or Directive (EU) 2017/541.

Amendment 224

Proposal for a regulation Article 20 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. The assessment must be carried out by qualified staff provided with dedicated training on the applicable legal framework.

Amendment 225

Proposal for a regulation Article 20 – paragraph 3 c (new)

Text proposed by the Commission

Amendment

3c. Without prejudice to Article 4 of Regulation (EU) 2019/1150, providers of hosting services shall do all in their power to ensure that users which have been suspended from the service cannot use it

again until such time as the suspension is lifted.

Where an online platform stops providing its services to a trade user, it shall provide that user, at least 15 days before the termination comes into force, with the reasons for its decision and shall inform it of the possibility to challenge the decision under Article 17.

Amendment 226

Proposal for a regulation Article 20 – paragraph 4

Text proposed by the Commission

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

Amendment

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

Amendment 227

Proposal for a regulation Article 21 – paragraph 2 – second subparagraph

Text proposed by the Commission

For the purpose of this Article, the Member State concerned shall be the Member State where the offence is suspected to have taken place, be taking place and likely to take place, or the Member State where the suspected offender resides or is located, or the Member State where the victim of the suspected offence resides or is located.

Amendment

deleted

Amendment 228

Proposal for a regulation
Article 21 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Unless instructed otherwise by the informed authority, the provider shall remove or disable the content. It shall store all content and related data for at least six months.

Amendment 229

Proposal for a regulation
Article 21 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. Information obtained by a law enforcement or judicial authority of a Member State in accordance with paragraph 1 shall not be used for any purpose other than those directly related to the individual serious criminal offence notified.

Amendment 230

Proposal for a regulation
Article 22 – title

Text proposed by the Commission

Amendment

Traceability of traders

Traceability of traders ***on online marketplaces***

Amendment 231

Proposal for a regulation
Article 22 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. ***Where an online platform allows consumers to conclude distance contracts with traders, it shall ensure that traders can***

1. ***The online marketplace shall ensure that professional traders can only use its services to promote messages on or***

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:

to offer products or services to consumers located in the Union if, prior to the use of its services, the **online marketplace** has obtained the following information:

Amendment 232

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

(c) the **payment** account details of the trader;

Amendment 233

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

Text proposed by the Commission

(d) the name, address, telephone number and electronic mail address of the economic operator, within the meaning of Article 3(13) and Article 4 of Regulation (EU) 2019/1020 of the European Parliament and the Council⁵¹ or any relevant act of Union law;

Amendment

(d) the name, address, telephone number and electronic mail address of the economic operator, within the meaning of Article 3(13) and Article 4 of Regulation (EU) 2019/1020 of the European Parliament and the Council⁵¹ or **[Article XX of the General Product Safety Regulation]** or any relevant act of Union law;

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

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

Amendment 234

Proposal for a regulation

Article 22 – paragraph 1 – point f

Text proposed by the Commission

(f) a self-certification by the trader committing to only offer products or services **that comply** with the applicable rules of Union law.

Amendment

(f) a self-certification by the trader committing to only offer products or services **or content including advertisement, that complies** with the applicable rules of Union law.

Amendment 235

Proposal for a regulation

Article 22 – paragraph 2

Text proposed by the Commission

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

Amendment

2. **The** online **marketplace**, upon receiving that information, make reasonable efforts to assess whether **that** information is reliable through requests to the trader to provide supporting documents from reliable sources.

Amendment 236

Proposal for a regulation

Article 22 – paragraph 3 – subparagraph 1

Text proposed by the Commission

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

Amendment

3. Where the online **marketplace** obtains indications that **information under paragraph 1, point (f), is inaccurate it shall remove the product or service directly from their online platform and if any other** item of information referred to in paragraph 1 obtained from the trader concerned is inaccurate or incomplete, that

within the time period set by Union and national law.

online marketplace shall request the trader to correct the information in so far as necessary to ensure that all information is accurate and complete, without delay or within the time period set by Union and national law.

Amendment 237

Proposal for a regulation Article 22 – paragraph 3 – subparagraph 2

Text proposed by the Commission

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

Amendment

Where the trader fails to correct or complete that information, the **providers of online marketplaces** shall suspend the provision of its service to the trader **in relations to the offering of products or services to consumers located in the Union** until the request is **fully** complied with.

Amendment 238

Proposal for a regulation Article 22 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The providers of online marketplaces shall ensure that traders are given the ability to discuss any information viewed as inaccurate or incomplete directly with a trader before any suspension of services. This may take the form of the internal complaint-handling system under Article 17.

Amendment 239

Proposal for a regulation Article 22 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. If an online marketplace rejects an application for services or suspends services to a trader, the trader shall have recourse to the systems under Article 17 and Article 43 of this Regulation.

Amendment 240

Proposal for a regulation

Article 22 – paragraph 3 c (new)

Text proposed by the Commission

Amendment

3c. Traders shall be solely liable for the accuracy of the information provided and shall inform without delay the online marketplace of any changes to the information provided.

Amendment 241

Proposal for a regulation

Article 22 – paragraph 4

Text proposed by the Commission

Amendment

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

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

Amendment 242

Proposal for a regulation

Article 22 – paragraph 5

Text proposed by the Commission

Amendment

5. Without prejudice to paragraph 2, the **platform** shall only disclose the information to third parties where so required in accordance with the applicable law, including the orders referred to in

5. Without prejudice to paragraph 2, the **online marketplaces** shall only disclose the information to third parties where so required in accordance with the applicable law, including the orders referred to in

Article 9 and any orders issued by Member States' competent authorities or the Commission for the performance of their tasks under this Regulation.

Article 9 and any orders issued by Member States' competent authorities or the Commission for the performance of their tasks under this Regulation.

Amendment 243

Proposal for a regulation Article 22 – paragraph 6

Text proposed by the Commission

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

Amendment

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

Amendment 244

Proposal for a regulation Article 22 – paragraph 7

Text proposed by the Commission

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

Amendment

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

Amendment 245

Proposal for a regulation Article 22 a (new)

Text proposed by the Commission

Amendment

Article 22a

Obligation to provide information

1. The online interface made available to the trader shall allow access

to at least the following information:

(a) the information referred to in Article 22(6);

(b) the information requirements provided for in Articles 6 and 8 of Directive 2011/83/EU;

(c) the information allowing for the unequivocal identification of the product or the service, and, where applicable, the CE marking and the warnings, information and labels, which are mandatory under applicable legislation on product safety and product compliance.

The Commission shall adopt an implementing act listing the items of information required in accordance with the first subparagraph. That implementing act shall be adopted no later than ... [one year after entry into force of this Regulation].

2. The online marketplace shall check that the information provided by the trader is complete with regard to the lists of information items referred to in points (a) and (b) of Article 22(2) before the offer for the product or service is made available online and shall not authorize the trader to make available such an offer for as long as the information remains incomplete.

3. Where the online marketplace establishes that the information provided by the trader for an offer that has already been published online is not relevant anymore and must be completed, it shall suspend the offer without delay or make it inaccessible and ask the trader to complete that information as soon as possible.

Amendment 246

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

Text proposed by the Commission

Amendment

Article 22b

Additional obligations of online marketplaces

- 1. Where an online marketplace becomes aware of the illegal nature of a product or service offered by a trader on its interface it shall:**
 - (a) immediately remove the illegal product or service from its interface and inform the authorities about that;**
 - (b) maintain an internal database of content removed and/or recipients suspended pursuant to Article 20 to be used by internal content moderation systems tackling the identified risks;**
 - (c) where the online marketplace has the contact details of the recipients of its services, inform such recipients of the service that have purchased said product or service during the past twelve months about the illegality, the identity of the trader and options for seeking redress;**
 - (d) shall compile and make publicly available through application programming interfaces a repository containing information about illegal products and services removed from its platform in the past six months along with information about the concerned trader and options for seeking redress.**

Amendment 247

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

Text proposed by the Commission

Amendment

Article 22c

Obligations relating to illegal offers from traders

- 1. The online marketplaces shall take**

adequate measures in order to prevent the dissemination by traders using its services of offers for products or services which do not comply with Union law or law of any Member State on the territory of which those offers are made available.

2. Where the online marketplace obtains indication including the elements listed in points (a) and (b) of Article 14(2), and according to which an item of information referred to in Article 22a(1) is inaccurate, that online marketplace shall request the trader to give evidence of the accuracy of that item of information or to correct it, without delay. Where the trader does not provide evidence that the item of information is accurate or evidence that the correction made is regular, the online marketplace shall suspend the offer for the product or service until the trader has complied with the request.

3. Before the trader's offer is made available on the online marketplace, the online marketplace shall verify, with regard to the information allowing for the unequivocal identification of the product including the information referred to in point (b) of Article 22a(1), if the offer that the trader wishes to propose to consumers located in the Union is mentioned in the list, or the lists, of products or categories of products identified as not compliant, as classified in any freely accessible official online database or online interface whose reference is established by the Commission by means of an implementing act adopted no later than ... [one year after entry into force of this Regulation], and shall not authorize the trader to provide the offer if that verification determines that the product is so listed.

Amendment 248

Proposal for a regulation Article 22 d (new)

Text proposed by the Commission

Amendment

Article 22d

Obligations relating to illegal offers from traders with regard to the applicable law on product safety and product compliance

1. As soon as a market surveillance authority, a customs authority, owners of the rights or a consumer organisation informs the online marketplace that an offer for a product or service is illegal under applicable law on product safety and product compliance, that online marketplace shall remove the offer or disable access to it.

The online marketplace shall inform the trader who has published the illegal offer of the decision taken pursuant to this paragraph in accordance with Articles 15 and 17.

When it informs the trader of the decision to remove the offer or disable access to it, and where the illegality of the offer relates to a default of the product or service which may endanger the health or the safety of consumers, the online marketplace shall request the trader to provide all information able to demonstrate that it has taken appropriate corrective action in accordance with Article 16(3) of Regulation (EU) 2019/1020.

2. Where the online marketplace receives no reply from the trader within 48 hours from the date of the request referred to in paragraph 1 of this Article, it shall take the necessary corrective action referred to in points (c), (d) and (g) of Article 16(3) of Regulation (EU) 2019/1020 without undue delay.

3. The online marketplace shall

inform without delay the market surveillance authority or the customs authority of the action taken by the trader or on its own for the application of paragraphs 1 and 2. As soon as a market surveillance authority or a customs authority orders the trader to undertake alternative or additional measures and informs the online marketplace accordingly, that online marketplace shall request the trader to provide all information proving that it has given due effect to the order.

Where the online marketplace does not receive within 48 hours the information according to which the trader has fully complied with the order, the online marketplace shall implement directly the alternative measures ordered by the market surveillance authority or the customs authority without undue delay.

4. The online marketplace may charge the trader with the costs of the measures it has taken in accordance with this Article, by any appropriate means. It shall notify immediately such measure to the trader and inform him of its right to contest that decision in accordance with Articles 17 and 18 or by legal action.

The online marketplace shall not require from traders using its services any advance payments of costs related to the measures it may take in accordance with this Article, nor shall it make access to its services conditional on the acceptance of such payments.

Amendment 249

Proposal for a regulation Article 22 e (new)

Text proposed by the Commission

Amendment

Article 22e

*Suspension of access of traders to the
online marketplace services*

- 1. In accordance with Article 20 the online marketplace shall suspend without undue delay the provision of its services to traders that provide, in a repeated manner or continuously, illegal offers for a product or a service. It shall immediately notify its decision to the trader.*
- 2. Where the online marketplace adopts a decision pursuant to paragraph 1 it shall continue to meet its obligations under this Section, in particular regarding consumers who have concluded a contract with the suspended traders.*
- 3. The online marketplace shall inform without delay the competent authority about the decision taken pursuant to paragraph 1.*

Amendment 250

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

Text proposed by the Commission

Amendment

Article 22f

Right to redress

The online marketplace shall be entitled to redress from the trader who benefited from its services in case of a failure by the trader to comply with its obligations towards the online marketplace or towards consumers, unless the online marketplace has already charged the trader for the costs of the measures it had to take as a consequence.

The consumer is entitled to redress from the online marketplace for the failure of the online marketplace to comply with the obligations under this Section.

Amendment 251

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

Text proposed by the Commission

(a) the number of disputes submitted to the out-of-court dispute settlement bodies referred to in Article 18, the outcomes of the dispute settlement and the average time needed for completing the dispute settlement procedures;

Amendment

(a) the number of disputes submitted to the ***certified*** out-of-court dispute settlement bodies referred to in Article 18, the outcomes of the dispute settlement and the average time needed for completing the dispute settlement procedures;

Amendment 252

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;

Amendment 253

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

Text proposed by the Commission

Amendment

(ca) the number of advertisements that were removed, labelled or disabled by the online platform and justification of the decisions;

Amendment 254

Proposal for a regulation
Article 23 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission **may** adopt implementing acts to lay down templates concerning the form, content and other details of reports pursuant to paragraph 1.

4. The Commission **shall** adopt implementing acts to lay down templates concerning the form, content and other details of reports pursuant to paragraph 1.

Amendment 255

Proposal for a regulation Article 23 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Where published to the general public, the annual transparency reports referred to in paragraph 1 shall not include information that may prejudice ongoing activities for the prevention, detection, or removal of illegal content or content counter to a hosting provider's terms and conditions.

Amendment 256

Proposal for a regulation Article 24 – title

Text proposed by the Commission

Amendment

Online advertising transparency

Online advertising transparency **and control**

Amendment 257

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

Text proposed by the Commission

Amendment

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

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

Amendment 258

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

Text proposed by the Commission

(a) that the information displayed is an advertisement;

Amendment

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

Amendment 259

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

Text proposed by the Commission

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

Amendment

(c) ***clear, meaningful and uniform*** information about the parameters used to determine the recipient to whom the advertisement is displayed.

Amendment 260

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

Text proposed by the Commission

Amendment

1a. The online platform shall design and organise its online interface in such a way that recipients of the service can easily and efficiently exercise their rights under applicable Union law in relation to the processing of their personal data for each specific advertisement displayed to the data subject on the platform.

Amendment 261

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

Text proposed by the Commission

Amendment

1b. Online platforms that display advertising on their online interfaces shall ensure that advertisers:

(a) can request and obtain information on where their advertisements have been placed;

(b) can request and obtain information on which broker treated their data;

(c) can indicate on which specific location their ads cannot be placed. In case of non-compliance with this provision, advertisers shall have the right to judicial redress.

Amendment 262

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

Text proposed by the Commission

Amendment

1c. Advertisements that are targeted toward individuals or segments of individuals who are below the age of 18 on the basis of their personal data, behaviour, the tracking of their activities or profiling within the meaning of Article 4(4) of Regulation (EU) 2016/679 shall not be permitted.

Amendment 263

Proposal for a regulation Chapter III – Section 4 – title

Text proposed by the Commission

Amendment

Additional obligations for very large online platforms to manage systemic risks

Additional obligations for very large online platforms, live streaming platforms, **instant messaging services used for purposes other than private or non-commercial and search engines** to manage systemic risks

Amendment 264

Proposal for a regulation Article 25 – title

Text proposed by the Commission

Very large online platforms

Amendment

Very large online platforms, ***live streaming platforms, instant messaging services used for purposes other than private or non-commercial and search engines***

Amendment 265

Proposal for a regulation Article 25 – paragraph 1

Text proposed by the Commission

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

Amendment

1. This Section shall apply to online ***platform services, live streaming platform services, instant messaging services used for purposes other than private or non-commercial and search engine services*** which provide their services to a number of average monthly active recipients of the service in the Union equal to or higher than 45 million, calculated in accordance with the methodology set out in the delegated acts referred to in paragraph 3.

Amendment 266

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

Text proposed by the Commission

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

Amendment

1. Very large online ***platform services, live streaming platform services, instant messaging services used for purposes other than private or non-commercial and search engine services*** shall identify, analyse and assess, from the date of application referred to in the second subparagraph of Article 25(4), ***on an ongoing basis and*** at least once a year

following systemic risks:

thereafter, ***the probability and severity of*** any significant systemic risks ***including the probability and severity***, stemming from the functioning and use made of their services ***and activities***, in the Union. This risk assessment shall be specific to their services and shall include the following systemic risks:

Amendment 267

Proposal for a regulation

Article 26 – paragraph 1 – point a

Text proposed by the Commission

(a) the dissemination of illegal content through their services;

Amendment

(a) the dissemination ***and amplification*** of illegal content through their services, ***including unsafe and non-compliant products and services, in case of online marketplaces***;

Amendment 268

Proposal for a regulation

Article 26 – paragraph 1 – point b

Text proposed by the Commission

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

Amendment

(b) any negative effects for the exercise of ***any of*** the fundamental rights ***listed in the Charter, in particular on the fundamental rights*** to respect for private and family life, ***human dignity***, freedom of expression and information, ***freedom and pluralism of the media***, the prohibition of discrimination and the rights of the child, as enshrined in Articles 7, 11, 21 and 24 of the Charter respectively, ***caused by an illegal activity***;

Amendment 269

Proposal for a regulation

Article 26 – paragraph 1 – point c

Text proposed by the Commission

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

Amendment

(c) intentional manipulation of their service by means of inauthentic use, **such as ‘deep fakes’** or automated exploitation of the service, with an actual or **foreseeable** negative **or illegal** effect on the protection of public health, minors, **democratic values, media freedom and freedom of expression of journalists, as well as their ability to verify facts**, civic discourse, or actual or foreseeable effects related to electoral processes and public security.

Amendment 270

**Proposal for a regulation
Article 26 – paragraph 2**

Text proposed by the Commission

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

Amendment

2. When conducting risk assessments, very large online platforms shall **also** take into account, in particular, how their content moderation systems, recommender systems and systems for selecting and displaying advertisement influence any of the systemic risks referred to in paragraph 1, including the potentially rapid and wide dissemination of illegal content.

Amendment 271

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

Text proposed by the Commission

Amendment

2a. The outcome of the risk assessment and supporting documents shall be communicated to the Board of Digital Service Coordinators and the Digital Services Coordinator of establishment.

Amendment 272

Proposal for a regulation

Article 27 – paragraph 1 – introductory part

Text proposed by the Commission

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

Amendment

1. Very large online **platform services, live streaming platform services instant messaging services used for purposes other than private or non-commercial and search engine services** shall put in place reasonable, proportionate and effective measures, **to mitigate the probability and severity of any significant systemic risks, including the probability and severity, stemming from the functioning and use made of their services** identified pursuant to Article 26. Such measures may include, where applicable:

Amendment 273

Proposal for a regulation

Article 27 – paragraph 1 – point a

Text proposed by the Commission

(a) adapting content moderation or recommender systems, their decision-making processes, the features or functioning of their services, or their terms and conditions;

Amendment

(a) adapting content moderation or recommender systems, their decision-making processes, **design**, the features or functioning of their services, or their terms and conditions;

Amendment 274

Proposal for a regulation

Article 27 – paragraph 1 – point d

Text proposed by the Commission

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

Amendment

(d) initiating or adjusting cooperation with trusted flaggers in accordance with Article **14a**;

Amendment 275

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

Text proposed by the Commission

Amendment

(da) in case of very large online marketplaces taking into account the information on repeat infringers as referred to in Article 20(1a), when starting a contractual relationship with a trader;

Amendment 276

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

Text proposed by the Commission

Amendment

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

deleted

Amendment 277

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

Text proposed by the Commission

Amendment

1a. Very large online platforms shall take adequate measures to detect inauthentic videos ('deep fakes'). When detecting such videos, they should label them as inauthentic in a way that is clearly visible for the internet user.

Amendment 278

Proposal for a regulation

Article 27 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Where a very large online platform decides not to put in place any of the mitigating measures listed in article 27(1), it shall provide a written explanation that describes the reasons why those measures were not put in place, to the Board in view of issuing specific recommendations and to independent auditors for the purposes of the audit report.

Following the written explanation of the reasons of the very large online platforms not to put in place mitigating measures, and where necessary, the Board shall issue specific recommendations as to the mitigation measures that very large online platforms shall implement instead of those listed in article 27(1). Very large online platforms shall within one month from receiving of these recommendations, implement the recommended measures.

In case of repeated failure of a very large online platform to take effective mitigating measures and in case of repeated non-compliance with the recommendations, the Board may advise the Commission and the Digital Services Coordinators to impose sanctions following Chapter IV.

Amendment 279

Proposal for a regulation

Article 27 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) identification and assessment of ***the most prominent and recurrent*** systemic risks reported by very large online platforms or identified through other information sources, in particular those provided in compliance with Article 31 and 33;

(a) identification and assessment of ***all*** systemic risks reported by very large online platforms or identified through other information sources, in particular those provided in compliance with Article 31 and 33;

Amendment 280

Proposal for a regulation Article 27 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 281

Proposal for a regulation Article 27 a (new)

Text proposed by the Commission

Amendment

Article 27a

Mitigation of risks for the freedom of expression and freedom and pluralism of the media

1. Very large online platforms shall ensure that the exercise of the fundamental rights of freedom of expression and freedom and pluralism of the media is always adequately and effectively protected.

2. Where very large online platforms allow for the dissemination of press publications within the meaning of Article 2(4) of Directive (EU) 2019/790, of audiovisual media services within the meaning of Article 1(1)(a) of Directive 2010/13/EU (AVMS) or of other editorial media, which are published in compliance

with applicable Union and national law under the editorial responsibility and control of a press publisher, audiovisual or other media service provider, who can be held liable under the laws of a Member State, the platforms shall be prohibited from removing, disabling access to, suspending or otherwise interfering with such content or services or suspending or terminating the service providers' accounts on the basis of the alleged incompatibility of such content with their terms and conditions, as well as on the basis of any self-regulatory or co-regulatory standard or measure, including Codes of Conduct pursuant to Article 35 of this Regulation. The same shall apply to books and films or other expressions of opinion or statements of fact for the purpose of exercising the right to freedom of expression as enshrined in Article 11 of the Charter.

3. Very large online platforms shall ensure that their content moderation, their decision-making processes, the features or functioning of their services, their terms and conditions and recommender systems are objective, fair and non-discriminatory.

Amendment 282

Proposal for a regulation

Article 28 – paragraph 1 – introductory part

Text proposed by the Commission

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

Amendment

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

Amendment 283

Proposal for a regulation

Article 28 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) the obligations set out in Chapter III;

(a) the obligations set out in Chapter III, ***in particular the quality of the identification, analysis and assessment of the risks referred to in Article 26, and the necessity, proportionality and effectiveness of the risk mitigation measures referred to in Article 27;***

Amendment 284

**Proposal for a regulation
Article 29 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

1a. The main parameters referred to in paragraph 1 shall include at least the following elements:

- (a) the main recommendation criteria;***
- (b) how these criteria are prioritised;***
- (c) the optimisation goal of the relevant recommender system; and***
- (d) the role of recipient behaviour in determining recommender system outputs if applicable.***

Amendment 285

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

Text proposed by the Commission

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

deleted

them.

Amendment 286

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

Text proposed by the Commission

Amendment

2a. The parameters used in recommender systems shall always be fair and non-discriminatory.

Amendment 287

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

Text proposed by the Commission

Amendment

2b. Online platforms shall ensure that their online interface is designed in such a way that it does not risk misleading or manipulating the recipients of the service.

Amendment 288

Proposal for a regulation Article 30 – title

Text proposed by the Commission

Amendment

Additional online advertising transparency

Additional online advertising transparency
and protection

Amendment 289

Proposal for a regulation Article 30 – paragraph 1

Text proposed by the Commission

Amendment

1. Very large online platforms that display advertising on their online interfaces shall compile and make **publicly** available through application programming

1. Very large online platforms that display advertising on their online interfaces shall compile and make available **to relevant authorities and vetted**

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.

researchers, meeting the requirements of Article 31(4), through application programming interfaces **an easily accessible and searchable** a repository containing the information referred to in paragraph 2, until **six months** 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 290

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

Text proposed by the Commission

(b) the natural or legal person on whose behalf the advertisement is displayed;

Amendment

(b) the natural or legal person on whose behalf the advertisement is displayed **or financed**;

Amendment 291

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

Text proposed by the Commission

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

Amendment

deleted

Amendment 292

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,**

Amendment

deleted

aggregate numbers for the group or groups of recipients to whom the advertisement was targeted specifically.

Amendment 293

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

Text proposed by the Commission

Amendment

2a. Very large online platforms selling advertising for display on their online interface shall ensure via standard contractual clauses with the purchasers of advertising space that the content with which the advertisement is associated is compliant with the terms and conditions of the platform, or with the law of the Member States where the recipients of the service to whom the advertisement will be displayed is located.

Amendment 294

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

Text proposed by the Commission

Amendment

2b. Very large online platforms shall be prohibited from profiling or targeting minors with personalised advertising, in compliance with the industry-standards laid down in Article 34 and Regulation (EU) 2016/679.

Amendment 295

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

Text proposed by the Commission

Amendment

2c. The very large online platform shall design and organise its online

interface in such a way that recipients of the service can easily and efficiently exercise their rights under applicable Union law in relation to the processing of their personal data for each specific advertisement displayed to the data subject on the platform, in particular:

(a) to withdraw consent or to object to processing;

(b) to obtain access to the personal data concerning the data subject;

(c) to obtain rectification of inaccurate personal data concerning the data subject;

(d) to obtain erasure of personal data without undue delay;

(e) where a recipient exercises any of these rights, the online platform must inform any parties to whom the personal data concerned in points (a) to (d) of this paragraph have been enclosed in accordance with Article 19 of Regulation (EU) 2016/679.

Amendment 296

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, ***and within a maximum of 72 hours***, specified in the request, ***provide information and full and continuous access to data that are necessary to properly monitor and*** assess compliance with this Regulation. That Digital Services Coordinator and the Commission shall only use that data for those purposes. ***With regard to moderation and recommender systems, very large online platforms shall provide upon***

request the Digital Services Coordinator or the Commission with access to algorithms and associated data that allow the detection of possible biases which could lead to the dissemination of illegal content, or content that is in breach with their terms and conditions, or presents threats to fundamental rights including freedom of expression. Where a bias is detected, very large online platforms should expeditiously correct it following the recommendations of the Digital Services Coordinator or the Commission. Very large online platforms should be able to demonstrate their compliance at every step of the process pursuant to this Article.

Amendment 297

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 relevant 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 **and mitigation** of systemic risks as set out in *Articles 26 and 27*.

Amendment 298

Proposal for a regulation Article 31 – paragraph 3

Text proposed by the Commission

3. Very large online platforms shall

Amendment

3. Very large online platforms shall

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

provide access to data pursuant to paragraphs 1 and 2 **for a limited time and** through online databases or application programming interfaces, as appropriate **in an easily accessible and user-friendly format. This shall include personal data only where it is lawfully accessible by the public and without prejudice to Regulation (EU) 2016/679.**

Amendment 299

Proposal for a regulation Article 31 – paragraph 4

Text proposed by the Commission

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

Amendment

4. In order to be vetted, **scientific** researchers shall be affiliated with academic institutions, be independent from commercial interests **of the very large online platform it seeks data from or its competitors, disclose the sources of funding financing their research,** have proven records of expertise in the fields related to the risks investigated or related research methodologies, and shall commit and be in a capacity to preserve the specific data security and confidentiality requirements corresponding to each request.

Amendment 300

Proposal for a regulation Article 31 – paragraph 5

Text proposed by the Commission

5. The Commission shall, after consulting the Board, adopt delegated acts laying down the technical conditions under which very large online platforms are to share data pursuant to paragraphs 1 and 2 and the purposes for which the data may be used. Those delegated acts shall lay down the specific conditions under which such

Amendment

5. The Commission shall, after consulting the Board, **and no later than one year after entry into force of this Regulation,** adopt delegated acts laying down the technical conditions under which very large online platforms are to share data pursuant to paragraphs 1 and 2 and the purposes for which the data may be used.

sharing of data with vetted researchers can take place in compliance with Regulation (EU) 2016/679, taking into account the rights and interests of the very large online platforms and the recipients of the service concerned, including the protection of confidential information, in particular trade secrets, and maintaining the security of their service.

Those delegated acts shall lay down the specific conditions under which such sharing of data with vetted researchers can take place in compliance with Regulation (EU) 2016/679, taking into account the rights and interests of the very large online platforms and the recipients of the service concerned, including the protection of confidential information, in particular trade secrets, and maintaining the security of their service.

Amendment 301

Proposal for a regulation Article 31 – paragraph 6

Text proposed by the Commission

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

- (a) **it** does not have access to the data;
- (b) **giving** access to the data will lead to significant vulnerabilities for the security of its service or the protection of confidential information, in particular trade secrets.

Amendment

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

- (a) **in case of request under paragraph 1, a very large online platform** does not have **and cannot obtain with reasonable effort** access to the data;
- (b) **in case of request under paragraph 2, a very large online platform does not have access to the data or providing** access to the data will lead to significant vulnerabilities for the security of its service or the protection of confidential information, in particular trade secrets.

Amendment 302

Proposal for a regulation Article 31 – paragraph 7

Text proposed by the Commission

Amendment

7. Requests for amendment pursuant to point (b) of paragraph 6 shall contain proposals for one or more alternative means through which access may be provided to the requested data or other data which are appropriate and sufficient for the purpose of the request.

deleted

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

Amendment 303

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

Text proposed by the Commission

Amendment

7. Upon completion of the research envisaged in Article 31(2), the vetted researchers shall make their research publicly available, taking into account the rights and interests of the recipients of the service concerned in compliance with Regulation (EU) 2019/679.

Amendment 304

Proposal for a regulation Article 31 – paragraph 8 (new)

Text proposed by the Commission

Amendment

8. Digital Service Coordinators and the Commission shall, once a year, report the following information:

(a) the number of requests made to them as referred to in paragraphs 1 and 2;

(b) the number of such requests that have been declined by the Digital Service Coordinator or the Commission and the reasons for which they have been declined;

(c) the number of such requests that have been declined by the Digital Service Coordinator or the Commission, including the reasons for which they have been declined, following a request to the Digital Service Coordinator or the Commission from a very large online platform to amend a request as referred to in paragraphs 1 and 2.

Amendment 305

Proposal for a regulation Article 32 – paragraph 5

Text proposed by the Commission

5. Very large online platforms shall communicate the name and contact details of the compliance officer *to the Digital Services Coordinator of establishment and the Commission.*

Amendment

5. Very large online platforms shall communicate the name and contact details of the compliance officer.

Amendment 306

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

Text proposed by the Commission

Amendment

2a. The reports shall include content moderation and shall be published in the official languages of the Member States of the Union.

Amendment 307

Proposal for a regulation Article 34 – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) transmission of data between advertising intermediaries in support of transparency obligations pursuant to points (b) and (c) of Article 24.

deleted

Amendment 308

Proposal for a regulation

Article 34 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Absence of agreement on voluntary industry standards shall not prevent the applicability or implementation of any measures outlined in this regulation.

Amendment 309

Proposal for a regulation

Article 35 – paragraph 1

Text proposed by the Commission

Amendment

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

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

Amendment 310

Proposal for a regulation

Article 35 – paragraph 2

Text proposed by the Commission

2. Where significant systemic risk within the meaning of Article 26(1) emerge and concern several very large online platforms, the Commission may invite the very large online platforms concerned, other very large online platforms, other online platforms and other providers of intermediary services, as appropriate, as well as civil society organisations and other **interested parties**, to participate in the drawing up of codes of conduct, including by setting out commitments to take specific risk mitigation measures, as well as a regular reporting framework on any measures taken and their outcomes.

Amendment

2. Where significant systemic risk within the meaning of Article 26(1) **in relation to the dissemination of illegal content** emerge and concern several very large online platforms, the Commission may invite the very large online platforms concerned, other very large online platforms, other online platforms and other providers of intermediary services, as appropriate, as well as civil society organisations and other **relevant stakeholders**, to participate in the drawing up of codes of conduct, including by setting out commitments to take specific risk mitigation measures, as well as a regular reporting framework on any measures taken and their outcomes.

Amendment 311

Proposal for a regulation
Article 35 – paragraph 3

Text proposed by the Commission

3. When giving effect to paragraphs 1 and 2, the Commission and the Board shall **aim to** ensure that the codes of conduct **clearly** set out their objectives, contain key performance indicators to measure the achievement of those objectives and take due account of the needs and interests of all **interested parties**, including citizens, at Union level. The Commission and the Board shall also aim to ensure that participants report regularly to the Commission and their respective Digital Service Coordinators of **establishment on** any measures taken and their outcomes, as measured against the key performance indicators that they contain.

Amendment

3. When giving effect to paragraphs 1 and 2, the Commission and the Board shall ensure that the codes of conduct clearly set out their objectives **in relation to the dissemination of illegal content**, contain **a set of harmonised** key performance indicators to measure the achievement of those objectives and take due account of the needs and interests of all **relevant stakeholders**, including citizens, at Union level. The Commission and the Board shall also ensure that participants report regularly to the Commission and their respective Digital Service Coordinators of any measures taken and their outcomes, as measured against the key performance indicators that they contain **in order to facilitate effective cross-platform monitoring**.

Amendment 312

Proposal for a regulation Article 35 – paragraph 4

Text proposed by the Commission

4. The Commission and the Board shall assess whether the codes of conduct meet the aims specified in paragraphs 1 and 3, and shall regularly monitor and evaluate the achievement of their objectives. **They shall** publish their conclusions.

Amendment

4. The Commission and the Board shall assess whether the codes of conduct meet the aims specified in paragraphs 1 and 3, and shall regularly monitor and evaluate the achievement of their objectives, **and** publish their conclusions. **Furthermore, they shall ensure that there is common alert mechanism managed at Union level to allow for real-time and coordinated responses.**

Amendment 313

Proposal for a regulation Article 35 – paragraph 5

Text proposed by the Commission

5. The Board shall regularly monitor and evaluate the achievement of the objectives of the codes of conduct, having regard to the key performance indicators that they may contain.

Amendment

5. The Board shall regularly monitor and evaluate the achievement of the objectives of the codes of conduct, having regard to the key performance indicators that they may contain. **In case of systematic and repetitive failure to comply with the Codes of Conduct, the Board shall as a measure of last resort take a decision to temporary suspend or definitively exclude platforms that do not meet their commitments as a signatory to the Codes of Conduct after prior warning.**

Amendment 314

Proposal for a regulation Article 36 – paragraph 1

Text proposed by the Commission

1. The Commission shall encourage and facilitate the drawing up of codes of

Amendment

1. The Commission shall encourage and facilitate the drawing up of codes of

conduct at Union level between, online platforms and other relevant service providers, such as providers of online advertising intermediary services or organisations representing recipients of the service and civil society organisations or relevant authorities to contribute to further transparency in online advertising beyond the requirements of *Articles 24 and 30*.

conduct at Union level between, online platforms and other relevant service providers, such as providers of online advertising intermediary services or organisations representing recipients of the service and civil society organisations or relevant authorities to contribute to further transparency in online advertising beyond the requirements of *Article 30 of this Regulation and Article 6 of Directive 2000/31/EC*.

Amendment 315

Proposal for a regulation Article 36 – paragraph 2

Text proposed by the Commission

2. The Commission shall aim to ensure that the codes of conduct pursue an effective transmission of information, in full respect for the rights and interests of all parties involved, and a competitive, transparent and fair environment in online advertising, in accordance with Union and national law, in particular on competition and the protection of personal data. The Commission shall aim to ensure that the codes of conduct address at least:

(a) the transmission of information held by providers of online advertising intermediaries to recipients of the service with regard to requirements set in points (b) and (c) of Article 24;

(b) the transmission of information held by providers of online advertising intermediaries to the repositories pursuant to Article 30.

Amendment

2. The Commission shall aim to ensure that the codes of conduct pursue an effective transmission of information, in full respect for the rights and interests of all parties involved, and a competitive, transparent and fair environment in online advertising, in accordance with Union and national law, in particular on competition and the protection of personal data. The Commission shall aim to ensure that the codes of conduct address at least ***the transmission of information held by providers of online advertising intermediaries to the repositories pursuant to Article 30.***

Amendment 316

Proposal for a regulation
Article 36 – paragraph 3

Text proposed by the Commission

3. The Commission shall encourage the development of the codes of conduct within one year following the date of application of this Regulation and their application no later than six months after that date.

Amendment

3. The Commission shall encourage the development of the codes of conduct within one year following the date of application of this Regulation and their application no later than six months after that date. ***The Commission shall evaluate the application of those Codes two years after the application of this Regulation.***

Amendment 317

Proposal for a regulation
Article 37 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall ensure that their Digital Services Coordinators are informed by the relevant national, local and regional authorities on the diversity of platform sectors and issues covered by this Regulation;

Amendment 318

Proposal for a regulation
Article 37 – paragraph 5

Text proposed by the Commission

Amendment

5. If the Commission considers that a crisis protocol fails to effectively address the crisis situation, or to safeguard the exercise of fundamental rights as referred to in point (e) of paragraph 4, it ***may*** request the participants to revise the crisis protocol, including by taking additional measures.

5. If the Commission considers that a crisis protocol fails to effectively address the crisis situation, or to safeguard the exercise of fundamental rights as referred to in point (e) of paragraph 4, it ***shall*** request the participants to ***remove and, where necessary,*** revise the crisis protocol, including by taking additional measures.

Amendment 319

Proposal for a regulation

Article 38 – paragraph 2 – subparagraph 1

Text proposed by the Commission

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

Amendment

2. Member States shall designate one of the competent authorities as their Digital Services Coordinator. The Digital Services Coordinator shall be responsible for all matters relating to application and enforcement of this Regulation in that Member State, unless the Member State concerned has assigned certain specific tasks or sectors to other competent authorities. ***Those competent authorities shall have the necessary powers to carry out the tasks or supervise the sectors assigned to them as those attributed to the Digital Services Coordinator for the application and enforcement of this Regulation.*** The Digital Services Coordinator shall in any event be responsible for ensuring coordination at national level in respect of those matters and for contributing to the effective and consistent application and enforcement of this Regulation throughout the Union.

Amendment 320

Proposal for a regulation

Article 38 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Member States shall ensure that the competent authorities have adequate financial and human resources, as well as legal and technical expertise to fulfil their tasks under this Regulation.

Amendment 321

Proposal for a regulation

Article 39 – paragraph 3

Text proposed by the Commission

3. Paragraph 2 is without prejudice to the tasks of Digital Services Coordinators within the system of supervision and enforcement provided for in this Regulation and the cooperation with other competent authorities in accordance with Article 38(2). Paragraph 2 shall not prevent supervision of the authorities concerned in accordance with national constitutional law.

Amendment

3. Paragraph 2 is without prejudice to the tasks of Digital Services Coordinators within the system of supervision and enforcement provided for in this Regulation and the cooperation with other competent authorities in accordance with Article 38(2). Paragraph 2 shall not prevent supervision of the authorities concerned in accordance with national constitutional law ***or the allocation of additional powers under other applicable law.***

Amendment 322

**Proposal for a regulation
Article 40 – paragraph 1**

Text proposed by the Commission

1. The Member State in which the main establishment of the provider of intermediary services is located shall have jurisdiction for the purposes of ***Chapters III and IV of this Regulation.***

Amendment

1. The Member State in which the main establishment of the provider of intermediary services is located shall have jurisdiction for the purposes of ***Chapter III and final jurisdiction as to disputes on orders issued under Articles 8 and 9.***

Amendment 323

**Proposal for a regulation
Article 40 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

1a. By way of derogation from paragraph 1, the Member State in which the end user have their residence shall have jurisdiction for the purposes of Articles 22, 22a and 22b and the Member State in which the authority issuing the order is situated shall have jurisdiction for the purposes of Articles 8 and 9.

Amendment 324

Proposal for a regulation Article 40 – paragraph 1 b(new)

Text proposed by the Commission

Amendment

1b. The Member State where the consumers have their habitual residence shall have jurisdiction for the purposes of Chapter III, Section 3.

Amendment 325

Proposal for a regulation Article 40 – paragraph 4

Text proposed by the Commission

Amendment

4. Paragraphs 1, 2 and 3 are without prejudice to the second subparagraph of Article 50(4) and the second subparagraph of Article 51(2) and the tasks and powers of the Commission under Section 3.

4. Paragraphs 1, 2 and 3 are without prejudice to ***Article 43(2)***, the second subparagraph of Article 50(4) and the second subparagraph of Article 51(2) and the tasks and powers of the Commission under Section 3.

Amendment 326

Proposal for a regulation Article 41 – paragraph 2 – point e

Text proposed by the Commission

Amendment

(e) the power to adopt interim measures to avoid the risk of serious harm.

(e) the power to adopt ***proportionate*** interim measures to avoid the risk of serious harm.

Amendment 327

Proposal for a regulation Article 41 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Following request to the Commission and in cases of

infringements that persist, could cause serious harm to recipients of the service, or could seriously affect their fundamental rights, the Digital Services Coordinator in the Member State where the end users have their residence may be entitled to additional powers in the framework of joint investigations as referred to in Article 46.

Amendment 328

Proposal for a regulation Article 42 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 329

Proposal for a regulation Article 42 – paragraph 2

Text proposed by the Commission

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

Amendment

2. Penalties shall be effective, proportionate and dissuasive. ***They shall take into particular account the interest of small scale providers and start ups and their economic viability.*** Member States shall notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendments affecting them.

Amendment 330

Proposal for a regulation
Article 43 – paragraph 1

Text proposed by the Commission

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

Amendment 331

Proposal for a regulation
Article 43 – paragraph 1 a (new)

Text proposed by the Commission

Amendment 332

Proposal for a regulation
Article 43 a (new)

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Amendment

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

1a. *The Digital Services Coordinator of establishment, in cases concerning a complaint transmitted by the Digital Services Coordinator of the Member State where the recipient resides or is established as provided for in paragraph 1, shall assess the matter in a timely manner and shall inform the Digital Services Coordinator of the Member State where the recipient resides or is established, on how the complaint has been handled.*

Article 43a

Rights to effective judicial remedies

1. Without prejudice to any other administrative or non-judicial remedy, any recipient of the service or its representative organisation shall have the right to an effective judicial remedy against a legally binding decision of a Digital Services Coordinator concerning them.

2. In determining whether the very large online platform has complied with its obligations under Article 27(1), and in light of the principle of proportionality, the availability of suitable and effective measures shall be taken into account.

3. Without prejudice to any other administrative or non-judicial remedy, any recipients of the service or its representative organisation shall have the right to an effective judicial remedy where the Digital Service Coordinator which is competent pursuant to Articles 40 and 43 does not handle a complaint or does not inform the recipient of the service within three months on the progress or outcome of the complaint lodged pursuant to Article 43.

Proceedings against a Digital Services Coordinator under this paragraph shall be brought before the courts of the Member State where the Digital Services Coordinator is established.

Amendment 333

**Proposal for a regulation
Article 44 – paragraph 1**

Text proposed by the Commission

Amendment

1. Digital Services Coordinators shall draw up an annual report on their activities

1. Digital Services Coordinators shall draw up an annual report on their activities

under this Regulation. They shall make the annual reports available to the public, and shall communicate them to the Commission and to the Board.

under this Regulation. They shall make the annual reports available to the public, and shall communicate them to the Commission, **to the European Parliament** and to the Board.

Amendment 334

Proposal for a regulation Article 44 – paragraph 1a (new)

Text proposed by the Commission

Amendment

1a. Based on the annual report communicated by the Digital Services Coordinators, the Commission shall submit to the European Parliament and to the Council a dedicated biennial report analysing the aggregated data on orders referred to in Articles 8, 8a and 9 and issued by the Digital Services Coordinators, with a special attention being paid to potential abusive use of these Articles. The report shall provide a comprehensive overview of the orders to act against illegal content and it shall provide, for a specific period of time, the possibility to assess the activities of Digital Services Coordinators.

Amendment 335

Proposal for a regulation Article 44 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) the number and subject matter of orders to act against illegal content and orders to provide information issued in accordance with Articles 8 and 9 by any national judicial or administrative authority of the Member State of the Digital Services Coordinator concerned;

(a) the number and subject matter of orders to act against illegal content and orders to provide information, ***including at least information on the name of the issuing authority, the name of the provider and the type of action specified in the order***, issued in accordance with Articles 8 and 9 by any national judicial or administrative authority of the Member State of the Digital Services Coordinator

concerned;

Amendment 336

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

Text proposed by the Commission

Amendment

1a. A request or recommendation pursuant to paragraph 1 shall not preclude the possibility of Digital Services Coordinator of the Member State where the recipient of the service resides or is established, to be able to carry out its own investigation concerning a suspected infringement of this Regulation by a provider of an intermediary service.

Amendment 337

Proposal for a regulation Article 45 – paragraph 3

Text proposed by the Commission

Amendment

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

3. The Digital Services Coordinator of establishment shall take into utmost account the request or recommendation pursuant to paragraph 1 **and assess the matter in view of taking specific investigatory or enforcement measures to ensure compliance without undue delay.** Where it considers that it has insufficient information to act upon the request or recommendation and has reasons to consider that the Digital Services Coordinator that sent the request, **and to** the Board, could provide additional information, it may request such information. The time period laid down in paragraph 4 shall be suspended until that additional information is provided.

Amendment 338

Proposal for a regulation
Article 45 – paragraph 4

Text proposed by the Commission

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

Amendment

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

Amendment 339

Proposal for a regulation
Article 45 – paragraph 6

Text proposed by the Commission

6. The Commission shall assess the matter within three months following the referral of the matter pursuant to paragraph 5, after having consulted the Digital Services Coordinator of establishment and, unless it referred the matter itself, the Board.

Amendment

6. The Commission , **in cooperation with the Digital Services Coordinators** shall assess the matter within three months following the referral of the matter pursuant to paragraph 5, after having consulted the Digital Services Coordinator of establishment and, unless it referred the matter itself, the Board.

Amendment 340

Proposal for a regulation
Article 45 – paragraph 7

Text proposed by the Commission

7. Where, pursuant to **paragraph 6**, the Commission concludes that the

Amendment

7. Where, pursuant to **paragraph 6**, the Commission **in cooperation with the**

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

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

This information should also be transmitted to the Digital Services Coordinator or the Board that initiated the proceedings pursuant to paragraph 1.

Amendment 341

Proposal for a regulation

Article 46 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Where Digital Services Coordinator of the country of destination considers that an alleged infringement exist and causes serious harm to a large number of recipients of the service in that Member States, or could seriously affect their fundamental rights, it may request to the Commission to set up joint investigations between Digital Services Coordinator of the country of establishment and the requesting Digital Services Coordinator of the country of destination.

Amendment 342

Proposal for a regulation

Article 46 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. The Commission, in cooperation

with the Digital Services Coordinators, shall assess such request and following positive opinion of the Board shall set up a joint investigation where the Digital Services Coordinator of the country of destination can be entitled to exercise the following additional powers with respect to the provider of intermediary services concerned by the alleged infringement:

(a) to obtain access to the confidential version of the reports published by the intermediary service providers referred to in Article 13 and where applicable in Articles 23 and 24, as well as to the annual reports drawn up by the other competent authorities pursuant to Article 44;

(b) to obtain access to data collected by the Digital Services Coordinator of the country of establishment for the purpose of supervision of that provider on the territory of the Digital Services Coordinator of the country of destination without prejudice to the Regulation (EU) 2016/679;

(c) to initiate proceedings and assess the matter in view of taking specific investigatory or enforcement measures to ensure compliance, where the suspected seriousness of the infringement would require immediate response that would not allow for the provisions of Article 45 to apply;

(d) to request interim measures, as referred to in Article 41(2)(e);

Amendment 343

Proposal for a regulation Article 46 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1c. The Commission decision setting up the joint investigation shall define a deadline by when Digital Services

Coordinator of the country of establishment and Digital Services Coordinator launching the request pursuant to paragraph 2 shall agree on a common position on the joint investigation, and where applicable on the enforcement measures to be adopted. If no agreement is reached within this deadline, the case shall be referred to the Commission pursuant to Article 45(5).

Amendment 344

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

Text proposed by the Commission

Amendment

(aa) contributing to the effective application of Directive 2000/31/EC, Article 3, to prevent fragmentation of the digital single market and the obligations of very large platforms referred to in Article 5 of Regulation 2019/1150;

Amendment 345

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

Text proposed by the Commission

Amendment

(ca) give recommendations for the implementation of Article 27 and advise on possible application of sanctions in case of repeated non-compliance;

Amendment 346

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

Text proposed by the Commission

Amendment

(ea) issue opinions, recommendations or advice on matters related to Article 34.

Amendment 347

Proposal for a regulation

Article 50 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The Commission acting on its own initiative, or the Board acting on its own initiative or upon request of at least three Digital Services Coordinators of destination, **may**, where it has reasons to suspect that a very large online platform infringed any of those provisions, recommend the Digital Services Coordinator of establishment to investigate the suspected infringement with a view to that Digital Services Coordinator adopting such a decision ***within a reasonable time period***.

Amendment

The Commission acting on its own initiative, or the Board acting on its own initiative or upon request of at least three Digital Services Coordinators of destination, **shall**, where it has reasons to suspect that a very large online platform infringed any of those provisions, recommend the Digital Services Coordinator of establishment to investigate the suspected infringement with a view to that Digital Services Coordinator adopting such a decision ***without undue delay***.

Amendment 348

Proposal for a regulation

Article 51 – paragraph 1 – introductory part

Text proposed by the Commission

1. The Commission, acting either upon the Board's recommendation or on its own initiative after consulting the Board, **may** initiate proceedings in view of the possible adoption of decisions pursuant to Articles 58 and 59 in respect of the relevant conduct by the very large online platform that:

Amendment

1. The Commission, acting either upon the Board's recommendation or on its own initiative after consulting the Board, **shall** initiate proceedings in view of the possible adoption of decisions pursuant to Articles 58 and 59 in respect of the relevant conduct by the very large online platform that:

Amendment 349

Proposal for a regulation

Article 51 – paragraph 2 – introductory part

Text proposed by the Commission

2. ***Where*** the Commission ***decides to***

Amendment

2. ***When*** the Commission ***initiates***

initiate proceedings pursuant to paragraph 1, it shall notify all Digital Services Coordinators, the Board and the very large online platform concerned.

proceedings pursuant to paragraph 1, it shall notify all Digital Services Coordinators, the Board and the very large online platform concerned.

Amendment 350

Proposal for a regulation Article 52 – paragraph 1

Text proposed by the Commission

1. In order to carry out the tasks assigned to it under this Section, the Commission may by simple request or by decision require the very large online platforms concerned, as well as any other persons acting for purposes related to their trade, business, craft or profession that may be reasonably be aware of information relating to the suspected infringement or the infringement, as applicable, including organisations performing the audits referred to in Articles 28 and 50(3), to provide such information within a reasonable time period.

Amendment

1. In order to carry out the tasks assigned to it under this Section, the Commission may by simple request or by decision require the very large online platforms concerned, ***their legal representatives***, as well as any other persons acting for purposes related to their trade, business, craft or profession that may be reasonably be aware of information relating to the suspected infringement or the infringement, as applicable, including organisations performing the audits referred to in Articles 28 and 50(3), to provide such information within a reasonable time period.

Amendment 351

Proposal for a regulation Article 55 – paragraph 1

Text proposed by the Commission

1. In the context of proceedings which may lead to the adoption of a decision of non-compliance pursuant to Article 58(1), where there is an urgency due to the risk of serious damage for the recipients of the service, the Commission may, by decision, order interim measures against the very large online platform concerned on the basis of a prima facie finding of an infringement.

Amendment

1. In the context of proceedings which may lead to the adoption of a decision of non-compliance pursuant to Article 58(1), where there is an urgency due to the risk of serious damage for the recipients of the service, the Commission may, by decision, order ***proportionate*** interim measures against the very large online platform concerned on the basis of a prima facie finding of an infringement.

Amendment 352

Proposal for a regulation Article 57 – paragraph 1

Text proposed by the Commission

1. For the purposes of carrying out the tasks assigned to it under this Section, the Commission may take the necessary actions to monitor the effective implementation and compliance with this Regulation by the very large online platform concerned. The Commission may also order that platform to provide access to, **and explanations relating to**, its databases and algorithms.

Amendment

1. For the purposes of carrying out the tasks assigned to it under this Section, the Commission may take the necessary actions to monitor the effective implementation and compliance with this Regulation by the very large online platform concerned. The Commission may also order that platform to provide, **where necessary**, access to its databases and algorithms, **and to provide explanations relating to them**.

Amendment 353

Proposal for a regulation Article 58 – paragraph 1 – introductory part

Text proposed by the Commission

1. The Commission shall adopt a non-compliance decision where it finds that the very large online platform concerned does not comply with one or more of the following:

Amendment

1. The Commission shall adopt a non-compliance decision, **after consulting the Board**, where it finds that the very large online platform concerned does not comply with one or more of the following:

Amendment 354

Proposal for a regulation Article 59 – paragraph 2 – introductory part

Text proposed by the Commission

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

Amendment

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

Amendment 355

Proposal for a regulation Article 73 – paragraph 1

Text proposed by the Commission

1. By five years after the entry into force of this Regulation at the latest, and every five years thereafter, the Commission shall evaluate this Regulation and report to the European Parliament, the Council and the European Economic and Social Committee.

Amendment

1. By five years after the entry into force of this Regulation at the latest, and every five years thereafter, the Commission shall evaluate this Regulation and report to the European Parliament, the Council and the European Economic and Social Committee. ***On the basis of the findings and taking into utmost account the opinion of the Board, that report shall, where appropriate, be accompanied by a proposal for amendment of this Regulation.***

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC		
References	COM(2020)0825 – C9-0418/2020 – 2020/0361(COD)		
Committee responsible Date announced in plenary	IMCO 8.2.2021		
Opinion by Date announced in plenary	JURI 8.2.2021		
Associated committees - date announced in plenary	20.5.2021		
Rapporteur for the opinion Date appointed	Geoffroy Didier 10.5.2021		
Discussed in committee	27.5.2021	13.7.2021	9.9.2021
Date adopted	30.9.2021		
Result of final vote	+: –: 0:	15 9 0	
Members present for the final vote	Pascal Arimont, Gunnar Beck, Geoffroy Didier, Pascal Durand, Ibán García Del Blanco, Jean-Paul Garraud, Mislav Kolakušić, Sergey Lagodinsky, Gilles Lebreton, Karen Melchior, Jiří Pospíšil, Marcos Ros Sempere, Stéphane Séjourné, Raffaele Stancanelli, Adrián Vázquez Lázara, Axel Voss, Marion Walsmann, Tiemo Wölken, Lara Wolters		
Substitutes present for the final vote	Patrick Breyer, Daniel Buda, Emmanuel Maurel, Nacho Sánchez Amor, Kosma Zlotowski		
Substitutes under Rule 209(7) present for the final vote	Isabel Benjumea Benjumea		

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

15	+
PPE	Pascal Arimont, Isabel Benjumea Benjumea, Daniel Buda, Geoffroy Didier, Axel Voss, Marion Walsmann
Renew	Pascal Durand, Stéphane Séjourné, Adrián Vázquez Lázara
ID	Jean-Paul Garraud, Gilles Lebreton
ECR	Raffaele Stancanelli, Kosma Złotowski
The Left	Emmanuel Maurel
NI	Mislav Kolakušić

9	-
S&D	Ibán García Del Blanco, Marcos Ros Sempere, Nacho Sánchez Amor, Lara Wolters, Tiemo Wölken
Renew	Karen Melchior
ID	Gunnar Beck
Verts/ALE	Patrick Breyer, Sergey Lagodinsky

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention