



**2020/0361(COD)**

28.7.2021

## **OPINION**

of the Committee on Civil Liberties, Justice and Home 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 a Single Market For Digital Services (Digital Services Act) and amending  
Directive 2000/31/EC  
(COM(2020)0825 – C9-0418/2020 – 2020/0361(COD))

Rapporteur for opinion: Patrick Breyer

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

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## SHORT JUSTIFICATION

### Background

Following three resolutions voted by Parliament, the Commission presented its proposal for a Digital Services Act in December 2020. The proposal aims to ensure harmonised conditions for digital cross-border services to develop in the EU.

### The LIBE Opinion

The Opinion focuses on better protecting fundamental rights and addressing illegal content in the digital age, in line with the competence of the LIBE committee. Most amendments implement reports and opinions on the Digital Services Act that have already been supported in Committee or Plenary. Key proposals are:

1. The Digital Services Act should provide for the **right to use and pay for digital services anonymously** wherever reasonably feasible, in line with the principle of data minimisation and in order to prevent unauthorised disclosure, identity theft and other forms of abuse of personal data.
2. **End-to-end encryption** should not be restricted as it is essential for Internet safety.
3. **Behavioural and personalised targeting** for non-commercial and political advertising should be phased out to protect users and ensure the existence of traditional media, and be replaced by contextual advertising. The same should apply to targeting people based on sensitive data, or to targeting minors. Behavioural and personalised targeting for commercial advertising should only be possible where users have freely opted in, without exposure to “dark” patterns or the risk of being excluded from services, and without being fatigued by consent banners if they have already made a clear choice in their browser/device settings.
4. In the spirit of the case law on communications metadata, public authorities shall be given **access to records of personal online activity** only to investigate suspects of serious crimes or prevent serious threats to public safety with prior judicial authorisation.
5. **Mere conduit intermediaries** should not be required to block access to content. Illegal content should be removed where it is hosted.
6. To protect freedom of expression and media freedom, **the decision on the legality of content shall rest with the independent judiciary**, not with administrative authorities.
7. Intermediaries should not be required to remove information that is legal in the Member State that they are established in (their country of origin). The effect of **cross-border removal orders** should be limited to the territory of the issuing Member State.
8. A special regime should apply to addressing traders **unlawfully promoting or offering products or services** in the Union.

9. Online platforms' **terms and conditions** shall respect fundamental rights and permit interferences with the free exchange of lawful information only where it is incompatible with the declared purpose of the service.
10. Adverse decisions by online platforms should be subject to **judicial redress**.
11. Where allegedly illegal content is **notified**, qualified staff should take a decision after hearing the publisher.
12. **Complaints procedures** should be available also to notifiers, such as victims of crime, whose notification has not been acted upon.
13. **Automated tools for content moderation and content filters** should not be mandatory. They should only exceptionally be used by online platforms for ex-ante control to temporarily block manifestly illegal and context-insensitive content, subject to human review of every automated decision. Algorithms cannot reliably identify illegal content and routinely result in the suppression of legal content, including journalistic content.
14. Providers should not be **obliged to sanction** users for providing illegal content by temporarily "de-platforming" them, since such an obligation would fail to ensure a decision by the judiciary and bypass the legally defined sanctions.
15. The algorithm-driven **spreading of problematic content** should be contained by giving users control over the algorithms prioritising the information that is presented to them (recommender systems).
16. "Co-regulatory" instruments ("soft law") such as **codes of conduct and crisis protocols** should be subject to a special procedure to safeguard transparency, participation, democratic oversight and fundamental rights.

## AMENDMENTS

The Committee on Civil Liberties, Justice and Home 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 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) ***So far, the regulatory approach has relied on voluntary cooperation with a view to addressing the new risks and challenges. As this has proved insufficient and there has been a lack of harmonised rules at Union level,*** 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. ***Moreover, a fragmentation of rules can have negative consequences on the freedom of expression.***

### Amendment 2

**Proposal for a regulation**  
**Recital 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**(2 a) Complex regulatory requirements at both Union and Member State level have contributed to high administrative costs and legal uncertainty for intermediary services operating on the internal market, especially small and medium sized companies.**

**Amendment 3**

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

*Text proposed by the Commission*

*Amendment*

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

(3) Responsible and diligent behaviour by providers of intermediary services is essential for a safe, predictable and trusted online environment and for allowing Union citizens and other persons to exercise their fundamental rights guaranteed in the Charter of Fundamental Rights of the European Union ('Charter'), in particular the **rights to privacy, to protection of personal data, to** freedom of expression **including the freedom to receive and impart** information and **ideas without interference from public authority and regardless of frontiers, and** to non-discrimination, **as well as the freedom of media, the freedom to conduct a business and consumer protection. Children have particular rights enshrined in Article 24 of the Charter and in the United Nations Convention on the Rights of the Child (UNCRC). The UNCRC General comment No. 25 on children's rights in relation to the digital environment formally sets out how these rights apply to the digital world.**

## Amendment 4

### Proposal for a regulation Recital 8

#### *Text proposed by the Commission*

(8) Such a substantial connection to the Union should be considered to exist where the service provider has an establishment in the Union or, in its absence, on the basis of the existence of a significant number of users in one or more Member States, or the targeting of activities towards one or more Member States. The targeting of activities towards one or more Member States *can* be determined on the basis of all relevant circumstances, including factors such as the use of a language or a currency generally used in that Member State, or the possibility of ordering products or services, or using a national top level domain. The targeting of activities towards a Member State could also be derived from the availability of an application in the relevant national application store, from the provision of local advertising or advertising in the language used in that Member State, or from the handling of customer relations such as by providing customer service in the language generally used in that Member State. A substantial connection should also be assumed where a service provider directs its activities to one or more Member State as set out in Article 17(1)(c) of Regulation (EU) 1215/2012 of the European Parliament and of the Council<sup>27</sup>. On the other hand, mere technical accessibility of a website from the Union cannot, on that ground alone, be considered as *establishing* a substantial connection to the Union.

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<sup>27</sup> Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the

#### *Amendment*

(8) Such a substantial connection to the Union should be considered to exist where the service provider has an establishment in the Union or, in its absence, on the basis of the existence of 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 *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 Council<sup>27</sup>. On the other hand, mere technical accessibility of a website, *of an email address or of other contact details* from the Union cannot, on that ground alone, be considered as *sufficient to constitute* a substantial connection to the Union.

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<sup>27</sup> Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the

recognition and enforcement of judgments in civil and commercial matters (OJ L351, 20.12.2012, p.1).

recognition and enforcement of judgments in civil and commercial matters (OJ L351, 20.12.2012, p.1).

## Amendment 5

### Proposal for a regulation

#### Recital 9

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

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

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

<sup>29</sup> Regulation (EU) .../.. of the European

##### *Amendment*

(9) This Regulation should complement, yet not affect the application of rules resulting from other acts of Union law regulating certain aspects of the provision of intermediary services, in particular Directive 2000/31/EC, with the exception of those changes introduced by this Regulation, Directive 2010/13/EU of the European Parliament and of the Council as amended,<sup>28</sup> and Regulation (EU) **2021/784** of the European Parliament and of the Council<sup>29</sup>. 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.

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

<sup>29</sup> Regulation (EU) **2021/784** of the

## Amendment 6

### Proposal for a regulation

#### Recital 11

*Text proposed by the Commission*

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

*Amendment*

*deleted*

## Amendment 7

### 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

*Amendment*

(12) In order to achieve the objective of ensuring a safe, predictable and trusted online environment, for the purpose of this Regulation the concept of “illegal content” should ***underpin the general idea that what is illegal offline should also be illegal online, while ensuring that what is legal offline should also be legal online.*** ***The concept of “illegal content” should be*** defined ***appropriately*** and also ***cover*** information relating to illegal content, products, services and activities ***where such information is itself not in compliance with applicable Union or Member State law.*** 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, ***child***

use of copyright protected material or activities involving infringements of consumer protection law. In this regard, it is immaterial whether the illegality of the information or activity results from Union law or from national law that is consistent with Union law and what the precise nature or subject matter is of the law in question.

*sexual abuse material* or terrorist content and unlawful discriminatory content, or that *refers in an illegal manner* to activities that are illegal, such as the 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, *in particular the Charter*, and what the precise nature or subject matter is of the law in question.

## Amendment 8

### Proposal for a regulation Recital 13

#### *Text proposed by the Commission*

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

#### *Amendment*

(13) Considering the particular characteristics of the services concerned and the corresponding need to make the providers thereof subject to certain specific obligations, it is necessary to distinguish, within the broader category of providers of hosting services as defined in this Regulation, the subcategory of online platforms. Online platforms, such as social networks, *content-sharing platforms* 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

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.

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 9

### Proposal for a regulation Recital 14

#### *Text proposed by the Commission*

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

#### *Amendment*

(14) The concept of ‘dissemination to the public’, as used in this Regulation, should entail the making available of information to a potentially unlimited number of persons, that is, making the information easily accessible to users in general without further action by the recipient of the service providing the information being required, irrespective of whether those persons actually access the information in question. ***Accordingly, where access to information requires registration or admittance to a group of users, that information should be considered to have been disseminated to the public only where users seeking to access the information are automatically registered or admitted without a human decision on whom to grant access. Information exchanged using interpersonal communication services, as defined in Directive (EU) 2018/1972 of the European Parliament and of the Council,<sup>39</sup> such as emails or private messaging services, are not considered to have been disseminated to the public.*** Information should be considered disseminated to the public within the meaning of this

occurs upon the direct request by the recipient of the service that provided the information.

Regulation only where that occurs upon the direct request by the recipient of the service that provided the information.

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

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

## Amendment 10

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

*Text proposed by the Commission*

*Amendment*

***(15a) The online activities of a person allow for deep insights into their personality as well as their past and future behaviour, making it possible to manipulate them. The high sensitivity of such information and its potential for abuse requires special protection. In accordance with the principle of data minimisation and in order to prevent unauthorised disclosure, identity theft and other forms of abuse of personal data, recipients should have the right to use and pay for information society services anonymously wherever reasonable efforts can make this possible. This should apply without prejudice to the obligations in Union law on the protection of personal data. Providers can enable anonymous use of their services by refraining from collecting personal data regarding the recipient and their online activities and by not preventing recipients from using anonymizing networks for accessing the service. Anonymous payment can take place for example by paying in cash, by using cash-paid vouchers or prepaid payment instruments. The general and indiscriminate collection of personal data concerning every use of a digital service interferes disproportionately with the***

*right to privacy and the protection of personal data. According to Regulation (EU) 2016/679 users have a right not to be subject to pervasive tracking when using information society services. Following the jurisprudence on communications meta-data providers should not be required to indiscriminately retain personal data concerning the use of the service by all recipients. Applying effective end-to-end encryption to data is essential for trust in and security on the Internet, and effectively prevents unauthorised third party access. The fact that encryption technology is abused by some for illegal purposes does not justify generally weakening encryption.*

## **Amendment 11**

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

*Text proposed by the Commission*

*Amendment*

*(15b) Targeting individuals based on personal data, including behavioural data, should not be permitted for non-commercial and political purposes. Misleading or obscure advertising for non-commercial and political purposes is a special class of online threat because it influences the core mechanisms that enable the functioning of our democratic society. Targeting minors on the basis of their personal data or targeting individuals on the basis of special categories of data which allow for targeting vulnerable groups should not be permitted. Targeting recipients for commercial purposes should require the recipients' consent. To ensure that recipients have a real choice, refusing consent should be no more complicated than giving consent, "dark patterns" should not be used to undermine the recipient's choice and refusing consent should not result in access to the*

*functionalities of the platform being disabled. In order to avoid fatiguing recipients who refuse to consent, terminal equipment settings that signal an objection to processing of personal data should be respected. Displaying contextual advertisements does not require processing personal data and is thus less intrusive.*

## Amendment 12

### Proposal for a regulation

#### Recital 18

*Text proposed by the Commission*

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

*Amendment*

(18) The exemptions from liability established in this Regulation should not apply where the provider of intermediary services *has* knowledge of, or control over, information. Those exemptions should accordingly not be available in respect of liability relating to information provided not by the recipient of the service but by the provider of intermediary service itself, including where the information has been developed under the editorial responsibility of that provider. *The exemptions from liability established by this Regulation should not depend on uncertain notions such as an ‘active’, ‘neutral’ or ‘passive’ role of providers.*

## Amendment 13

### 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*

*Amendment*

(22) In order to benefit from the exemption from liability for hosting services, the provider should, *after having become aware of the unlawful nature of*

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

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, ***including the right to receive and impart information and ideas without interference by public authority***. The provider can obtain such actual knowledge or awareness through, in particular, its own-initiative investigations or notices submitted to it by individuals or entities in accordance with this Regulation in so far as those notices are sufficiently precise and adequately substantiated to allow a diligent economic operator to reasonably identify, assess and where appropriate act against the allegedly illegal content.

#### Amendment 14

#### Proposal for a regulation

#### Recital 25

*Text proposed by the Commission*

*Amendment*

***(25) In order to create legal certainty and not to discourage activities aimed at detecting, identifying and acting against illegal content that providers of intermediary services may undertake on a voluntary basis, it should be clarified that the mere fact that providers undertake such activities does not lead to the unavailability of the exemptions from liability set out in this Regulation, provided those activities are carried out in good faith and 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***

***deleted***

*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 15

### Proposal for a regulation

#### Recital 27

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

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

##### *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, **cloud infrastructure providers** and web-based e-mail services, where the communication is delivered via an internet

too, can benefit from the exemptions from liability, to the extent that they qualify as ‘mere conduit’, ‘caching’ or hosting service.

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 16

### Proposal for a regulation Recital 28

#### *Text proposed by the Commission*

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

#### *Amendment*

(28) Providers of intermediary services should not be subject to a monitoring obligation with respect to obligations of a general nature, ***neither de jure nor de facto. A de facto obligation would occur if the non-implementation of a general or preventive monitoring infrastructure would be uneconomical, for instance due to the significant extra cost of alternative human oversight necessities or due to the threat of significant damage payments.*** 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 ***in*** relation to illegal content.

## Amendment 17

### 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 because such tools are incapable 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 18

### 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 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 19

### Proposal for a regulation

#### Recital 30

*Text proposed by the Commission*

(30) Orders to act against illegal content or to provide information should be issued in compliance with Union law, in particular Regulation (EU) 2016/679 and the prohibition of general obligations to monitor information or to actively seek facts or circumstances indicating illegal activity laid down in this Regulation. The

*Amendment*

(30) Orders to act against illegal content or to provide information should be issued *by designated competent authorities* in compliance with Union law, in particular Regulation (EU) 2016/679 and the prohibition of general obligations to monitor information or to actively seek facts or circumstances indicating illegal

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.

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) **2021/784 on** 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 20

### Proposal for a regulation Recital 30 a (new)

*Text proposed by the Commission*

*Amendment*

***(30a) In order to avoid conflicting interpretations of what constitutes illegal content and to ensure the accessibility of information that is legal in the Member State in which the provider is established, orders to act against illegal content should in principle be issued by judicial authorities of the Member State in which the provider has its main establishment, or, if not established in the Union, its legal representative. The judicial authorities of other Member States should be able to issue orders the effect of which are limited to the territory of the Member State where the judicial authority issuing the order is based. A special regime***

*should apply to acting against unlawful commercial offers of goods and services.*

## Amendment 21

### Proposal for a regulation

#### Recital 31

*Text proposed by the Commission*

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

*Amendment*

(31) The territorial scope of such orders to act against illegal content should be clearly set out on the basis of the applicable Union or national law enabling the issuance of the order and should not exceed what is strictly necessary to achieve its objectives. In that regard, the national judicial or administrative authority issuing the order should balance the objective that the order seeks to achieve, in accordance with the legal basis enabling its issuance, with the rights and legitimate interests of all third parties that may be affected by the order, in particular their fundamental rights under the Charter. In addition, where the order referring to the specific information may have effects beyond the territory of the Member State of the authority concerned, the authority should assess whether the information at issue is likely to constitute illegal content in other Member States concerned and, where relevant, take account of the relevant rules of Union *or Member State* law or international law and the interests of international comity. ***Providers of intermediary services should not be legally required to remove content which is legal in their country of establishment. Competent authorities should be able to order the blocking of content legally published outside the Union only for the territory of the Member State where those competent authorities are established. This should be without prejudice to the right of providers to assess the compliance of specific content with their terms and conditions and subsequently remove non-compliant***

*content even if it is not unlawful in their country of establishment.*

## **Amendment 22**

### **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. Therefore, orders about ***non-personal*** 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 23**

### **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

*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, 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 24

### 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 25

information *under Union or Member State law*, respectively, where they are addressed to providers of intermediary services established in another Member State, they do not in principle restrict those providers' freedom to provide their services across borders. Therefore, the rules set out in Article 3 of Directive 2000/31/EC, including those regarding the need to justify measures derogating from the competence of the Member State where the service provider is established on certain specified grounds and regarding the notification of such measures, do not apply in respect of those orders.

#### *Amendment*

(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. *Such information should be notified to the Digital Service Coordinator in the Member State of establishment.* 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.

**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. ***A summary of the terms and conditions should also be made publicly available. In order to safeguard the fundamental right to freedom of expression, providers should not be allowed to arbitrarily suppress legal content or act against those providing it. Acting against legal information is justifiable only where that information is incompatible with the declared purpose of the service. For example, where the purpose of an online forum is to discuss a certain issue, supplying information on unrelated topics may be incompatible with the purpose of the service.***

**Amendment 26**

**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

*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. ***Providers offering their services in more than one Member State should provide a breakdown of the***

not apply to providers that are micro- or small enterprises as defined in Commission Recommendation 2003/361/EC.<sup>40</sup>

*information by Member State.* 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.<sup>40</sup>

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<sup>40</sup> 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).

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<sup>40</sup> 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 27

### Proposal for a regulation Recital 40

#### *Text proposed by the Commission*

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

#### *Amendment*

(40) Providers of hosting services play a particularly important role in tackling illegal content online, as they store information provided by and at the request of the recipients of the service and typically give other recipients access thereto, sometimes on a large scale. It is important that all providers of hosting services, regardless of their size, put in place user-friendly notice and action mechanisms that facilitate the notification of specific items of information that the notifying party considers to be illegal content to the provider of hosting services concerned ('notice'), pursuant to which that provider can decide whether or not it agrees with that assessment and ***accordingly*** remove or disable access to that content ('action'). 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.

advertising servers and paste bins, in as far as they qualify as providers of hosting services covered by this Regulation.

## **Amendment 28**

### **Proposal for a regulation**

#### **Recital 41**

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

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

(41) The rules on such notice and action mechanisms should be harmonised at Union level, so as to provide for the timely, diligent, **non-arbitrary and non-discriminatory** 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 29**

### **Proposal for a regulation**

#### **Recital 42**

*Text proposed by the Commission*

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

*Amendment*

(42) Where a hosting service provider decides to remove, disable ***access to, or restrict proposals by recommender systems of*** information provided by a recipient of the service, for instance following receipt of a notice or acting on its own initiative, that provider should ***in a clear and user-friendly manner*** inform the recipient ***and, where possible, the notifier*** of its decision, the reasons for its decision and the available redress possibilities ***for the recipient*** 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. ***That obligation should not apply if the recipient has repeatedly provided manifestly illegal content in the past or if the removal is based on an order to act against illegal content and the competent authority issuing the order had decided not to disclose information for reasons of public security.*** Available recourses to challenge the decision of the hosting service provider should always include judicial redress. ***The restriction of proposals by recommender systems can take place, for example, by practices of ‘shadow-banning’ content.***

**Amendment 30**

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

***(42a) When moderating content, mechanisms voluntarily employed by platforms should in principle not lead to ex-ante control measures based on automated tools or upload filtering of content. Automated tools are currently unable to differentiate illegal content from content that is legal in a given context and therefore routinely result in over blocking legal content. Human review of automated reports by service providers or their contractors does not fully solve this problem, especially if it is outsourced to staff of private contractors that lack sufficient independence, qualification and accountability. Ex-ante control measures based on automated tools or upload filtering of content should be understood to mean making publishing subject to an automated decision. It should exceptionally be permitted if the automated decision is effective for a limited period of time, subject to human review and reliably limited to information previously classified as manifestly illegal, irrespective of its context, the identity and the intention of the recipient providing it. Filtering automated content submissions such as spam should be permitted. Where automated tools are used for ex-post content moderation, the provider should ensure human decisions on any action to be taken and the protection of legal content.***

## **Amendment 31**

### **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

*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,<sup>41</sup> 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.

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<sup>41</sup> 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).

should not apply to micro or small enterprises as defined in Recommendation 2003/361/EC of the Commission,<sup>41</sup> unless their reach and impact is such that they **have more than 4,5 million users in Union or** 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.

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<sup>41</sup> 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 32

### 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

#### *Amendment*

(44) Recipients of the service **and organisations or public bodies representing consumers' interests designated by a Member State as qualified to bring representative actions** 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. **These systems should also be available to notifiers.** In addition, provision should be made for the

independence, means and expertise to carry out their activities in a fair, swift and cost-effective manner. The possibilities to contest decisions of online platforms thus created should complement, yet leave unaffected in all respects, the possibility to seek judicial redress in accordance with the *laws of the Member State* concerned.

possibility of out-of-court dispute settlement of disputes, including those that could not be resolved in satisfactory manner through the internal complaint-handling systems, by certified bodies that have the requisite independence, means and expertise to carry out their activities in a fair, swift and cost-effective manner. The possibilities to contest decisions of online platforms thus created should complement, yet leave unaffected in all respects, the possibility to seek judicial redress in accordance with the *applicable law*. ***Online platforms*** concerned ***should also be able to seek judicial redress against these decisions in accordance with the applicable law***.

### Amendment 33

#### 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

##### *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, ***acting within their designated area of expertise***, 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

Cooperation (‘Europol’) or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, organisations of industry and of right-holders could be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council.<sup>43</sup>

Union Agency for Law Enforcement Cooperation (‘Europol’) or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, organisations of industry and of right-holders could be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council.<sup>43</sup>

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

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

## **Amendment 34**

### **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 frequently providing manifestly illegal content or by frequently submitting manifestly unfounded notices or complaints under the mechanisms and

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

## Amendment 35

### Proposal for a regulation Recital 48

systems, respectively, established under this Regulation *might undermine* trust and *harm* the rights and legitimate interests of the parties concerned. Therefore, *online platforms should be entitled* to put in place appropriate, proportionate *and reliable* 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 *be entitled to* temporarily suspend their relevant activities in respect of the person engaged in abusive behaviour. For reasons of transparency, this possibility should be set out, clearly and in 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 *manifestly* 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.

*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 Council<sup>44</sup>. 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.

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<sup>44</sup> 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 a serious criminal offence involving a threat to the life of ***a person, including vulnerable recipients such as children, is imminent*** such as offences specified in Directive 2011/93/EU of the European Parliament and of the Council<sup>44</sup>. In such instances, the online platform should inform without delay the competent law enforcement authorities of such suspicion, providing ***the information that has given rise to*** 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.

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<sup>44</sup> 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 36**

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

*Text proposed by the Commission*

(52) Online advertisement plays an important role in the online environment, including in relation to the provision of the services of online platforms. However, online advertisement can contribute to significant risks, ranging from advertisement that is itself illegal content, to contributing to financial incentives for the publication or amplification of illegal or otherwise harmful content and activities online, or the discriminatory display of advertising with an impact on the equal treatment and opportunities of citizens. In addition to the requirements resulting from Article 6 of Directive 2000/31/EC, online platforms should therefore be required to ensure that the recipients of the service have certain individualised information necessary for them to understand when and on whose behalf the advertisement is displayed. In addition, recipients of the service should have information on the main parameters used for determining that specific advertising is to be displayed to them, providing meaningful explanations of the logic used to that end, including when this is based on profiling. The requirements of this Regulation on the provision of information relating to advertisement is without prejudice to the application of the relevant provisions of Regulation (EU) 2016/679, ***in particular those regarding the right to object, automated individual decision-making, 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) 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 ***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. 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 37

### Proposal for a regulation

#### Recital 53

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 38

### Proposal for a regulation

#### Recital 56

*Text proposed by the Commission*

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

*Amendment*

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

assess the systemic risks stemming from the functioning and use of their service, as well as by potential misuses by the recipients of the service, and take appropriate mitigating measures.

assess the systemic risks stemming from the functioning and use of their service, as well as by potential misuses by the recipients of the service, and take appropriate mitigating measures *where mitigation is possible without adversely impacting fundamental rights*.

## Amendment 39

### 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

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

category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform's service, with a foreseeable impact on health, civic discourse, electoral processes, public security and protection of minors, having regard to the need to safeguard public 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.

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

## Amendment 40

### 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 particular as regards the detection of systemic risks**. They may also initiate or

#### *Amendment*

(58) Very large online platforms should deploy the necessary means to diligently mitigate the systemic risks identified in the risk assessment **where mitigation is possible without adversely impacting fundamental rights**. 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. They

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 41

### 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 42

may also initiate or increase cooperation with trusted flaggers, organise training sessions and exchanges with trusted flagger organisations. **The decision as to the choice of measures should remain with the very large online platform.** 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, **without adversely impacting the fundamental rights of the recipients of the service.**

#### *Amendment*

(59) Very large online platforms should, where appropriate, conduct their **impact** assessments and design their mitigation measures **related to any adverse impact** 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. **The outcome of their impact assessments should be communicated to the Board of Digital Service Coordinators and the Digital Services Coordinator of their Member State of establishment.**

**Proposal for a regulation**  
**Recital 61**

*Text proposed by the Commission*

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

*Amendment*

(61) The audit report should be substantiated, so as to give a meaningful account of the activities undertaken and the conclusions reached. It should help inform, and where appropriate suggest improvements to the measures taken by the very large online platform to comply with their obligations under this Regulation. 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. ***Where applicable, the report should include a description of specific elements that could not be audited, and an explanation of why these could not be audited.*** 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. ***Where the audit opinion could not reach a conclusion for specific elements that fall within the scope of the audit, a statement of reasons for the failure to reach such a conclusion should***

*be included in the audit opinion.*

## Amendment 43

### Proposal for a regulation

#### Recital 62

*Text proposed by the Commission*

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

*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, ***provided in a clear and user-friendly manner***, including options that are not based on profiling of the recipient.

## Amendment 44

### Proposal for a regulation

#### Recital 64

*Text proposed by the Commission*

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

*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 **dissemination of illegal content using** 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 **personal data**, trade secrets and other confidential information, of the platform and any other parties concerned, including the recipients of the service. **Researchers should be independent and not subject to any conflict of interest. Neither the researchers, nor the entities or institutions they work for should in the five years prior to the start of the research activities have received financing from a company that is affected by or has a direct interest in the findings of the research. Researchers should respect a minimum**

*cool-off period of five years between the publication of their findings and working for any company that is affected by or has a direct interest in the findings of that research.*

## Amendment 45

### 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*

(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.

## Amendment 46

**Proposal for a regulation**  
**Recital 69**

*Text proposed by the Commission*

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

*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.

**Amendment 47**

**Proposal for a regulation**  
**Recital 71 a (new)**

*Text proposed by the Commission*

*Amendment*

***(71a) "Soft law" instruments such as codes of conduct and crisis protocols may pose a risk to fundamental rights because, unlike legislation, they are not subject to democratic scrutiny and their compliance with fundamental rights is not subject to judicial review. In order to enhance accountability, participation and transparency, procedural safeguards for drawing up codes of conduct and crisis protocols are needed.***

**Amendment 48**

**Proposal for a regulation**  
**Recital 89**

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 49**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point c**

*Text proposed by the Commission*

(c) rules on the implementation and enforcement of this Regulation, including as regards the cooperation of and coordination between the competent authorities.

*Amendment*

(c) rules on the implementation and enforcement of ***the requirements set out in*** this Regulation, including as regards the cooperation of and coordination between the competent authorities.

**Amendment 50**

**Proposal for a regulation**

**Article 1 – paragraph 3**

*Text proposed by the Commission*

3. This Regulation shall apply to intermediary services provided to recipients of the service ***that have their place of establishment or residence*** in the Union, irrespective of the place of establishment of the providers of those services.

*Amendment*

3. This Regulation shall apply to intermediary services provided to recipients of the service in the Union, irrespective of the place of establishment of the providers of those services.

## Amendment 51

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

*Text proposed by the Commission*

*Amendment*

(c) *Union law on copyright and related rights;* **deleted**

## Amendment 52

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

*Text proposed by the Commission*

*Amendment*

(d) Regulation (EU) .../... **on preventing** the dissemination of terrorist content online **[TCO once adopted]**;  
(d) Regulation (EU) **2021/784**;

## Amendment 53

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

*Text proposed by the Commission*

*Amendment*

(i) *Union law on the protection of personal data, in particular Regulation (EU) 2016/679 and Directive 2002/58/EC.* **deleted**

## Amendment 54

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 55

### Proposal for a regulation

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 56

### Proposal for a regulation

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

*Text proposed by the Commission*

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

*Amendment*

(o) ‘recommender system’ means a fully or partially automated system used by an online platform to suggest, **rank, prioritise or curate** in its online interface specific information, **products or services** 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 57

### Proposal for a regulation

#### Article 2 a (new)

*Text proposed by the Commission*

*Amendment*

*Article 2a*

***Digital privacy***

**1. Without prejudice to Regulation (EU) 2016/679 and Directive 2002/58/EC, providers of information society services shall make reasonable efforts to enable the use of and payment for that service without collecting personal data of the recipient.**

**Member States shall not impose a general obligation on providers of information society services to limit the anonymous or pseudonymous use of their services.**

**2. Operators of online platforms may process personal data concerning the use of the service by a recipient for the sole purpose of operating a recommender system only where the recipient has given his or her explicit consent as defined in Article 4, point (11), of Regulation (EU) 2016/679.**

**3. Member States shall not oblige providers of information society services to generally and indiscriminately retain personal data of the recipients of their services. Any targeted retention of a specific recipient's data shall be ordered by a judicial authority in accordance with Union or Member State law.**

**4. Providers of information society services shall have the right to provide and support encryption services of their choice. Member States shall not impose an obligation on providers of information society services to limit the level of their security and encryption measures.**

## **Amendment 58**

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

*Text proposed by the Commission*

*Amendment*

#### **Article 2b**

#### **Targeting of digital advertising**

**1. Providers of information society services shall not collect or process personal data as defined in Article 4, point (1), of Regulation (EU) 2016/679 for the purpose of targeting the recipients to whom advertisements are displayed.**

**2. By way of derogation from paragraph 1, for the purpose of targeting the recipients to whom advertisements for commercial purposes are displayed, providers of information society services may only collect and use the personal data of recipients who have given their consent as defined in Article 4, point (11), of Regulation (EU) 2016/679 explicitly to such collection and use. Refusing consent shall be no more difficult or time-consuming to the recipient than giving consent. Providers shall not use a method that is designed with the purpose or has the effect of subverting or impairing a recipient's free decision on whether to consent. Recipients whose terminal equipment signals that they object to the processing of personal data when using information society services pursuant to Article 21(5) of Regulation (EU) 2016/679 shall not be asked for consent.**

**3. Where access to a service requires consent as referred to in paragraph 2 and a recipient has refused to give such consent, the recipient shall be given other fair and reasonable options to access the service.**

**4. The personal data referred to in paragraph 2 shall not be collected or used for the purpose of**

**(a) targeting recipients based on the actual or likely racial or ethnic origin, the political opinions, the religious or philosophical beliefs, the trade union membership, the health, the sex life or the sexual orientation of a recipient, or**

**(b) targeting recipients below the age of 18.**

**5. This Articles shall not prevent**

*information society services from determining the recipients to whom advertisements are displayed on the basis of contextual information such as the editorial content in which the advertisement is displayed, keywords, or the geographical region of the recipients to whom an advertisement is displayed.*

## **Amendment 59**

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

*Text proposed by the Commission*

*Amendment*

**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.*

*deleted*

## **Amendment 60**

### **Proposal for a regulation Article 4 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

**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.

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

## **Amendment 61**

### **Proposal for a regulation Article 5 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4.** This Article shall not affect the

**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.

possibility for a court, in accordance with Member States' legal systems, of requiring the service provider to terminate or prevent an infringement.

## Amendment 62

### Proposal for a regulation Article 6

*Text proposed by the Commission*

*Amendment*

#### *Article 6*

*deleted*

#### *Voluntary own-initiative investigations and legal compliance*

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

## Amendment 63

### 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 active fact-finding *or automated content moderation* obligations

## Amendment 64

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

*Text proposed by the Commission*

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.

*Amendment*

No general obligation, ***neither de jure nor de facto***, to monitor the information which providers of intermediary services transmit or store, nor actively to seek facts or circumstances indicating illegal activity ***or to prevent it*** shall be imposed on those providers.

**Amendment 65**

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

*Text proposed by the Commission*

*Amendment*

***Providers of intermediary services shall not be obliged to use automated tools for content moderation or for monitoring the behaviour of a large number of natural persons.***

**Amendment 66**

**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 ***via a secure communications channel*** of an order to act against ***one or more*** specific ***items*** of illegal content, issued by ***a*** national judicial ***authority***, 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 ***order***, without undue delay, specifying the action taken and the moment when the action was taken.

**Amendment 67**

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

*Text proposed by the Commission*

*Amendment*

***This Article shall apply mutatis mutandis in respect of competent administrative authorities ordering online platforms to act against traders unlawfully promoting or offering products or services in the Union.***

**Amendment 68**

**Proposal for a regulation**  
**Article 8 – paragraph 2 – point a – introductory part**

*Text proposed by the Commission*

*Amendment*

(a) the ***orders*** contains the following elements:

(a) the ***order*** contains the following elements:

**Amendment 69**

**Proposal for a regulation**  
**Article 8 – paragraph 2 – point a – indent -1 (new)**

*Text proposed by the Commission*

*Amendment*

— ***the identification details of the judicial authority issuing the order, including the date, time stamp and electronic signature of the authority, that allows the recipient to authenticate the order;***

**Amendment 70**

**Proposal for a regulation**  
**Article 8 – paragraph 2 – point a – indent -1 a (new)**

*Text proposed by the Commission*

*Amendment*

— ***a reference to the legal basis for***

*the order;*

## Amendment 71

### Proposal for a regulation

#### Article 8 – paragraph 2 – point a – indent 1

*Text proposed by the Commission*

— a statement of reasons explaining why the information is illegal content, by reference to the specific provision of Union or national law infringed;

*Amendment*

— ***a sufficiently detailed*** statement of ***clear*** reasons explaining why the information is illegal content, by reference to the specific provision of Union or national law infringed;

## Amendment 72

### Proposal for a regulation

#### Article 8 – paragraph 2 – point a – indent 3

*Text proposed by the Commission*

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

*Amendment*

— ***clear and user-friendly*** information about redress ***mechanisms*** available to the provider of the service and to the recipient of the service who provided the content, ***including information about effective remedies, as well as the deadlines for appeal;***

## Amendment 73

### Proposal for a regulation

#### Article 8 – paragraph 2 – point a – indent 3 a (new)

*Text proposed by the Commission*

*Amendment*

— ***where necessary and proportionate, the decision not to disclose information about the removal of or disabling of access to the content for reasons of public security, such as the prevention, investigation, detection and prosecution of serious crime, for as long as necessary, but not exceeding six weeks***

*from that decision.*

#### **Amendment 74**

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

##### **Article 8 – paragraph 2 – point b**

*Text proposed by the Commission*

(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;

*Amendment*

(b) the territorial scope of ***an order addressed to a provider that has its main establishment in the Member State issuing 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;

#### **Amendment 75**

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

##### **Article 8 – paragraph 2 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

***(ba) the territorial scope of an order addressed to a provider that has its main establishment in another Member State is limited to the territory of the Member State issuing the order;***

#### **Amendment 76**

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

##### **Article 8 – paragraph 2 – point b b (new)**

*Text proposed by the Commission*

*Amendment*

***(bb) the territorial scope of an order addressed to a provider or its representative that has its main establishment outside the Union is limited to the territory of the Member State issuing the order;***

## Amendment 77

### Proposal for a regulation

#### Article 8 – paragraph 2 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***First subparagraph, points (ba) and (bb), shall not apply where online platforms are ordered to act against traders established in the same Member State as the issuing authority, that are unlawfully promoting or offering products or services in the Union.***

## Amendment 78

### Proposal for a regulation

#### Article 8 – paragraph 3

*Text proposed by the Commission*

*Amendment*

3. The Digital Services Coordinator from the Member State of the ***judicial or administrative*** authority issuing the order shall, without undue delay, transmit a copy of the orders referred to in paragraph 1 to all other Digital Services Coordinators through the system established in accordance with Article 67.

3. The Digital Services Coordinator from the Member State of the authority issuing the order shall, without undue delay, transmit a copy of the orders referred to in paragraph 1 to all other Digital Services Coordinators through the system established in accordance with Article 67.

## Amendment 79

### Proposal for a regulation

#### Article 8 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

***4a. Member States shall ensure that the judicial authorities may, at the request of an applicant whose rights are infringed by illegal content being accessible, issue against the relevant provider of hosting services an order in accordance with this Article to remove or disable access to that***

*content, including by way of an interlocutory injunction.*

## Amendment 80

### 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 *via a secure communications channel* of an order to provide a specific item of information about one or more specific individual recipients of the service, issued by *a* national judicial *authority* on the basis of the applicable Union or national law, in conformity with Union law, *for the purposes of preventing, investigating, detecting and prosecuting serious crime or preventing serious threats to public security* inform *via a secure communications channel and* without undue delay the authority of issuing the order of the effect given to the order, *and, where no effect has been given to the order, a statement explaining the reasons.*

## Amendment 81

### Proposal for a regulation

#### Article 9 – paragraph 2 – point -a (new)

*Text proposed by the Commission*

*Amendment*

*(-a) the order is issued for the purpose of preventing, investigating, detecting and prosecuting serious crime or preventing serious threats to public security;*

## Amendment 82

### Proposal for a regulation

#### Article 9 – paragraph 2 – point -a a (new)

*Text proposed by the Commission*

*Amendment*

**(-aa) the order seeks information on a suspect or suspects of serious crime or of a serious threat to public security;**

#### **Amendment 83**

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

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

*Text proposed by the Commission*

*Amendment*

— **the identification details of the judicial authority issuing the order and authentication of the order by that authority, including the date, time stamp and electronic signature of the authority issuing the order to provide information;**

#### **Amendment 84**

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

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

*Text proposed by the Commission*

*Amendment*

— **a reference to the legal basis for the order;**

#### **Amendment 85**

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

##### **Article 9 – paragraph 2 – point a – indent 1**

*Text proposed by the Commission*

*Amendment*

— 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,**

— a **sufficiently detailed** statement of **clear** reasons explaining the objective for which the information is required, **setting out** why the **order** is necessary and **proportional, taking due account of the impact of the order on the fundamental rights of the specific recipient of the**

*unless such a statement cannot be provided for reasons related to the prevention, investigation, detection and prosecution of criminal offences;*

*service whose data is sought and of the seriousness of the offence;*

#### **Amendment 86**

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

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

*Text proposed by the Commission*

*Amendment*

— *a unique identifier of the recipients of the service on whom information is sought;*

#### **Amendment 87**

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

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

*Text proposed by the Commission*

*Amendment*

— *where the information sought constitutes personal data within the meaning of Article 4, point (1), of Regulation (EU) 2016/679 or Article 3, point (1), of Directive (EU) 2016/680, a justification that the order is in accordance with applicable data protection law;*

#### **Amendment 88**

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

##### **Article 9 – paragraph 2 – point a – indent 2**

*Text proposed by the Commission*

*Amendment*

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

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

#### **Amendment 89**

**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;

**Amendment 90**

**Proposal for a regulation**  
**Article 9 – paragraph 3**

*Text proposed by the Commission*

3. The Digital Services Coordinator from the Member State of the national judicial **or administrative** authority issuing the order shall, without undue delay, transmit a copy of the order referred to in paragraph 1 to all Digital Services Coordinators through the system established in accordance with Article 67.

*Amendment*

3. The Digital Services Coordinator from the Member State of the national judicial authority issuing the order shall, without undue delay, transmit a copy of the order referred to in paragraph 1 to all Digital Services Coordinators through the system established in accordance with Article 67.

**Amendment 91**

**Proposal for a regulation**  
**Article 9 – 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. **Where information is sought for the purpose of preventing, investigating, detecting or prosecuting serious crime**, 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 92**

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

*Text proposed by the Commission*

*Amendment*

**4a.** *The provider shall inform, without undue delay, the recipient whose data is being sought. As long as this is necessary and proportionate for the purpose of protecting the fundamental rights of another person, the issuing judicial authority, taking due account of the impact of the order on the fundamental rights of the person whose data is sought, may decide that the provider shall delay informing the recipient. Such a decision shall be duly justified, and specify the duration of the delay which shall not exceed six weeks.*

**Amendment 93**

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

*Text proposed by the Commission*

*Amendment*

**4b.** *This Article shall apply, mutatis mutandis, in respect of competent administrative authorities ordering online platforms to provide the information listed in Article 22 for other purposes than those set out in paragraph 1.*

**Amendment 94**

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

*Text proposed by the Commission*

*Amendment*

**4c.** *Providers of intermediary services shall disclose personal data on recipients of their service requested by public authorities only where the conditions set out in this Article are met.*

## Amendment 95

### Proposal for a regulation Article 9 a (new)

*Text proposed by the Commission*

*Amendment*

#### *Article 9a*

#### *Common European information exchange system*

*The Commission shall adopt implementing acts pursuant to Article 291 of the Treaty on the Functioning of the European Union, establishing a common European information exchange system with secure channels for the handling of authorised cross-border communications, authentication and transmission of the orders referred to in Articles 8 and 9 of this Regulation and, where applicable, of the requested data between the competent judicial authority and the provider. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 70 of this Regulation.*

## Amendment 96

### Proposal for a regulation Article 10 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. Providers of intermediary services shall make public the information necessary to easily identify and communicate with their single points of contact.

2. Providers of intermediary services shall make public the information necessary to easily identify and communicate with their single points of contact, ***and shall ensure that that information is up to date. Providers of intermediary services shall provide that information, including the name, the electronic mail address and telephone number, of their single point of contact, to the Digital Service Coordinator in the***

## Amendment 97

### Proposal for a regulation Article 12 – paragraph 1

#### *Text proposed by the Commission*

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

#### *Amendment*

1. Providers of intermediary services shall include information on 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, unambiguous **and easily comprehensible** language and shall be publicly available in an easily accessible format. ***A summary of the terms and conditions setting out the most important points in concise, clear and unambiguous language, shall be made publicly available. Providers of intermediary services shall offer the possibility of easily opting-out from optional clauses, and inform about the remedies available.***

## Amendment 98

### 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

#### *Amendment*

2. Providers of intermediary services shall act in a **fair, transparent, coherent, predictable, non-discriminatory**, diligent, **non-arbitrary** 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

fundamental rights of the recipients of the service as enshrined in the Charter.

parties involved, including the applicable fundamental rights of the recipients of the service as enshrined in the Charter.

## **Amendment 99**

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

*Text proposed by the Commission*

*Amendment*

**2a. The terms and conditions of providers of intermediary services may exclude the hosting of lawful information from those services or otherwise limit the access to information that is lawful or suspend or terminate the provision of the service to recipients for providing lawful information only where the information is incompatible with the declared purpose of the service.**

## **Amendment 100**

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

*Text proposed by the Commission*

*Amendment*

**2b. Terms and conditions of providers of intermediary services shall respect the essential principles of fundamental rights enshrined in the Charter.**

## **Amendment 101**

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

*Text proposed by the Commission*

*Amendment*

**2c. Terms that do not comply with this Article shall not be binding on recipients.**

## Amendment 102

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

*Text proposed by the Commission*

*Amendment*

**2d. Very large online platforms as defined in Article 25 shall publish their terms and conditions in the official languages of all Member States in which they offer their services.**

## Amendment 103

### Proposal for a regulation Article 13 – paragraph 1 – introductory part

*Text proposed by the Commission*

*Amendment*

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

1. Providers of intermediary services shall publish **in an easily accessible manner**, 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 **be searchable and archived for further use. Those reports shall include breakdowns at Member State level and**, in particular, information on the following, as applicable:

## Amendment 104

### Proposal for a regulation Article 13 – paragraph 1 – point a

*Text proposed by the Commission*

*Amendment*

(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**;

(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, **the action taken**, and the average time needed for taking the action;

## Amendment 105

### Proposal for a regulation

#### Article 13 – paragraph 1 – point a a (new)

*Text proposed by the Commission*

*Amendment*

**(aa) the complete number of content moderators allocated for each official language per Member State, and a qualitative description of whether and how automated tools for content moderation are used in each official language;**

## Amendment 106

### Proposal for a regulation

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

*Text proposed by the Commission*

*Amendment*

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

(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 **and median** time needed for taking the action;

## Amendment 107

### Proposal for a regulation

#### Article 13 – paragraph 1 – point c

*Text proposed by the Commission*

*Amendment*

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

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

recipients' ability to provide information, categorised by the type of reason and basis for taking those measures;

recipients' ability to provide information, categorised by the type of reason and basis for taking those measures, ***as well as the measures taken to qualify content moderators and to ensure that non-infringing content is not affected;***

## Amendment 108

### 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, the basis for those complaints, decisions taken in respect of those complaints, the average ***and median*** time needed for taking those decisions and the number of instances where those decisions were reversed.

## Amendment 109

### Proposal for a regulation

#### Article 14 – paragraph 1

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 110

### Proposal for a regulation

## Article 14 – paragraph 2 – introductory part

*Text proposed by the Commission*

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

*Amendment*

2. The 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 ***unambiguously, without reasonable doubt,*** identify the ***manifest*** 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 111

### Proposal for a regulation

#### Article 14 – paragraph 2 – point b

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 112

### Proposal for a regulation

#### Article 14 – paragraph 2 – point c a (new)

*Text proposed by the Commission*

*Amendment*

***(ca) where an alleged infringement of an intellectual property right is notified, evidence that the entity submitting the notice is the rights holder of the intellectual property right that is allegedly infringed or is authorised to act on behalf of the rights holder ;***

## **Amendment 113**

### **Proposal for a regulation**

#### **Article 14 – paragraph 2 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*The individual or entity submitting the notice may optionally provide the information set out in point (c), which shall not be disclosed to the content provider except in cases of alleged infringements of intellectual property rights referred to in point (ca).*

## **Amendment 114**

### **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.*

*deleted*

## **Amendment 115**

### **Proposal for a regulation**

#### **Article 14 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**4a.** *Upon receipt of the notice, the service provider shall, using available contacts details, notify the information providers using available contact details of the elements referred to in paragraph 2 and give them the opportunity to reply before taking a decision.*

## **Amendment 116**

**Proposal for a regulation**  
**Article 14 – paragraph 4 b (new)**

*Text proposed by the Commission*

*Amendment*

**4b. Notified information shall remain accessible until a decision is taken in respect thereof.**

**Amendment 117**

**Proposal for a regulation**  
**Article 14 – paragraph 4 c (new)**

*Text proposed by the Commission*

*Amendment*

**4c. The provider shall ensure that decisions on notices are taken by qualified staff to whom adequate initial and ongoing training on the applicable law and international human rights standards as well as appropriate working conditions shall be provided.**

**Amendment 118**

**Proposal for a regulation**  
**Article 14 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

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

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

**Amendment 119**

**Proposal for a regulation**  
**Article 14 – paragraph 6**

*Text proposed by the Commission*

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

*Amendment*

6. Providers of hosting services shall 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 **non-arbitrary and non-discriminatory** manner. Where they use automated means for that processing, they shall include information on such use in the notification referred to in paragraph 4. ***That shall include meaningful information about the procedure followed, the technology used, and the criteria and reasoning supporting the decision.***

**Amendment 120**

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

*Text proposed by the Commission*

*Amendment*

***6a. The mechanism referred to in paragraph 1 shall be provided free of charge. Where notices are manifestly unfounded or excessive, in particular because of their repetitive character, the provider of hosting services may refuse to act on the request.***

**Amendment 121**

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

*Text proposed by the Commission*

*Amendment*

1. Where a provider of hosting services decides to remove or disable access to specific items of information provided by the recipients of the service, irrespective of the means used for **detecting, identifying or** removing or

1. Where a provider of hosting services decides to remove or disable access to, **or restrict proposals by recommender systems of**, specific items of information provided by the recipients of the service, irrespective of the means used

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.

for removing or disabling access to, **or restricting proposals of**, that information, it shall inform the recipient **and the notifier, to the extent they provided contact details**, at the latest at the time of the removal or disabling of access, **or the restricting of proposals**, of the decision and provide a clear and specific statement of reasons for that decision.

## Amendment 122

### 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, or the disabling of access to, **or the restricting of proposals by recommender systems of**, the information and, where relevant, the territorial scope of the disabling of access **or the restricting of proposals**;

## Amendment 123

### Proposal for a regulation

#### Article 15 – paragraph 2 – point c

*Text proposed by the Commission*

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

*Amendment*

(c) where applicable, information on the means **used** in taking the decision, **and in any case** where the decision was taken in respect of content detected or identified using automated means;

## Amendment 124

### Proposal for a regulation

#### Article 15 – paragraph 2 – point f

*Text proposed by the Commission*

*Amendment*

(f) information on the redress possibilities available to the recipient of the service in respect of the decision, in particular through internal complaint-handling mechanisms, out-of-court dispute settlement and judicial redress.

(f) **clear and user-friendly** information on the redress possibilities available to the recipient of the service in respect of the decision, in particular through internal complaint-handling mechanisms, out-of-court dispute settlement and judicial redress.

## Amendment 125

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

*Text proposed by the Commission*

*Amendment*

**4a. The obligations pursuant to this Article shall not apply**

**(a) to manifestly illegal content if the recipient has repeatedly provided manifestly illegal content in the past; or**

**(b) where the removal or disabling of access, as referred to in paragraph 1 of this Article, is based on an order in accordance with Article 8 and the competent authority that issued that order decides that it is necessary and proportionate that there be no disclosure for reasons of public security, such as the prevention, investigation, detection or prosecution of serious criminal offences, paragraphs 1-4 of this Article shall be suspended for as long as necessary, but not exceeding six weeks from that decision, and the hosting service provider shall not disclose any information. That competent authority may extend that period by a further six weeks, where such non-disclosure continues to be justified.**

## Amendment 126

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

*Text proposed by the Commission*

*Amendment*

**4b. Paragraphs 2 and 4 shall not apply to providers of hosting services that qualify as micro enterprises within the meaning of the Annex to Recommendation 2003/361/EC.**

## **Amendment 127**

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

*Text proposed by the Commission*

*Amendment*

#### **Article 15a**

##### **Content moderation**

**1. Providers of hosting services shall not use ex-ante control measures based on automated tools or upload-filtering of information for content moderation, except where**

**(a) automated content moderation decisions to remove or disable access to, or restrict proposals by recommender systems of, specific items are limited to information which is identical to information previously classified by qualified staff or a judicial authority as manifestly illegal irrespective of its context, the identity and the intention of the recipient providing it;**

**(b) the technology used is in itself sufficiently reliable in that it limits to the maximum extent possible the rate of errors where information is wrongly assumed to be identical to information previously classified as illegal content;**

**(c) the technology used does not prevent the accessibility and proposals by recommender systems of information which is not illegal content; and**

**(d) automated content moderation decisions to remove or disable access to,**

*or restrict proposals by recommender systems of, specific items are reviewed expeditiously by qualified staff and, in the absence of expeditious human confirmation, are no longer effective.*

*Where providers of hosting services otherwise use automated tools for content moderation, they shall ensure that qualified staff decide on any action to be taken and that legal content which does not infringe the terms and conditions set out by the providers is not affected. The provider shall ensure that adequate initial and ongoing training on the applicable legislation and international human rights standards as well as appropriate working conditions are provided to staff.*

*2. Paragraph 1 shall not apply to moderating information which has most likely been uploaded by automated means.*

*3. Providers of hosting services shall act in a fair, transparent, coherent, predictable, non-discriminatory, diligent, non-arbitrary and proportionate manner when moderating content, with due regard to the rights and legitimate interests of all parties involved, including the fundamental rights of the recipients of the service as enshrined in the Charter.*

## **Amendment 128**

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

*Text proposed by the Commission*

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

*Amendment*

This Section shall not apply to online platforms that qualify as micro or small enterprises within the meaning of the Annex to Recommendation 2003/361/EC, ***unless they have more than 4,5 million users in the Union.***

## **Amendment 129**

## Proposal for a regulation

### Article 17 – paragraph 1 – introductory part

*Text proposed by the Commission*

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

*Amendment*

1. Online platforms shall provide recipients of the service ***and qualified entities as defined in Article 3, point (4), of Directive (EU) 2020/1828<sup>1a</sup>***, 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:

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***<sup>1a</sup> Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC (OJ L 409, 4.12.2020, p. 1)***

## Amendment 130

### Proposal for a regulation

#### Article 17 – paragraph 1 – point -a (new)

*Text proposed by the Commission*

*Amendment*

***(-a) decisions taken not to act after having received a notice pursuant to Article 14;***

## Amendment 131

### Proposal for a regulation

#### Article 17 – paragraph 1 – point a

*Text proposed by the Commission*

*Amendment*

(a) decisions to remove or disable

(a) decisions to remove or disable

access to the information;

access to, *or restrict proposals by recommender systems of*, the information;

#### Amendment 132

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

*Text proposed by the Commission*

*Amendment*

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

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

#### Amendment 133

##### Proposal for a regulation Article 17 – paragraph 1 – point c a (new)

*Text proposed by the Commission*

*Amendment*

*(ca) any other decisions that adversely affect the recipient's access to significant features of the platform's regular services, including monetisation of information.*

#### Amendment 134

##### Proposal for a regulation Article 17 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. Online platforms shall ensure that their internal complaint-handling systems are easy to access, user-friendly and enable and facilitate the submission of sufficiently precise and adequately substantiated complaints.

2. Online platforms shall ensure that their internal complaint-handling systems are easy to access, user-friendly and enable and facilitate the submission of sufficiently precise and adequately substantiated complaints. ***Online platforms shall make the rules of procedure of their internal complaint handling system publicly accessible. When a recipient of the service wants to present a complaint, the online platform shall make these rules easily accessible to him or her in a clear, user-***

*friendly and easily accessible manner.*

## Amendment 135

### Proposal for a regulation Article 17 – paragraph 3

*Text proposed by the Commission*

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

*Amendment*

3. Online platforms shall handle complaints submitted through their internal complaint-handling system in a timely, diligent and **non-arbitrary** manner. Where a complaint **against a decision referred to in paragraph 1, points (a) to (ca)**, contains sufficient grounds for the online platform to consider that the information to which the complaint relates is not **manifestly** 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 136

### Proposal for a regulation Article 17 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

**3a. Upon receipt of a complaint against a decision pursuant to point (-a) of Paragraph 1, the online platform shall notify the information provider of the complaint, using available contact details, and give the information provider the opportunity to reply before taking a decision.**

## Amendment 137

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

*Text proposed by the Commission*

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

*Amendment*

4. Online platforms shall inform complainants without undue delay of the decision they have taken in respect of the information to which the complaint relates and shall inform complainants of the possibility of out-of-court dispute settlement provided for in Article 18 and other available redress possibilities. ***In the case of a complaint against a decision pursuant to point (-a) of Paragraph 1, this shall apply, mutatis mutandis, to information providers who have provided contact details. In case the decision referred to in paragraph 1 is sustained by the internal complaint-handling system, detailed explanation on how it is in line with the platform's terms and conditions or applicable law shall be provided.***

**Amendment 138**

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

*Text proposed by the Commission*

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

*Amendment*

Recipients of the service addressed by the decisions referred to in Article 17(1) ***and qualified entities as defined in Article 3, point (4), of Directive (EU) 2020/1828,*** shall be entitled to select any out-of-court dispute ***settlement body*** that has been certified in accordance with paragraph 2 in order to resolve disputes relating to those decisions, including complaints that could not be resolved by means of the internal complaint-handling system referred to in that Article. Online platforms shall engage, in good faith, with the body selected with a view to resolving the dispute and shall be bound by the decision taken by the body.

## Amendment 139

### 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 ***seek*** redress against the decision ***of the online platform before a court in accordance with the applicable law, as well as the right of the online platform concerned to seek redress against the decision of the out-of-court dispute settlement body*** before a court in accordance with the applicable law.

## Amendment 140

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

*Text proposed by the Commission*

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

*Amendment*

(a) it is impartial and independent of online platforms and recipients of the service provided by the online platforms ***and is legally distinct from and functionally independent of the government of the Member State and any other private body;***

## Amendment 141

### Proposal for a regulation Article 18 – paragraph 2 – subparagraph 1 – point a a (new)

*Text proposed by the Commission*

*Amendment*

***(aa) it includes legal experts;***

## Amendment 142

**Proposal for a regulation**

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

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 143**

**Proposal for a regulation**

**Article 18 – paragraph 2 – subparagraph 1 – 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 ***that are clearly visible and easily accessible to the public.***

**Amendment 144**

**Proposal for a regulation**

**Article 18 – paragraph 3 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Out-of-court dispute settlement procedures shall preferably be free of charge for the recipient of the service. In the event that costs are applied, the procedure shall be accessible, attractive and inexpensive for recipients of the service. To that end, costs should not exceed a nominal fee.***

**Amendment 145**

**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 the fees, or the mechanisms used to determine the fees ***publicly available, and shall make them*** known to the recipient of the services and the online platform concerned before engaging in the dispute settlement.

**Amendment 146**

**Proposal for a regulation**  
**Article 18 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***5a. This article is without prejudice to the provisions laid down in Article 43 concerning the ability of recipients of the services to file complaints with the Digital Services Coordinator of their country of residence or, in the case of very large online platforms, the Commission.***

**Amendment 147**

**Proposal for a regulation**  
**Article 18 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 18a***

***Judicial redress***

***Member States shall ensure that their judicial authorities, at the request of a recipient of the service who is subject to the decision of an online platform and in accordance with the relevant national law, are entitled to review the legality of such a decision and, where appropriate, to issue interlocutory injunctions, where the***

*decision:*

*(a) amounts to removing or disabling access to or restricting proposals by recommender systems of information provided by that recipient;*

*(b) amounts to suspending or terminating the provision of the service, in whole or in part, to that recipient;*

*(c) amounts to suspending or terminating the recipient's account; or*

*(d) adversely affects the recipient's access to significant features of the online platform's regular services, including to monetisation of information.*

## Amendment 148

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 149

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 150

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 151

### Proposal for a regulation Article 19 – paragraph 5

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 152

### Proposal for a regulation Article 19 – paragraph 6

*Text proposed by the Commission*

*Amendment*

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 of 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

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 of information received *from* 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

## Amendment 153

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

#### *Text proposed by the Commission*

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

#### *Amendment*

1. Online platforms shall ***be entitled to*** 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, ***or for which they have received two or more orders to act regarding illegal content in the previous 12 months, unless those orders were later overturned.***

## Amendment 154

### 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

#### *Amendment*

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

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

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

## **Amendment 155**

### **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 156**

### **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. Online platforms shall set out, in a clear and **user-friendly** 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 157**

### **Proposal for a regulation**

#### **Article 21 – paragraph 1**

*Text proposed by the Commission*

1. Where an online platform becomes aware of any information giving rise to a suspicion that a serious criminal offence

*Amendment*

1. 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 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*.

involving a threat to the life of persons *is imminent*, it shall promptly inform the law enforcement or judicial authorities of the Member State or Member States concerned of its suspicion and provide *the* information *that gave rise to the suspicion*.

## Amendment 158

### Proposal for a regulation

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 159

### Proposal for a regulation

#### Article 21 – paragraph 2 – subparagraph 2

*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*

For the purpose of this Article, the Member State concerned shall be the Member State where the offence is suspected to *be imminent*, or the Member State where *a* suspected offender resides or is located, or the Member State where *a* victim of the suspected offence resides or is located.

## Amendment 160

### Proposal for a regulation

#### Article 22 – paragraph 1 – point b

*Text proposed by the Commission*

(b) a copy of the identification document of the trader or any other electronic identification as defined by Article 3 of Regulation (EU) No 910/2014 of the European Parliament and of the Council<sup>50</sup> ;

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<sup>50</sup> Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC

**Amendment 161**

**Proposal for a regulation  
Article 22 – paragraph 4**

*Text proposed by the Commission*

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

**Amendment 162**

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

*Text proposed by the Commission*

(b) the number of suspensions imposed

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*Amendment*

(b) a copy of the identification document of the trader ***on which the name, any information concerning the address contained in the document, the issuing authority and the date of validity is visible*** or any other electronic identification as defined by Article 3 of Regulation (EU) No 910/2014 of the European Parliament and of the Council<sup>50</sup> ;

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<sup>50</sup> Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC

*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. ***The information referred to in paragraph 1, point (b), shall be deleted as soon as it has been compared to the information referred to in point (a) of that paragraph.***

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

pursuant to Article 20, distinguishing **clearly** between suspensions enacted **after the receipt of multiple orders to act**, for **for** the provision of manifestly illegal content, **for** the submission of manifestly unfounded notices and **for** the submission of manifestly unfounded complaints;

### Amendment 163

#### Proposal for a regulation

##### Article 23 – paragraph 1 – point c

*Text proposed by the Commission*

(c) any use made of automatic means for the purpose of content moderation, including a specification of the precise purposes, indicators of the accuracy of the automated means in fulfilling those purposes and any safeguards applied.

*Amendment*

(c) any use made of automatic means for the purpose of content moderation, including a specification of the precise purposes, indicators of the accuracy of the automated means in fulfilling those purposes and any safeguards applied, **including human review, as well as meaningful information about the procedure followed, the criteria and reasoning applied, and the logic involved in the automated decision-making.**

### Amendment 164

#### 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 is an advertisement, **including through prominent and harmonised marking;**

### Amendment 165

#### Proposal for a regulation

##### Article 24 – paragraph 1 – 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 ***and, if different, the natural or legal person who finances the advertisement;***

## **Amendment 166**

### **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 ***target or*** determine the recipient to whom the advertisement is displayed.

## **Amendment 167**

### **Proposal for a regulation**

#### **Article 24 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***The Commission shall adopt an implementing act establishing harmonised specifications for the marking referred to in paragraph 1, point (a). That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 70 of this Regulation.***

## **Amendment 168**

### **Proposal for a regulation**

#### **Article 24 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***Online platforms shall inform the natural***

*or legal person on whose behalf the advertisement is displayed where the advertisement has been displayed. They shall also inform competent public authorities, upon their request.*

## Amendment 169

### Proposal for a regulation

#### Article 24 – paragraph 1 c (new)

*Text proposed by the Commission*

*Amendment*

*Online platforms that display advertising on their online interfaces shall give easy access to competent public authorities, and to NGOs and researchers that act in the public interest, upon their request, to information related to direct and indirect payments or any other remuneration received to display the corresponding advertisement on their online interfaces.*

## Amendment 170

### Proposal for a regulation

#### Article 26 – title

*Text proposed by the Commission*

*Amendment*

*Risk* assessment

*Impact* assessment

## Amendment 171

### Proposal for a regulation

#### Article 26 – paragraph 1 – introductory part

*Text proposed by the Commission*

*Amendment*

1. Very large online platforms shall identify, analyse and assess, from the date of application referred to in the second subparagraph of Article 25(4), at least once a year thereafter, **any significant systemic risks stemming from the** functioning and

1. Very large online platforms shall **effectively and diligently** 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 **and always before launching new**

use made of their services in the Union. This *risk* assessment shall be specific to their services and shall include the following systemic risks:

*services, the probability and severity of any adverse impact of the design, functioning and use made of their services in the Union, in particular on fundamental rights, including any systemic impact at the level of a Member State.* This *impact* assessment shall be specific to their services and shall include the following systemic risks:

## Amendment 172

### 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 of illegal content through their services, *where the content is manifestly illegal or where orders pursuant to Article 8 have been received;*

## Amendment 173

### Proposal for a regulation Article 26 – paragraph 1 – point b

*Text proposed by the Commission*

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

*Amendment*

(b) any negative effects for the exercise of fundamental *rights, in particular the* rights to respect for private and family life, *to the protection of personal data and to* freedom of expression and information, the prohibition of discrimination and the rights of the child *as well as to the freedom of the press*, as enshrined in the Charter;

## Amendment 174

### 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) ***malfunctioning or*** intentional manipulation of their service, including by means of inauthentic use, ***without prejudice to Article 2a,*** or automated exploitation of the service, ***or undisclosed paid influence,*** with an actual or foreseeable negative effect on ***fundamental rights.***

**Amendment 175**

**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 ***impact*** assessments, very large online platforms shall take into account, in particular, ***the effects of*** their content moderation systems, recommender systems and systems for selecting, ***targeting,*** and displaying advertisement, including the potentially rapid and wide dissemination of ***manifestly*** illegal content and of information that is incompatible with their terms and conditions.

**Amendment 176**

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

*Text proposed by the Commission*

*Amendment*

***2a. Very large online platforms shall communicate the outcome of the impact assessment and supporting documents to the Board of Digital Service Coordinators and the Digital Services Coordinator of their Member State of establishment. A summary version of the impact assessment shall be made publicly***

*available in an easily accessible format.*

## **Amendment 177**

### **Proposal for a regulation**

#### **Article 27 – title**

*Text proposed by the Commission*

#### **Mitigation of risks**

*Amendment*

#### **Specific measures to mitigate adverse impacts**

## **Amendment 178**

### **Proposal for a regulation**

#### **Article 27 – paragraph 1 – introductory part**

*Text proposed by the Commission*

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

*Amendment*

1. Very large online platforms shall put in place **transparent, appropriate**, proportionate and effective mitigation measures tailored to **address** the specific **adverse impact** identified pursuant to Article 26, **where mitigation is possible without adversely impacting other fundamental rights**. Such measures may include, where applicable:

## **Amendment 179**

### **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 **and online interfaces**, their decision-making processes, the features or functioning of their services, or their terms and conditions;

## **Amendment 180**

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

*Text proposed by the Commission*

*Amendment*

***(aa) appropriate technical and operational measures or capacities, such as appropriate staffing or technical means to expeditiously remove or disable access to illegal content which the platform is aware of or has received an order to act upon;***

**Amendment 181**

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

*Text proposed by the Commission*

*Amendment*

***(ab) easily accessible and user-friendly mechanisms for users to report or flag allegedly illegal content, and mechanisms for user moderation;***

**Amendment 182**

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

*Text proposed by the Commission*

*Amendment*

(b) targeted measures aimed at limiting the display of advertisements in association with the service they provide;

(b) targeted measures aimed at limiting ***or discontinuing*** the display of advertisements in association with the service they provide ***for specific content***;

**Amendment 183**

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

*Text proposed by the Commission*

*Amendment*

(c) reinforcing the internal processes or supervision of any of their activities in particular as regards detection *of systemic risk*;

(c) reinforcing the internal processes or supervision of any of their activities in particular as regards detection *and resolution of adverse impacts*;

#### **Amendment 184**

##### **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 185**

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

##### **Article 27 – paragraph 1 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*The decision as to the choice of measures shall remain with the very large online platform.*

#### **Amendment 186**

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

##### **Article 27 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*1a. Where a very large online platform decides not to put in place any of the mitigating measures listed in paragraph 1 of this Article, it shall provide a written explanation to the independent auditors setting out the reasons why those*

*measures were not put in place so as to enable the preparation of the audit report pursuant to Article 28(3).*

## **Amendment 187**

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

*Text proposed by the Commission*

(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;

*Amendment*

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

## **Amendment 188**

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

*Text proposed by the Commission*

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

*Amendment*

(b) best practices for very large online platforms to mitigate the **adverse impacts** identified.

## **Amendment 189**

### **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

*Amendment*

3. The Commission, in cooperation with the Digital Services Coordinators, may issue general **recommendations** on the application of paragraph 1 in relation to specific **impacts**, in particular to present best practices and **propose** 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.

fundamental rights enshrined in the Charter of all parties involved. **Before adopting** those **recommendations** the Commission shall organise public consultations.

## Amendment 190

### 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 **obligations set out in Chapter III, in particular the quality of the identification, analysis and assessment of the adverse impacts referred to in Article 26, and the necessity, proportionality and effectiveness of the impact mitigation measures referred to in Article 27.**

## Amendment 191

### Proposal for a regulation

#### Article 28 – paragraph 1 – point a

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

(a) **the obligations set out in Chapter III;**

##### *Amendment*

**deleted**

## Amendment 192

### Proposal for a regulation

#### Article 28 – paragraph 1 – point b

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

(b) **any commitments undertaken pursuant to the codes of conduct referred to in Articles 35 and 36 and the crisis protocols referred to in Article 37.**

##### *Amendment*

**deleted**

## Amendment 193

### Proposal for a regulation

#### Article 28 – paragraph 1 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***Very large online platforms shall ensure auditors have access to all relevant information to perform their duties.***

## Amendment 194

### Proposal for a regulation

#### Article 28 – paragraph 2 – point a

*Text proposed by the Commission*

*Amendment*

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

(a) are independent from, ***and do not have conflicts of interest with,*** the very large online platform concerned ***and other very large online platforms;***

## Amendment 195

### Proposal for a regulation

#### Article 28 – paragraph 2 – point c

*Text proposed by the Commission*

*Amendment*

(c) have proven objectivity and professional ethics, based in particular on adherence to codes of practice or appropriate standards.

(c) have proven objectivity and professional ethics, based in particular on adherence to ***relevant*** codes of practice or appropriate standards.

## Amendment 196

### Proposal for a regulation

#### Article 28 – paragraph 3 – point d a (new)

*Text proposed by the Commission*

*Amendment*

***(da) a description of specific elements***

*where the auditor could not reach a conclusion, and an explanation of why these elements could not be conclusively audited;*

#### Amendment 197

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

*Text proposed by the Commission*

*Amendment*

*(db) a description of the third-parties consulted as part of the audit;*

#### Amendment 198

##### Proposal for a regulation Article 28 – paragraph 3 – point e

*Text proposed by the Commission*

*Amendment*

(e) an audit opinion on whether the very large online platform subject to the audit complied with the obligations and with the commitments referred to in paragraph 1, either positive, positive with comments or negative;

(e) an audit opinion on whether the very large online platform subject to the audit **meaningfully** complied with the obligations and with the commitments referred to in paragraph 1, either positive, positive with comments or negative;

#### Amendment 199

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

*Text proposed by the Commission*

*Amendment*

4. Very large online platforms receiving an audit report that is not positive shall take due account of any operational recommendations addressed to them **with a view to take the necessary measures to implement them**. They shall, within one month from receiving those recommendations, adopt an audit implementation report **setting out those**

4. Very large online platforms receiving an audit report that is not positive shall take due account of any operational recommendations addressed to them. They shall, within one month from receiving those recommendations, adopt an audit implementation report. Where they do not implement the operational recommendations, they shall justify in the

**measures.** Where they do not implement the operational recommendations, they shall justify in the audit implementation report the reasons for not doing so and set out any alternative measures they may have taken to address any instances of non-compliance identified.

audit implementation report the reasons for not doing so and set out any alternative measures they may have taken to address any instances of non-compliance identified.

## Amendment 200

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 201

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

*Text proposed by the Commission*

*Amendment*

**2a. Very large online platforms that use recommender systems shall allow the recipient of the service to have information presented to them in chronological order only.**

## Amendment 202

**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 ***and related payments received, where that information is available;***

**Amendment 203**

**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*

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

**Amendment 204**

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 205

### 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, **three Digital Services Coordinators of destination**, 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 **in the public interest**.

## Amendment 206

### Proposal for a regulation Article 31 – paragraph 3

*Text proposed by the Commission*

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

*Amendment*

3. Very large online platforms shall provide access to data pursuant to paragraphs 1 and 2 through online databases or application programming interfaces, as appropriate. **This shall include personal data only where it is lawfully accessible to the public.**

## Amendment 207

### Proposal for a regulation Article 31 – paragraph 6 – introductory part

*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

*Amendment*

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:

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 **three** reasons:

## Amendment 208

### Proposal for a regulation Article 31 – paragraph 6 – point b

*Text proposed by the Commission*

(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*

(b) giving access to the data will lead to significant vulnerabilities for the security of its service or the protection of confidential information;

## Amendment 209

### Proposal for a regulation Article 31 – paragraph 6 – point b a (new)

*Text proposed by the Commission*

*Amendment*

***(ba) insofar as personal data is concerned, giving access to the data would violate applicable Union or Member State data protection law.***

## Amendment 210

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

*Text proposed by the Commission*

*Amendment*

***7a. Upon completion of their research envisaged in paragraph 2, the vetted researchers shall make their findings publicly available, taking into account the rights and interests of the recipients of the service concerned.***

## Amendment 211

### Proposal for a regulation Article 32 – paragraph 2

*Text proposed by the Commission*

2. Very large online platforms shall only designate **as compliance officers** persons who have the professional qualifications, knowledge, experience and ability necessary to fulfil the tasks referred to in paragraph 3. Compliance officers may either be staff members of, or fulfil those tasks on the basis of a contract with, the very large online platform concerned.

*Amendment*

2. Very large online platforms shall only designate persons who have the professional qualifications, knowledge, experience and ability necessary to fulfil the tasks referred to in paragraph 3 **as compliance officers**. Compliance officers may either be staff members of, or fulfil those tasks on the basis of a contract with, the very large online platform concerned.

## Amendment 212

### Proposal for a regulation Article 33 – paragraph 2 – point a

*Text proposed by the Commission*

(a) a report setting out the results of the **risk** assessment pursuant to Article 26;

*Amendment*

(a) a report setting out the results of the **impact** assessment pursuant to Article 26;

## Amendment 213

### Proposal for a regulation Article 33 – paragraph 2 – point b

*Text proposed by the Commission*

(b) the **related risk** mitigation measures identified and implemented pursuant to Article 27;

*Amendment*

(b) the **specific** mitigation measures identified and implemented pursuant to Article 27;

## Amendment 214

### Proposal for a regulation Article 35 – paragraph 1

*Text proposed by the Commission*

1. The Commission and the Board

*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.

***may*** facilitate the drawing up of ***voluntary*** 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 ***adverse impacts***, in accordance with Union law, in particular on competition and the protection of ***privacy and*** personal data.

## Amendment 215

### 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 ***adverse impacts*** within the meaning of Article 26(1) emerge and concern several very large online platforms, the Commission ***shall*** 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 ***impact*** mitigation measures, as well as a regular reporting framework on any measures taken and their outcomes.

## Amendment 216

### 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***

*Amendment*

***deleted***

*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 217**

##### **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 2, and **may** regularly monitor and evaluate the achievement of their objectives. They shall publish their conclusions.

#### **Amendment 218**

##### **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 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.

*Amendment*

1. The Commission **may** facilitate the drawing up of **voluntary** 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.

## Amendment 219

### Proposal for a regulation

#### Article 36 – paragraph 2 – introductory part

*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:

*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 ***privacy and*** personal data. The Commission shall aim to ensure that the codes of conduct address at least:

## Amendment 220

### 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*

*deleted*

## Amendment 221

### Proposal for a regulation

#### Article 37 – paragraph 1

*Text proposed by the Commission*

1. The Board may recommend the Commission to initiate the drawing up, in accordance with paragraphs 2, 3 and 4, of crisis protocols for addressing crisis situations strictly limited to extraordinary

*Amendment*

1. The Board may recommend the Commission to initiate the drawing up, in accordance with paragraphs 2, 3 and 4, of ***voluntary*** crisis protocols for addressing crisis situations strictly limited to

circumstances affecting public security or public health.

extraordinary circumstances affecting public security or public health.

## **Amendment 222**

### **Proposal for a regulation**

#### **Article 37 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. The Commission **shall** encourage and facilitate very large online platforms and, where appropriate, other online platforms, with the involvement of the Commission, to participate in the drawing up, testing and application of those crisis protocols, which include one or more of the following measures:

*Amendment*

2. The Commission **may** encourage and facilitate very large online platforms and, where appropriate, other online platforms, with the involvement of the Commission, to participate in the drawing up, testing and application of those crisis protocols, which include one or more of the following measures:

## **Amendment 223**

### **Proposal for a regulation**

#### **Article 37 – paragraph 3**

*Text proposed by the Commission*

3. The Commission may involve, as appropriate, Member States' authorities and Union bodies, offices and agencies in drawing up, testing and supervising the application of the crisis protocols. ***The Commission may, where necessary and appropriate, also involve civil society organisations or other relevant organisations in drawing up the crisis protocols.***

*Amendment*

3. The Commission may involve, as appropriate, Member States' authorities and Union bodies, offices and agencies in drawing up, testing and supervising the application of the crisis protocols.

## **Amendment 224**

### **Proposal for a regulation**

#### **Article 37 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 37a***

*Procedure for drawing up codes of conduct and crisis protocols*

*1. Before initiating or facilitating the negotiation or the revision of codes of conduct or crisis protocols, the Commission shall*

*(a) consider the appropriateness of proposing legislation instead;*

*(b) publish the elements of the code or protocol which it aims to propose or advocate;*

*(c) invite the European Parliament, the Council, the European Union Agency for Fundamental Rights (FRA), the European Data Protection Supervisor and the public to express their opinion and publish their opinions;*

*(d) conduct a Fundamental Rights Impact Assessment and publish the findings.*

*2. The Commission shall subsequently publish the elements of the envisaged code or protocol which it intends to propose or advocate. It shall not propose or advocate elements which the European Parliament or the Council object to or which have not been subject to the process set out in paragraph 1.*

*3. The Commission shall allow representatives of civil society organisations which advocate for the interests of the recipients of relevant services, the European Parliament, the Council and FRA to observe the negotiations and to have access to all documents pertaining to them. The Commission shall offer compensation to civil society participants.*

*4. The Commission shall publish the codes of conduct and crisis protocols and to whom they apply and shall keep that information updated.*

## Proposal for a regulation

### Article 38 – paragraph 2 – subparagraph 1

*Text proposed by the Commission*

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*

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. 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 226

## Proposal for a regulation

### Article 38 – paragraph 3 – subparagraph 1

*Text proposed by the Commission*

Member States shall designate the Digital Services Coordinators within two months from the date of entry into force of this Regulation.

*Amendment*

Member States shall designate the Digital Services Coordinators within two months from the date of entry into force of this Regulation. ***When a Member State is subject to a procedure referred to in Article 7(1) or 7(2) of the Treaty on European Union, the Commission shall confirm that the Digital Services Coordinator proposed by that Member State fulfils the requirements laid down in Article 39 of this Regulation before that Digital Services Coordinator can be designated.***

## Amendment 227

## Proposal for a regulation

### Article 39 – paragraph -1 (new)

*Text proposed by the Commission*

*Amendment*

**-1. Member States shall ensure that the Digital Services Coordinators are legally distinct from and functionally independent of their respective governments and of any other public or private body.**

## **Amendment 228**

### **Proposal for a regulation Article 41 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) the power to require those providers, as well as any other persons acting for purposes related to their trade, business, craft or profession that may reasonably be aware of information relating to a suspected infringement of this Regulation, including, organisations performing the audits referred to in Articles 28 and 50(3), to provide such information within a reasonable time period;

(a) the power to require those providers, as well as any other persons acting for purposes related to their trade, business, craft or profession that may reasonably be aware of information relating to a suspected infringement of this Regulation, including, organisations performing the audits referred to in Articles 28 and 50(3), to provide such information within a reasonable time period, ***with the exception of information that is protected by professional secrecy requirements or immunities and privileges in accordance with the applicable law;***

## **Amendment 229**

### **Proposal for a regulation Article 41 – paragraph 2 – subparagraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) the power to accept the commitments offered by those providers in relation to their compliance with this Regulation and to make those commitments binding;

(a) the power to accept the ***lawful*** commitments offered by those providers in relation to their compliance with this Regulation and to make those commitments binding;

## Amendment 230

### Proposal for a regulation

#### Article 41 – paragraph 3 – subparagraph 1 – introductory part

*Text proposed by the Commission*

3. Where needed for carrying out their tasks, Digital Services Coordinators shall also have, in respect of providers of **intermediary** services under the jurisdiction of their Member State, where all other powers pursuant to this Article to bring about the cessation of an infringement have been exhausted, the infringement persists and causes serious harm which cannot be avoided through the exercise of other powers available under Union or national law, the power to take the following measures:

*Amendment*

3. Where needed for carrying out their tasks, Digital Services Coordinators shall also have, in respect of providers of **hosting** services under the jurisdiction of their Member State, where all other powers pursuant to this Article to bring about the cessation of an infringement have been exhausted, the infringement persists and causes serious harm which cannot be avoided through the exercise of other powers available under Union or national law, the power to take the following measures:

## Amendment 231

### Proposal for a regulation

#### Article 41 – paragraph 3 – subparagraph 1 – point b

*Text proposed by the Commission*

(b) where the Digital Services Coordinator considers that the provider has not **sufficiently** complied with the requirements of the first indent, that the infringement persists and causes serious harm, and that the infringement entails a serious criminal offence involving **a** threat to the life or safety of persons, request the competent judicial authority of that Member State to order the temporary restriction of access of recipients of the service concerned by the infringement or, only where that is not technically feasible, to the online interface of the provider of intermediary services on which the infringement takes place.

*Amendment*

(b) where the Digital Services Coordinator considers that the provider has not complied with the requirements of the first indent, that the infringement persists and causes serious harm, and that the infringement entails a serious criminal offence involving **an imminent** threat to the life or safety of persons, request the competent judicial authority of that Member State to order the temporary restriction of access **to that infringing content** of recipients of the service concerned by the infringement or, only where that is not technically feasible, to the online interface of the provider of intermediary services on which the infringement takes place.

## Amendment 232

**Proposal for a regulation**  
**Article 42 – paragraph 3**

*Text proposed by the Commission*

3. Member States shall ensure that the maximum amount of penalties imposed for a failure to comply with the obligations laid down in this Regulation shall not exceed 6 % of the annual income or turnover of the provider of intermediary services concerned. Penalties for the supply of incorrect, incomplete or misleading information, failure to reply or rectify incorrect, incomplete or misleading information and to submit to an on-site inspection shall not exceed 1% of the annual income or turnover of the provider concerned.

*Amendment*

3. Member States shall ensure that the maximum amount of penalties imposed for a failure to comply with the obligations laid down in this Regulation shall not exceed 6 % of the annual ***world-wide*** income or turnover of the provider of intermediary services concerned. Penalties for the supply of incorrect, incomplete or misleading information, failure to reply or rectify incorrect, incomplete or misleading information and to submit to an on-site inspection shall not exceed 1% of the annual ***world-wide*** income or turnover of the provider concerned.

**Amendment 233**

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

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 234**

**Proposal for a regulation**  
**Article 43 – title**

*Text proposed by the Commission*

Right to lodge a complaint

*Amendment*

Right to lodge a complaint ***and right to an effective judicial remedy***

## Amendment 235

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

*Text proposed by the Commission*

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

*Amendment*

Recipients of the service 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 inform the person who lodged the complaint thereof.***

## Amendment 236

### Proposal for a regulation Article 43 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***Pursuant to paragraph 1 the Digital Services Coordinator of establishment, in cases concerning complaint transmitted by the Digital Services Coordinator of the Member State where the recipient resides or is established, 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.***

## Amendment 237

**Proposal for a regulation**  
**Article 43 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***Without prejudice to any other administrative or non-judicial remedy, a recipient shall have the right to an effective judicial remedy where the competent Digital Services Coordinator does not handle a complaint or does not inform the recipient within three months on the progress or outcome of the complaint lodged pursuant to paragraph 1.***

**Amendment 238**

**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 issued in accordance with Articles 8 and 9 by any national judicial ***authority, or an administrative authority pursuant to Article 8(1) or Article 9(4b)***, of the Member State of the Digital Services Coordinator concerned;

**Amendment 239**

**Proposal for a regulation**  
**Article 45 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

7. Where, pursuant to paragraph 6, the Commission 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

7. Where, pursuant to paragraph 6, the Commission 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.

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 shall be also transmitted to the Digital Services Coordinator or the Board that initiated the proceedings pursuant to paragraph 1.***

## Amendment 240

### Proposal for a regulation Article 45 – paragraph 7 a (new)

*Text proposed by the Commission*

*Amendment*

***7a. Within two months of receiving information about measures as referred to in paragraph 7, the Commission shall conclude whether the assessment or the measures taken pursuant to that paragraph are incompatible with this Regulation. Where the Commission concludes that the assessment or the measures taken pursuant to paragraph 7 are incompatible with this Regulation, it shall take a final decision on this matter by means of an implementing act. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 70(3).***

## Amendment 241

### Proposal for a regulation Article 47 – paragraph 2 – point a

*Text proposed by the Commission*

*Amendment*

(a) Contributing to the consistent application of this Regulation and effective cooperation of the Digital Services Coordinators and the Commission with regard to matters covered by this Regulation;

(a) Contributing to the consistent application of this Regulation ***across the Union*** and effective cooperation of the Digital Services Coordinators and the Commission with regard to matters covered by this Regulation;

## Amendment 242

### Proposal for a regulation Article 48 – paragraph 5

*Text proposed by the Commission*

5. The Board may invite experts and observers to attend its meetings, and **may** cooperate with other Union bodies, offices, agencies and advisory groups, as well as external experts as appropriate. The Board shall make the results of this cooperation publicly available.

*Amendment*

5. The Board may invite experts and observers to attend its meetings, and **shall** cooperate with other Union bodies, offices, agencies and advisory groups, as well as external experts as appropriate. The Board shall make the results of this cooperation publicly available.

## Amendment 243

### Proposal for a regulation Article 48 – paragraph 6

*Text proposed by the Commission*

6. The Board shall adopt its rules of procedure, **following the consent of the Commission**.

*Amendment*

6. The Board shall adopt its rules of procedure **by a two-thirds majority of its members**.

## Amendment 244

### Proposal for a regulation Article 49 – paragraph 1 – point d

*Text proposed by the Commission*

(d) advise the Commission to take the measures referred to in Article 51 and, **where requested by the Commission**, adopt opinions on draft Commission measures concerning very large online platforms in accordance with this Regulation;

*Amendment*

(d) advise the Commission to take the measures referred to in Article 51 and adopt opinions on draft Commission measures **and on other issues** concerning very large online platforms in accordance with this Regulation;

## Amendment 245

### 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 246

### Proposal for a regulation

#### Article 50 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. When communicating the decision referred to in the first subparagraph of paragraph 1 to the very large online platform concerned, the Digital Services Coordinator of establishment shall request it to draw up and communicate to the Digital Services Coordinator of establishment, the Commission and the Board, within one month from that decision, an action plan, specifying how that platform intends to terminate or remedy the infringement. ***The measures set out in the action plan may include, where appropriate, participation in a code of conduct as provided for in Article 35.***

2. When communicating the decision referred to in the first subparagraph of paragraph 1 to the very large online platform concerned, the Digital Services Coordinator of establishment shall request it to draw up and communicate to the Digital Services Coordinator of establishment, the Commission and the Board, within one month from that decision, an action plan, specifying how that platform intends to terminate or remedy the infringement.

## Amendment 247

### Proposal for a regulation

#### Article 51 – paragraph 1 – introductory part

*Text proposed by the Commission*

*Amendment*

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:

1. The Commission, acting either upon the Board’s recommendation or on its own initiative after consulting the Board, ***or upon request of at least three of the Digital Services Coordinators of destination***, 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 248

### 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, 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, ***with the exception of information covered by professional secrecy requirements or by immunities and privileges in accordance with the applicable law.***

## Amendment 249

### Proposal for a regulation Article 56 – paragraph 1

#### *Text proposed by the Commission*

1. If, during proceedings under this Section, the very large online platform concerned offers commitments to ensure compliance with the relevant provisions of this Regulation, the Commission may by decision make those commitments binding on the very large online platform concerned and declare that there are no further grounds for action.

#### *Amendment*

1. If, during proceedings under this Section, the very large online platform concerned offers ***lawful*** commitments to ensure compliance with the relevant provisions of this Regulation, the Commission may by decision make those commitments binding on the very large online platform concerned and declare that there are no further grounds for action.

## Amendment 250

### Proposal for a regulation Article 56 – paragraph 2 – point b

*Text proposed by the Commission*

(b) where the very large online platform concerned acts contrary to its commitments; or

*Amendment*

(b) where the very large online platform concerned acts contrary to its **lawful** commitments; or

## Amendment 251

### 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 **and the Charter** by the very large online platform concerned, **including the operation of any algorithm in the provision of the services of that platform**. The Commission may also order that platform to provide access to, and explanations relating to, its databases and algorithms.

## Amendment 252

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

*Text proposed by the Commission*

In the decision pursuant to Article 58, the Commission may impose on the very large online platform concerned fines not exceeding 6% of its total turnover in the preceding financial year where it finds that that platform, intentionally or negligently:

*Amendment*

In the decision pursuant to Article 58, the Commission may impose on the very large online platform concerned fines not exceeding 6% of its total **world-wide** turnover in the preceding financial year where it finds that that platform, intentionally or negligently:

## Amendment 253

### Proposal for a regulation

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

*Text proposed by the Commission*

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*

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 **world-wide** turnover in the preceding financial year, where they intentionally or negligently:

## Amendment 254

### Proposal for a regulation

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 255

### Proposal for a regulation

#### Article 67 – paragraph 3

*Text proposed by the Commission*

3. The Commission shall adopt implementing acts laying down the practical and operational arrangements for the functioning of the information sharing system and its interoperability with other relevant systems. Those implementing acts

*Amendment*

3. The Commission shall adopt implementing acts laying down the practical and operational arrangements for the functioning of the information sharing system and its interoperability with other relevant systems. Those implementing acts

shall be adopted in accordance with the advisory procedure referred to in Article 70.

shall be adopted in accordance with the advisory procedure referred to in Article 70(2).

#### **Amendment 256**

##### **Proposal for a regulation Article 70 – paragraph 2**

*Text proposed by the Commission*

2. Where reference is made to this *Article*, Article 4 of Regulation (EU) No 182/2011 shall apply.

*Amendment*

2. Where reference is made to this *paragraph*, Article 4 of Regulation (EU) No 182/2011 shall apply.

#### **Amendment 257**

##### **Proposal for a regulation Article 70 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2a. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.**

## **ANNEX: LIST OF ENTITIES OR PERSONS FROM WHOM THE RAPPOREUR HAS RECEIVED INPUT**

The following list is drawn up on a purely voluntary basis under the exclusive responsibility of the rapporteur. The rapporteur has received input from the following entities or persons in the preparation of the opinion, until the adoption thereof in committee:

1. 5Rights Foundation
2. Access Now
3. Adevinta
4. Adigital
5. Advertising Information Group (AIG)
6. AirBnb Germany
7. Allied for Startups
8. Amazon
9. Amnesty International
10. APCO Worldwide
11. ARD and ZDF
12. Article 19
13. Association of Commercial Television in Europe (ACT)
14. Association of European Radios (AER)
15. Association of Television and Radio Sales Houses (EGTA)
16. Automattic, Jodel, Seznam, Twitter and Vimeo
17. Avaaz
18. AWO
19. Axel Springer
20. BEUC: The European Consumer Organisation
21. Bitkom
22. Bouygues Europe
23. Bundesverband Digitalpublisher und Zeitungsverleger (BDZV)
24. Bundesvereinigung Deutscher Apothekerverbände (ABDA)
25. Center for Democracy and Technology (CDT)
26. CENTR
27. Civil Liberties Union for Europe (Liberties)
28. Classifieds Marketplaces Europe (CME)
29. Cloud Infrastructure Services Providers in Europe (CISPE)
30. Cloudflare
31. Coalition for App Fairness (CAF)
32. Computer & Communications Industry Association (CCIA)
33. Deutscher Anwaltverein (DAV)
34. Deutscher Gewerkschaftsbund (DGB)

35. Digital Online Tech Europe (DOT)
36. Dropbox
37. DuckDuckGo
38. E-Commerce Europe (ECOM)
39. Electronic Frontier Foundation (EFF)
40. Etsy
41. EU DisinfoLab
42. Eurocities
43. EuroISPA
44. Europabeauftragter der deutschen Landesmedienanstalten (DLM)
45. Europe's Videogaming Industry (ISFE)
46. European Association of E-Pharmacies (EAEP)
47. European Brands Association (AIM)
48. European Broadcasting Union (EBU)
49. European Cities
50. European Council of the Liberal Professions (CEPLIS)
51. European Digital Rights (EDRi)
52. European Disability Forum
53. European Federation of Journalists (EFJ)
54. European Games Developer Federation (EGDF)
55. European Gaming and Betting Association (EGBA)
56. European Holiday Home Association (EHHA)
57. European Internet Services Providers Association (EuroISPA)
58. European Magazine Media Association (EMMA)
59. European Media
60. European Newspaper Publishers' Association (ENPA)
61. European Policy Centre
62. European Regulators Group for Audiovisual Media Services (ERGA)
63. European Tech Alliance (EUTA)
64. European Telecommunications Network Operators' Association (ETNO)
65. Federation of European Data and Marketing (FEDMA)
66. Federation of Small Businesses (FSB)
67. Fondation Descartes
68. Gesellschaft für Freiheitsrechte (GFF)
69. Glassdoor
70. Global Witness
71. Google
72. GSM Association (GSMA)
73. Hate Aid
74. IAB Europe
75. Imaging Consumables Coalition of Europe, Middle East and Africa (ICCE)

76. Information Technology Industry Council (ITI)
77. International Video Federation (IVF)
78. Internet Commission
79. Internet Society
80. Magazine Media
81. Match Group
82. Microsoft
83. Missing Children Europe
84. Mozilla
85. News Media Europe
86. Orange
87. Panoptikon
88. Pinterest
89. Political Intelligence
90. Rakuten Group
91. Reddit
92. Reporters without Borders
93. Seznam.cz, Lilo, Google, Verizon Media and Microsoft
94. Shopify
95. Snap
96. Society of Audiovisual Authors (SAA)
97. Spitzenorganisation der Filmwirtschaft (SPIO)
98. Swedish Trade Association
99. Telefonica
100. Together Against Counterfeiting (TAC) Alliance
101. Tutanota
102. Twitch
103. Twitter
104. Verband der öffentlichen Wirtschaft und Gemeinwirtschaft Österreichs (VÖWG)
105. Verband Deutscher Zeitschriftenverleger e. V. (VDZ)
106. Verbraucherzentrale Bundesverband (vzbv)
107. Vodafone
108. Wikimedia Foundation
109. World Federation of Advertisers (WFA)

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC			
<b>References</b>	COM(2020)0825 – C9-0418/2020 – 2020/0361(COD)			
<b>Committee responsible</b> Date announced in plenary	IMCO 8.2.2021			
<b>Opinion by</b> Date announced in plenary	LIBE 8.2.2021			
<b>Associated committees - date announced in plenary</b>	20.5.2021			
<b>Rapporteur for the opinion</b> Date appointed	Patrick Breyer 22.4.2021			
<b>Discussed in committee</b>	12.4.2021	3.6.2021	21.6.2021	14.7.2021
<b>Date adopted</b>	14.7.2021			
<b>Result of final vote</b>	+: –: 0:	37 24 0		
<b>Members present for the final vote</b>	Magdalena Adamowicz, Katarina Barley, Fernando Barrena Arza, Pietro Bartolo, Nicolas Bay, Vladimír Bilčík, Vasile Blaga, Ioan-Rareş Bogdan, Patrick Breyer, Saskia Bricmont, Jorge Buxadé Villalba, Damien Carême, Caterina Chinnici, Clare Daly, Anna Júlia Donáth, Lena Düpont, Cornelia Ernst, Laura Ferrara, Nicolaus Fest, Jean-Paul Garraud, Maria Grapini, Sylvie Guillaume, Evin Incir, Sophia in ‘t Veld, Patryk Jaki, Marina Kaljurand, Fabienne Keller, Peter Kofod, Łukasz Kohut, Moritz Körner, Alice Kuhnke, Jeroen Lenaers, Juan Fernando López Aguilar, Lukas Mandl, Nuno Melo, Nadine Morano, Javier Moreno Sánchez, Maite Pagazaurtundúa, Nicola Procaccini, Emil Radev, Paulo Rangel, Ralf Seekatz, Michal Šimečka, Birgit Sippel, Sara Skytvedal, Martin Sonneborn, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Dragoş Tudorache, Tom Vandendriessche, Bettina Vollath, Jadwiga Wiśniewska, Elena Yoncheva, Javier Zarzalejos			
<b>Substitutes present for the final vote</b>	Bartosz Arłukowicz, Damian Boeselager, Isabel Santos, Yana Toom, Miguel Urbán Crespo, Isabel Wiseler-Lima			

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

37	+
ID	Peter Kofod
NI	Laura Ferrara, Martin Sonneborn
PPE	Bartosz Arłukowicz
Renew	Anna Júlia Donáth, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Maite Pagazaurtundúa, Michal Šimečka, Ramona Strugariu, Yana Toom, Dragoș Tudorache
S&D	Katarina Barley, Pietro Bartolo, Caterina Chinnici, Maria Grapini, Sylvie Guillaume, Evin Incir, Marina Kaljurand, Lukasz Kohut, Juan Fernando López Aguilar, Javier Moreno Sánchez, Isabel Santos, Birgit Sippel, Bettina Vollath, Elena Yoncheva
The Left	Pernando Barrena Arza, Clare Daly, Cornelia Ernst, Miguel Urbán Crespo
Verts/ALE	Damian Boeselager, Patrick Breyer, Saskia Bricmont, Damien Carême, Alice Kuhnke, Tineke Strik

24	-
ECR	Jorge Buxadé Villalba, Patryk Jaki, Nicola Procaccini, Jadwiga Wiśniewska
ID	Nicolas Bay, Nicolaus Fest, Jean-Paul Garraud, Annalisa Tardino, Tom Vandendriessche
PPE	Magdalena Adamowicz, Vladimír Bilčík, Vasile Blaga, Ioan-Rareș Bogdan, Lena Düpont, Jeroen Lenaers, Lukas Mandl, Nuno Melo, Nadine Morano, Emil Radev, Paulo Rangel, Ralf Seekatz, Sara Skytvedal, Isabel Wiseler-Lima, Javier Zarzalejos

### Key to symbols:

+ : in favour

- : against

0 : abstention