OPINION

of the Committee on Transport and Tourism

for the Committee on the Internal Market and Consumer Protection


Rapporteur for opinion: Markus Ferber
AMENDMENTS

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

Amendment 1

Proposal for a regulation
Recital 7

Text proposed by the Commission

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

Amendment

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

Amendment 2

Proposal for a regulation
Recital 8
(8) By approximating diverging national laws, obstacles to the freedom to provide and receive services, including retail services, within the internal market should be eliminated. A targeted set of harmonised mandatory rules should therefore be established at Union level to ensure contestable and fair digital markets featuring the presence of gatekeepers within the internal market, and in order to create and maintain a safer environment and legal certainty for the users and public authorities.

Amendment 3
Proposal for a regulation
Recital 12

(12) Weak contestability and unfair practices in the digital sector are more frequent and pronounced for certain digital services than for others. This is the case in particular for widespread and commonly used digital services that mostly directly intermediate between business users and end users and where features such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration are the most prevalent. Often, there is only one or very few large providers of those digital services. These providers of core platform services have emerged most frequently as gatekeepers for business users and end users with far-reaching impacts, gaining the ability to easily set commercial conditions and terms in a unilateral and detrimental manner for their business users and end users. Accordingly, it is necessary to foster a level-playing field between gatekeepers and traditional enterprises operating in the transport, tourism and hospitality sectors. Often, the digital economy, particularly platforms, can have a significant impact on long-established regulated business models in many strategic sectors such as transportation, tourism and hospitality. Hence there is a need to foster a level-playing field between gatekeepers and traditional enterprises operating in the transport, tourism and hospitality sectors.
to focus only on those digital services that are most broadly used by business users and end users and where, based on current market conditions, concerns about weak contestability and unfair practices by gatekeepers are more apparent and pressing from an internal market perspective.

there is only one or very few large providers of those digital services. This situation produces disruptions and restrictions, in particular on SMEs in these sectors, where intermediaries have a dominant market position. These providers of core platform services have emerged most frequently as gatekeepers for business users and end users with far-reaching impacts, gaining the ability to easily set commercial conditions and terms in a unilateral and detrimental manner for their business users and end users. Accordingly, it is necessary to focus only on those digital services that are most broadly used by business users and end users and where, based on current market conditions, concerns about weak contestability and unfair practices by gatekeepers are more apparent and pressing from an internal market perspective. In this context, it is important to pay special attention to the particularities of the transport and tourism online platform market. Services are provided on the collaborative economy platforms in the transport, tourism and hospitality sectors by both individuals and professionals. It is important to avoid imposing disproportionate information requirements and administrative burdens on peer-to-peer providers of services. In the interest of consumers it is necessary to ensure transparency in transport and tourism platforms, specifically as regards algorithms affecting service, pricing, advertising and digital trust building mechanisms such as ratings and reviews, in line with Directive 2019/2161.

Amendment 4
Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) A very significant turnover in the

Amendment

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

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

Amendment 5

Proposal for a regulation
Recital 20

(Text proposed by the Commission)

(20) A very high number of business users that depend on a core platform service to reach a very high number of monthly active end users allow the provider of that service to influence the operations of a substantial part of business users to its advantage and indicate in principle that the provider serves as an important gateway. The respective relevant levels for those numbers should be set representing a substantive percentage of the entire population of the Union when it comes to end users and of the entire population of businesses using platforms to determine the threshold for business users.

(20) A high number of business users that depend on a core platform service to reach a very high number of monthly active end users allow the provider of that service to influence the operations of a substantial part of business users to its advantage and indicate in principle that the provider serves as an important gateway. The respective relevant levels for those numbers should be set representing a substantive percentage of the entire population of the Union when it comes to end users and of the entire population of businesses using platforms to determine the threshold for business users.

Amendment 6

Proposal for a regulation
Recital 21

(Text proposed by the Commission)

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

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

Amendment 7
Proposal for a regulation
Recital 22

Text proposed by the Commission

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

Amendment

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

Amendment 8
Proposal for a regulation
Recital 25

Text proposed by the Commission

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

Amendment

(25) Such an assessment can only be done in light of a market investigation, while taking into account the quantitative thresholds. In its assessment the Commission should pursue the objectives of preserving and fostering the level of innovation, the quality of digital products and services, the degree to which prices are fair and competitive, and the degree to which quality, availability or choice for business users and for end users is or remains high, and whether or not fair competition is ensured. Elements that are specific to the providers of core platform
network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration, can be taken into account. In addition, a very high market capitalisation, a very high ratio of equity value over profit or a very high turnover derived from end users of a single core platform service can point to the tipping of the market or leveraging potential of such providers. Together with market capitalisation, high growth rates, or decelerating growth rates read together with profitability growth, are examples of dynamic parameters that are particularly relevant to identifying such providers of core platform services that are foreseen to become entrenched. The Commission should be able to take a decision by drawing adverse inferences from facts available where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.

Amendment 9

Proposal for a regulation
Recital 26

_text proposed by the Commission_

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

services concerned, such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration, can be taken into account. In addition, a very high market capitalisation, a very high ratio of equity value over profit or a very high turnover derived from end users of a single core platform service can point to the tipping of the market or leveraging potential of such providers. Together with market capitalisation, high growth rates, or decelerating growth rates read together with profitability growth, are examples of dynamic parameters that are particularly relevant to identifying such providers of core platform services that are foreseen to become entrenched. The Commission should be able to take a decision by drawing adverse inferences from facts available where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.
tipping and emerge as gatekeeper by using some of the unfair conditions and practices regulated in this Regulation. In such a situation, it appears appropriate to intervene before the market tips irreversibly.

Amendment 10

Proposal for a regulation
Recital 27

Text proposed by the Commission

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

Amendment

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

Amendment 11

Proposal for a regulation
Recital 28

Text proposed by the Commission

(28) This should allow the Commission to intervene in time and effectively, while

Amendment

(28) This should allow the Commission to intervene in time and effectively, while
fully respecting the proportionality of the considered measures. It should also reassure actual or potential market participants about the fairness and contestability of the services concerned. In this regard, calls on the Commission to undertake further steps by initiating a more comprehensive data sharing framework for online platforms dedicated to short-term rentals and to establish an obligation for gatekeepers to share their data accordingly, in full compliance with Regulation (EU) 2016/679, with Eurostat and the national statistics office of the country where the service providers operate, without creating any excessive administrative and financial burden to SMEs and family businesses.

Amendment 12

Proposal for a regulation
Recital 30

Text proposed by the Commission

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

Amendment

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

Amendment 13

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

Considering the essential role that data has on competition, a specific procedure should be introduced for intended concentrations within the meaning of Article 3 of Regulation (EC) No 139/2004 involving another provider of core platform services or of any other services provided via the digital sector. To ensure that the competitiveness in the internal market is not distorted, the effectiveness of the review of gatekeeper status as well as the possibility to adjust the list of core platform services provided by a gatekeeper, the gatekeepers should therefore notify the Commission of all of their intended acquisitions of other providers of core platform services or any other services provided within the digital sector. Such intended concentrations should therefore not only be notified, but explicitly cleared by the Commission. The notification of such concentrations should therefore be subject to the merger control procedure provided for in Regulation (EC) No 139/2004. Such information would also serve the review process mentioned above, regarding the status of individual gatekeepers and provide information that is crucial to monitoring broader contestability trends in the digital sector and can therefore be a useful factor for consideration in the context of the market investigations foreseen by this Regulation.

Amendment 14

Proposal for a regulation
Recital 32

To safeguard the fairness and contestability of core platform services provided by gatekeepers, it is necessary to

Given the dynamically changing digital environment, it is important that this Regulation is designed in such a way
provide in a clear and unambiguous manner for a set of harmonised obligations with regard to those services. Such rules are needed to address the risk of harmful effects of unfair practices imposed by gatekeepers, to the benefit of the business environment in the services concerned, to the benefit of users and ultimately to the benefit of society as a whole. Given the fast-moving and dynamic nature of digital markets, and the substantial economic power of gatekeepers, it is important that these obligations are effectively applied without being circumvented. To that end, the obligations in question should apply to any practices by a gatekeeper, irrespective of its form and irrespective of whether it is of a contractual, commercial, technical or any other nature, insofar as a practice corresponds to the type of practice that is the subject of one of the obligations of this Regulation.

as to be able to respond to future developments, including in the transport sector, where closed ecosystems of apps that offer a wide range of services, also-called ‘Super-Apps’, could provide digital through-ticketing across all transport-modes, and where future progress in automation solutions will raise questions on the gathering, storage and use of data. To safeguard the fairness and contestability of core platform services provided by gatekeepers, it is necessary to provide in a clear and unambiguous manner for a set of harmonised obligations with regard to those services. Such rules are needed to address the risk of harmful effects of unfair practices imposed by gatekeepers, to the benefit of the business environment in the services concerned, to the benefit of users and ultimately to the benefit of society as a whole. Given the fast-moving and dynamic nature of digital markets, and the substantial economic power of gatekeepers, it is important that these obligations are effectively applied without being circumvented. To that end, the obligations in question should apply to any practices by a gatekeeper, irrespective of its form and irrespective of whether it is of a contractual, commercial, technical or any other nature, including through product design or by presenting end-user choices in a non-neutral manner, or by otherwise subverting or impairing user autonomy, decision-making, or choice via the structure, function or manner of operation of a user interface or a part thereof, insofar as a practice corresponds to the type of practice that is the subject of one of the obligations of this Regulation.

Amendment 15
Proposal for a regulation
Recital 37
(37) Because of their position, gatekeepers might in certain cases restrict the ability of business users of their online intermediation services to offer their goods or services to end users under more favourable conditions, including price, through other online intermediation services. Such restrictions have a significant deterrent effect on the business users of gatekeepers in terms of their use of alternative online intermediation services, limiting inter-platform contestability, which in turn limits choice of alternative online intermediation channels for end users. To ensure that business users of online intermediation services of gatekeepers can freely choose alternative online intermediation services and differentiate the conditions under which they offer their products or services to their end users, it should not be accepted that gatekeepers limit business users from choosing to differentiate commercial conditions, including price. Such a restriction should apply to any measure with equivalent effect, such as for example increased commission rates or de-listing of the offers of business users.

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

Amendment 17
Proposal for a regulation
Recital 62

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

(62) In order to ensure the full and lasting achievement of the objectives of this Regulation, the Commission should be able to assess whether a provider of core platform services should be designated as a gatekeeper without meeting the quantitative thresholds laid down in this Regulation; whether systematic non-compliance by a gatekeeper warrants imposing additional remedies; and whether the list of obligations addressing unfair practices by gatekeepers should be reviewed and additional practices that are similarly unfair and limiting the contestability of digital markets should be identified. Such assessment should be based on market investigations to be run in an appropriate timeframe, by using clear procedures and legally binding deadlines, in order to support the ex ante effect of this Regulation on contestability and fairness in the digital sector, and to provide the requisite degree of legal certainty.
Amendment 18

Proposal for a regulation
Recital 65

Text proposed by the Commission

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

Amendment 19

Proposal for a regulation
Recital 66
(66) In the event that gatekeepers engage in behaviour that is unfair or that limits the contestability of the core platform services that are already designated under this Regulation but without these behaviours being explicitly covered by the obligations, the Commission should be able to update this Regulation through delegated acts. Such updates by way of delegated act should be subject to the same investigatory standard and therefore following a market investigation. The Commission should also apply a predefined standard in identifying such behaviours. This legal standard should ensure that the type of obligations that gatekeepers may at any time face under this Regulation are sufficiently predictable.

Amendment 20

Proposal for a regulation
Recital 66 a (new)

Text proposed by the Commission

(66 a) With respect to the obligations laid down in Articles 5 and 6, the Commission will provide regular updates to the European Parliament, Council and the European Economic and Social Committee as regards the evaluations of the enforcement of these obligations, and the possible need of updating the relevant provisions. Where an evaluation would lead to a legislative proposal the European Parliament should consider using its urgency procedure, which allows for faster parliamentary scrutiny of the Commission’s proposals while fully respecting Parliament’s democratic
Amendment 21

Proposal for a regulation
Recital 70

Text proposed by the Commission

(70) The Commission should be able to directly request that undertakings or association of undertakings provide any relevant evidence, data and information. In addition, the Commission should be able to request any relevant information from any public authority, body or agency within the Member State, or from any natural person or legal person for the purpose of this Regulation. When complying with a decision of the Commission, undertakings are obliged to answer factual questions and to provide documents.

Amendment

(70) The Commission should be able to directly request that undertakings or association of undertakings provide any relevant evidence, data and information. The Commission and the Member States shall work in close cooperation and coordination in their enforcement actions. In addition, the Commission should be able to request any relevant information from any public authority, body or agency within the Member State, or from any natural person or legal person for the purpose of this Regulation. When complying with a decision of the Commission, undertakings are obliged to answer factual questions and to provide documents.

Amendment 22

Proposal for a regulation
Recital 72

Text proposed by the Commission

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

Amendment

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

Amendment 23

Proposal for a regulation
Recital 75

*Text proposed by the Commission*

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

*Amendment*

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

Amendment 24

Proposal for a regulation
Recital 76

*Text proposed by the Commission*

(76) In order to ensure uniform conditions for the implementation of

*Amendment*

(76) In order to ensure uniform conditions for the implementation of
Articles 3, 6, 12, 13, 15, 16, 17, 20, 22, 23, 25 and 30, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council. Before adopting implementing provisions in relation to gatekeepers and core platform services, including the related definition of active end users, the Commission should consult experts on the relevant platforms.


Amendment 25

Proposal for a regulation

Recital 77

Text proposed by the Commission

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

Amendment

(77) The advisory committee established in accordance with Regulation (EU) No 182/2011 should also deliver opinions on certain individual decisions of the Commission issued under this Regulation. When composing the advisory committee, Member States shall also consider including the opinions of stakeholders, such as small and medium-sized enterprises (SMEs), consumer protection experts and competent associations. In order to ensure contestable and fair markets in the digital sector across the Union where gatekeepers are present, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to supplement this Regulation. In particular,
on a market investigation the Commission has identified the need for updating the obligations addressing practices that limit the contestability of core platform services or are unfair. It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.


Amendment 26
Proposal for a regulation
Recital 78

(78) The Commission should periodically evaluate this Regulation and closely monitor its effects on the contestability and fairness of commercial relationships in the online platform economy, in particular with a view to determining the need for amendments in light of relevant technological or commercial developments. This evaluation should include the regular review of the list of core platform services and the obligations addressed to gatekeepers as well as enforcement of these, in view of ensuring that digital markets across the
delegated acts should be adopted in respect of the methodology for determining the quantitative thresholds for designation of gatekeepers under this Regulation. It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.


Amendment
Proposal for a regulation
Recital 78

Text proposed by the Commission

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

Amendment 27

Proposal for a regulation
Article 2 – paragraph 1 – point 14

Text proposed by the Commission

(14) ‘Ancillary service’ means services provided in the context of or together with core platform services, including payment services as defined in point 3 of Article 4 and technical services which support the provision of payment services as defined in Article 3(j) of Directive (EU) 2015/2366, fulfilment, identification or advertising services;

Amendment

(14) ‘Ancillary service’ means services provided in the context of or together with core platform services, including payment services as defined in point 3 of Article 4 and technical services which support the provision of payment services as defined in Article 3(j) of Directive (EU) 2015/2366, fulfilment services, parcel delivery services, as defined in Article 2(2) of Regulation (EU) 2018/644, freight transport services and, identification or advertising services;

Amendment 28
Proposal for a regulation
Article 3 – paragraph 2 – point a

*Text proposed by the Commission*

(a) the requirement in paragraph 1 point (a) where the undertaking to which it belongs achieves an annual EEA turnover equal to or above EUR 6.5 billion in the last three financial years, or where the average market capitalisation or the equivalent fair market value of the undertaking to which it belongs amounted to at least EUR 65 billion in the last financial year, and it provides a core platform service in at least three Member States;

*Amendment*

(a) the requirement in paragraph 1 point (a) where the undertaking to which it belongs achieves an annual EEA turnover equal to or above EUR 5 billion in the last three financial years, or where the average market capitalisation or the equivalent fair market value of the undertaking to which it belongs amounted to at least EUR 65 billion in the last financial year;

Amendment 29

Proposal for a regulation
Article 3 – paragraph 2 – point b – subparagraph 1

*Text proposed by the Commission*

(b) the requirement in paragraph 1 point (b) where it provides a core platform service that has more than 45 million monthly active end users established or located in the Union and more than 10 000 yearly active business users established in the Union in the last financial year;

*Amendment*

(b) the requirement in paragraph 1 point (b) where it provides a core platform service that has more than 20 million monthly active end users established or located in the Union and more than 7000 yearly active business users established in the Union in the last financial year;

Amendment 30

Proposal for a regulation
Article 3 – paragraph 2 – point b – subparagraph 2

*Text proposed by the Commission*

for the purpose of the first subparagraph, monthly active end users shall refer to the average number of monthly active end users throughout the largest part of the last financial year;

*Amendment*

for the purpose of the first subparagraph, monthly active end users shall refer to the average number of monthly active end users throughout the last financial year;
Amendment 31
Proposal for a regulation
Article 3 – paragraph 2 – point c

Text proposed by the Commission
(c) the requirement in paragraph 1 point (c) where the thresholds in point (b) were met in each of the last three financial years.

Amendment
(c) the requirement in paragraph 1 point (c) where the thresholds in point (b) were met in each of the last two financial years.

Amendment 32
Proposal for a regulation
Article 3 – paragraph 3 – subparagraph 1

Text proposed by the Commission
Where a provider of core platform services meets all the thresholds in paragraph 2, it shall notify the Commission thereof within three months after those thresholds are satisfied and provide it with the relevant information identified in paragraph 2. That notification shall include the relevant information identified in paragraph 2 for each of the core platform services of the provider that meets the thresholds in paragraph 2 point (b). The notification shall be updated whenever other core platform services individually meet the thresholds in paragraph 2 point (b).

Amendment
Where a provider of core platform services meets all the thresholds in paragraph 2, it shall notify the Commission thereof within three months after those thresholds are satisfied and provide it with the relevant information identified in paragraph 2. That notification shall include the relevant information identified in paragraph 2 for each of the core platform services of the provider that meets the thresholds in paragraph 2 point (b). The notification shall be updated whenever other core platform services individually meet the thresholds in paragraph 2 point (b).

Without undue delay and at the latest 60 days after receiving the notification, the Commission may decide to conduct a market investigation for designating gatekeepers under Article 15.

Amendment 33
Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 1
The Commission may identify as a gatekeeper, in accordance with the procedure laid down in Article 15, any provider of core platform services that meets each of the requirements of paragraph 1, but does not satisfy each of the thresholds of paragraph 2, or has presented sufficiently substantiated arguments in accordance with paragraph 4.

The Commission shall identify as a gatekeeper, in accordance with the procedure laid down in Article 15, any provider of core platform services that meets each of the requirements of paragraph 1, but does not satisfy each of the thresholds of paragraph 2, or has not presented sufficiently substantiated arguments in accordance with paragraph 4.

Amendment 34

Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 2 – point f

(f) other structural market characteristics.

(f) other structural market characteristics, such as the consistent growth of the platform’s core service market share in a given digital sector leading to a dominant market position over a two-year timeframe.

Amendment 35

Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 4

Where the provider of a core platform service that satisfies the quantitative thresholds of paragraph 2 fails to comply with the investigative measures ordered by the Commission in a significant manner and the failure persists after the provider has been invited to comply within a reasonable time-limit and to submit observations, the Commission shall be entitled to designate that provider as a gatekeeper.

Where the provider of a core platform service that satisfies the quantitative thresholds of paragraph 2 fails to comply with the investigative measures ordered by the Commission and the failure persists after the provider has been invited to comply within a reasonable time-limit and to submit observations, the Commission shall be entitled to designate that provider as a gatekeeper.
Amendment 36

Proposal for a regulation
Article 3 – paragraph 6 – subparagraph 5

Text proposed by the Commission

Where the provider of a core platform service that does not satisfy the quantitative thresholds of paragraph 2 fails to comply with the investigative measures ordered by the Commission in a significant manner and the failure persists after the provider has been invited to comply within a reasonable time-limit and to submit observations, the Commission shall be entitled to designate that provider as a gatekeeper based on facts available.

Amendment

Where the provider of a core platform service that does not satisfy the quantitative thresholds of paragraph 2 fails to comply with the investigative measures ordered by the Commission and the failure persists after the provider has been invited to comply within a reasonable time-limit and to submit observations, the Commission shall be entitled to designate that provider as a gatekeeper based on facts available.

Amendment 37

Proposal for a regulation
Article 3 – paragraph 7

Text proposed by the Commission

7. For each gatekeeper identified pursuant to paragraph 4 or paragraph 6, the Commission shall identify the relevant undertaking to which it belongs and list the relevant core platform services that are provided within that same undertaking and which individually serve as an important gateway for business users to reach end users as referred to in paragraph 1(b).

Amendment

7. For each gatekeeper identified pursuant to paragraph 4 or paragraph 6, the Commission shall, without undue delay and at the latest within 60 days, identify the relevant undertaking to which it belongs and list the relevant core platform services that are provided within that same undertaking and which individually serve as an important gateway for business users to reach end users as referred to in paragraph 1(b).

Amendment 38

Proposal for a regulation
Article 3 – paragraph 8

Text proposed by the Commission

8. The gatekeeper shall comply with

Amendment

8. The gatekeeper shall comply with
the obligations laid down in Articles 5 and 6 within six months after a core platform service has been included in the list pursuant to paragraph 7 of this Article.

the obligations laid down in Articles 5 and 6 within **three** months after a core platform service has been included in the list pursuant to paragraph 7 of this Article.

Amendment 39

Proposal for a regulation
Article 3 – paragraph 8 a (new)

**Text proposed by the Commission**

Amendment

8a. **The Commission shall, without undue delay and at the latest within six months, open proceedings pursuant to Article 18 where a gatekeeper does not comply with the obligation set in paragraph 8.**

Amendment 40

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

**Text proposed by the Commission**

Amendment

(b) allow business users to offer the same products or services to end users through third party online intermediation services at prices or conditions that are different from those offered through the online intermediation services of the gatekeeper;

(b) allow business users to offer the same products or services to end users through third party online intermediation services **or through their own direct sales channels** at prices or conditions that are different from those offered through the online intermediation services of the gatekeeper;

Amendment 41

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

**Text proposed by the Commission**

Amendment

(e) refrain from requiring business users to use, offer or interoperate with an identification service **of the gatekeeper in**

(e) refrain from requiring business users **or end users** to use, offer or interoperate with an identification service
the context of services offered by the business users using the core platform services of that gatekeeper; or any other ancillary service operated by the gatekeeper, as well as by any third party belonging to the same undertaking, in the context of services offered by the business users using the core platform services of that gatekeeper;

Amendment 42

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

Text proposed by the Commission

Amendment

(ga) refrain from treating more favourably in ranking and giving a more favourable display of services - core platform and ancillary services - and products offered by the gatekeeper itself or by any third party belonging to the same undertaking compared to similar services or products of third party and apply fair and non-discriminatory conditions to such ranking and display;

Amendment 43

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

Text proposed by the Commission

Amendment

(gb) ensure that business users are given the possibility to easily opt-out of new, modified or updated terms and conditions requested by the core platform service provider.

Amendment 44

Proposal for a regulation
Article 6 – paragraph 1 – point a
(a) refrain from using, in competition with business users, any data not publicly available, which is generated through activities by those business users, including by the end users of these business users, of its core platform services or provided by those business users of its core platform services or by the end users of these business users;

Amendment

Proposal for a regulation

Article 6 – paragraph 1 – point d

Text proposed by the Commission

(d) refrain from treating more favourably in ranking services and products offered by the gatekeeper itself or by any third party belonging to the same undertaking compared to similar services or products of third party and apply fair and non-discriminatory conditions to such ranking;

Amendment

(d) deleted.

Amendment 46

Proposal for a regulation

Article 6 – paragraph 1 – point e

Text proposed by the Commission

(e) refrain from technically restricting the ability of end users to switch between and subscribe to different software applications and services to be accessed using the operating system of the gatekeeper, including as regards the choice of Internet access provider for end users;

Amendment

(e) refrain from technically restricting, or restricting in any other way, the ability of end users to switch between and subscribe to different software applications and services to be accessed using the operating system of the gatekeeper, including as regards the choice of Internet access provider for end users;
Amendment 47

Proposal for a regulation
Article 6 – paragraph 1 – point i

Text proposed by the Commission

(i) provide business users, or third parties authorised by a business user, free of charge, with effective, high-quality, continuous and real-time access and use of aggregated or non-aggregated data, that is provided for or generated in the context of the use of the relevant core platform services by those business users and the end users engaging with the products or services provided by those business users; for personal data, provide access and use only where directly connected with the use effectuated by the end user in respect of the products or services offered by the relevant business user through the relevant core platform service, and when the end user opts in to such sharing with a consent in the sense of the Regulation (EU) 2016/679;

Amendment

(i) provide business users, or third parties authorised by a business user, free of charge, with user-friendly, interoperable, effective, high-quality, continuous and real-time access and use of aggregated and non-aggregated data, that is provided for or generated in the context of the use of the relevant core platform services by those business users and the end users engaging with the products or services provided by those business users; for personal data, provide access and use only where directly connected with the use effectuated by the end user in respect of the products or services offered by the relevant business user through the relevant core platform service, and when the end user opts in to such sharing with a consent in the sense of the Regulation (EU) 2016/679;

Amendment 48

Proposal for a regulation
Article 7 – paragraph 3

Text proposed by the Commission

3. Paragraph 2 of this Article is without prejudice to the powers of the Commission under Articles 25, 26 and 27.

Amendment

3. Paragraph 2 of this Article is without prejudice to the powers of the Commission under Articles 25, 26 and 27. Following a decision under paragraph 2 of this Article, if the Commission finds the gatekeeper in non-compliance under Article 25 and a decision under Article 26 is taken, the non-compliance period is considered to have commenced from the implementation deadline in Article 3(8).
Amendment 49

Proposal for a regulation
Article 7 – paragraph 7

Text proposed by the Commission

7. A gatekeeper may request the opening of proceedings pursuant to Article 18 for the Commission to determine whether the measures that the gatekeeper intends to implement or has implemented under Article 6 are effective in achieving the objective of the relevant obligation in the specific circumstances. A gatekeeper may, with its request, provide a reasoned submission to explain in particular why the measures that it intends to implement or has implemented are effective in achieving the objective of the relevant obligation in the specific circumstances.

Amendment

7. A gatekeeper may, within the deadline set in Article 3(8), request the opening of proceedings pursuant to Article 18 for the Commission to determine whether the measures that the gatekeeper intends to implement or has implemented under Article 6 are effective in achieving the objective of the relevant obligation in the specific circumstances. A gatekeeper may, with its request, provide a reasoned submission to explain in particular why the measures that it intends to implement or has implemented are effective in achieving the objective of the relevant obligation in the specific circumstances. The Commission shall adopt its decision within six months from the opening of proceedings pursuant to Article 18. If in its decision the Commission finds the gatekeeper is non-compliant under Article 25 and a decision under Article 26 is taken, the non-compliance period is considered to have commenced from the implementation deadline in Article 3(8).

Amendment 50

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

Text proposed by the Commission

7a. The Commission shall ensure that no barriers are created to entry to the digital market for SMEs.

Amendment

7a. The Commission shall ensure that no barriers are created to entry to the digital market for SMEs.
Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission

1. The Commission may, on a reasoned request by the gatekeeper, exceptionally suspend, in whole or in part, a specific obligation laid down in Articles 5 and 6 for a core platform service by decision adopted in accordance with the advisory procedure referred to in Article 32(4), where the gatekeeper demonstrates that compliance with that specific obligation would endanger, due to exceptional circumstances beyond the control of the gatekeeper, the economic viability of the operation of the gatekeeper in the Union, and only to the extent necessary to address such threat to its viability. The Commission shall aim to adopt the suspension decision without delay and at the latest 3 months following receipt of a complete reasoned request.

Amendment

1. The Commission may, on a reasoned request by the gatekeeper, exceptionally suspend, in whole or in part, a specific obligation laid down in Articles 5 and 6 for a core platform service by decision adopted in accordance with the advisory procedure referred to in Article 32(4), where the gatekeeper demonstrates that compliance with that specific obligation would endanger, due to exceptional circumstances beyond the control of the gatekeeper, the economic viability of the operation of the gatekeeper in the Union, and only to the extent necessary to address such threat to its viability. The Commission shall aim to adopt the suspension decision without delay and at the latest 3 months following receipt of a complete reasoned request. The suspension decision shall be accompanied by a reasoned statement explaining the grounds for the suspension.

Amendment 52

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

1. The Commission may, acting on a reasoned request by a gatekeeper or on its own initiative, by decision adopted in accordance with the advisory procedure referred to in Article 32(4), exempt it, in whole or in part, from a specific obligation laid down in Articles 5 and 6 in relation to an individual core platform service identified pursuant to Article 3(7), where such exemption is justified on the grounds set out in paragraph 2 of this Article. The Commission shall adopt the exemption decision at the latest 3 months after

Amendment

1. The Commission may, acting on a reasoned request by a gatekeeper or on its own initiative, by decision adopted in accordance with the advisory procedure referred to in Article 32(4), exempt it, in whole or in part, from a specific obligation laid down in Articles 5 and 6 in relation to an individual core platform service identified pursuant to Article 3(7), where such exemption is justified on the grounds set out in paragraph 2 of this Article. The Commission shall adopt the exemption decision at the latest 3 months after
receiving a complete reasoned request. The exemption decision shall be accompanied by a reasoned statement explaining the grounds for the exemption.

Amendment 53

Proposal for a regulation
Article 10

Text proposed by the Commission

Amendment

Article 10  deleted

Updating obligations for gatekeepers

1. The Commission is empowered to adopt delegated acts in accordance with Article 34 to update the obligations laid down in Articles 5 and 6 where, based on a market investigation pursuant to Article 17, it has identified the need for new obligations addressing practices that limit the contestability of core platform services or are unfair in the same way as the practices addressed by the obligations laid down in Articles 5 and 6.

2. A practice within the meaning of paragraph 1 shall be considered to be unfair or limit the contestability of core platform services where:

(a) there is an imbalance of rights and obligations on business users and the gatekeeper is obtaining an advantage from business users that is disproportionate to the service provided by the gatekeeper to business users; or

(b) the contestability of markets is weakened as a consequence of such a practice engaged in by gatekeepers.

Amendment 54

Proposal for a regulation
Article 11 – paragraph 1
1. A gatekeeper shall ensure that the obligations of Articles 5 and 6 are fully and effectively complied with. While the obligations of Articles 5 and 6 apply in respect of core platform services designated pursuant to Article 3, their implementation shall not be undermined by any behaviour of the undertaking to which the gatekeeper belongs, regardless of whether this behaviour is of a contractual, commercial, technical or any other nature.

The end-user’s rights or choices laid down in Articles 5 and 6 must be presented in a neutral manner and must not be undermined through product design or by impairing user autonomy, decision-making, or choice via the structure, function or manner of operation of a user interface or a part thereof.

Amendment 55
Proposal for a regulation
Article 11 – paragraph 2

Text proposed by the Commission

2. Where consent for collecting and processing of personal data is required to ensure compliance with this Regulation, a gatekeeper shall take the necessary steps to either enable business users to directly obtain the required consent to their processing, where required under Regulation (EU) 2016/679 and Directive 2002/58/EC, or to comply with Union data protection and privacy rules and principles in other ways including by providing business users with duly anonymised data where appropriate. The gatekeeper shall not make the obtaining of this consent by the business user more burdensome than for its own
for its own services.

Amendment 56
Proposal for a regulation
Article 11 – paragraph 3

Text proposed by the Commission

3. A gatekeeper shall not degrade the conditions or quality of any of the core platform services provided to business users or end users who avail themselves of the rights or choices laid down in Articles 5 and 6, or make the exercise of those rights or choices unduly difficult.

Amendment

3. A gatekeeper shall not degrade the conditions or quality of any of the core platform services provided to business users or end users who avail themselves of the rights or choices laid down in Articles 5 and 6, or make the exercise of those rights or choices unduly difficult. The end-user’s rights or choices laid down in Articles 5 and 6 must be presented in a neutral manner and must not be undermined through product design or by impairing user autonomy, decision-making, or choice via the structure, function or manner of operation of a user interface or a part thereof.

Amendment 57
Proposal for a regulation
Article 12 – title

Text proposed by the Commission

Obligation to inform about concentrations

Amendment

Prior notification of concentrations

Amendment 58
Proposal for a regulation
Article 12 – paragraph 1 – subparagraph 1

Text proposed by the Commission

A gatekeeper shall inform the Commission of any intended concentration within the meaning of Article 3 of Regulation (EC) No 139/2004 involving another provider of

Amendment

A gatekeeper shall notify the Commission of any intended concentration within the meaning of Article 3 of Regulation (EC) No 139/2004 involving another provider of
core platform services or of any other services provided in the digital sector irrespective of whether it is notifiable to a Union competition authority under Regulation (EC) No 139/2004 or to a competent national competition authority under national merger rules.

Amendment 59

Proposal for a regulation
Article 12 – paragraph 1 – subparagraph 2

*Text proposed by the Commission*

A gatekeeper shall *inform* the Commission of such a concentration prior to its implementation and following the conclusion of the agreement, the announcement of the public bid, or the acquisition of a controlling interest.

*Amendment*

A gatekeeper shall *notify* the Commission of such a concentration prior to its implementation and following the conclusion of the agreement, the announcement of the public bid, or the acquisition of a controlling interest, *in accordance with the procedure set out in Regulation (EC) No 139/2004.*

Amendment 60

Proposal for a regulation
Article 14 – paragraph 2 – point c

*Text proposed by the Commission*

(c) the purpose of the investigation.

*Amendment*

(c) the purpose of the investigation and the specific aims sought to be achieved.

Amendment 61

Proposal for a regulation
Article 16 – paragraph 3

*Text proposed by the Commission*

3. A gatekeeper shall be deemed to have engaged in a systematic non-compliance with the obligations laid down in Articles 5 and 6, where the Commission

*Amendment*

3. A gatekeeper shall be deemed to have engaged in a systematic non-compliance with the obligations laid down in Articles 5 and 6, where the Commission
has issued at least three non-compliance or fining decisions pursuant to Articles 25 and 26 respectively against a gatekeeper in relation to any of its core platform services within a period of five years prior to the adoption of the decision opening a market investigation in view of the possible adoption of a decision pursuant to this Article.

has issued at least two non-compliance or fining decisions pursuant to Articles 25 and 26 respectively against a gatekeeper in relation to any of its core platform services within a period of five years prior to the adoption of the decision opening a market investigation in view of the possible adoption of a decision pursuant to this Article.

**Amendment 62**

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

*Text proposed by the Commission*

The Commission may conduct a market investigation with the purpose of examining whether one or more services within the digital sector should be added to the list of core platform services or to detect types of practices that may limit the contestability of core platform services or may be unfair and which are not effectively addressed by this Regulation. It shall issue a public report at the latest within 24 months from the opening of the market investigation.

*Amendment*

The Commission may conduct a market investigation with the purpose of examining whether one or more services within the digital sector should be added to the list of core platform services or to detect types of practices that may limit the contestability of core platform services or prima facie be unfair and which are not effectively addressed by this Regulation. It shall issue a public report at the latest within 24 months from the opening of the market investigation.

**Amendment 63**

**Proposal for a regulation**  
**Article 17 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) be accompanied by a proposal to amend this Regulation in order to include additional services within the digital sector in the list of core platform services laid down in point 2 of Article 2;

*Amendment*

(a) be accompanied by a proposal to amend this Regulation in order to include additional services within the digital sector in the list of core platform services laid down in point 2 of Article 2, or to update the obligations laid down in Articles 5 and 6.
Amendment 64

Proposal for a regulation
Article 17 – paragraph 2 – point b

Text proposed by the Commission

(b) be accompanied by a delegated act amending Articles 5 or 6 as provided for in Article 10.

Amendment

deleted

Amendment 65

Proposal for a regulation
Article 24 – paragraph 1

Text proposed by the Commission

1. The Commission may take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in Articles 5 and 6 and the decisions taken pursuant to Articles 7, 16, 22 and 23.

Amendment

1. The Commission shall take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in Articles 5 and 6 and the decisions taken pursuant to Articles 7, 16, 22 and 23.

Amendment 66

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

Text proposed by the Commission

1a. The Commission shall establish and maintain a publicly accessible and user-friendly website with information on
- the number of non-compliance decisions adopted pursuant to Article 25,
- the number of fines imposed pursuant to Article 26, and
- the names of the companies subject to the non-compliance decisions and the fines.

The Commission shall not publish any commercially confidential information, which may prejudice the interests of a
Amendment 67

Proposal for a regulation
Article 25 – paragraph 1 – introductory part

Text proposed by the Commission

1. The Commission shall adopt a non-compliance decision in accordance with the advisory procedure referred to in Article 32(4) where it finds that a gatekeeper does not comply with one or more of the following:

Amendment

1. The Commission shall endeavour to adopt, within six months from the opening of the proceedings under Article 18, a non-compliance decision in accordance with the advisory procedure referred to in Article 32(4) where it finds that a gatekeeper does not comply with one or more of the following:

Amendment 68

Proposal for a regulation
Article 25 – paragraph 3

Text proposed by the Commission

3. In the non-compliance decision adopted pursuant to paragraph 1, the Commission shall order the gatekeeper to cease and desist with the non-compliance within an appropriate deadline and to provide explanations on how it plans to comply with the decision.

Amendment

3. In the non-compliance decision adopted pursuant to paragraph 1, the Commission shall order the gatekeeper to cease and desist with the non-compliance within an appropriate deadline and specify mandatory corrective measures a non-compliant gatekeeper shall implement to comply with the obligations in Articles 5 and 6. The gatekeeper shall also present its own plan on how it intends to comply with the decision and the corrective measures.

Amendment 69

Proposal for a regulation
Article 26 – paragraph 1 – introductory part
<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. In the decision pursuant to Article 25, the Commission may impose on a gatekeeper fines not exceeding 10% of its total turnover in the preceding financial year where it finds that the gatekeeper, intentionally or negligently, fails to comply with:</td>
<td>1. In the decision pursuant to Article 25, the Commission may impose on a gatekeeper fines not exceeding 30% of its total turnover in the preceding financial year where it finds that the gatekeeper, intentionally or negligently, fails to comply with:</td>
</tr>
</tbody>
</table>

Amendment 70

Proposal for a regulation
Article 26 – paragraph 2 – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. The Commission may by decision impose on undertakings and associations of undertakings fines not exceeding 1% of the total turnover in the preceding financial year where they intentionally or negligently:</td>
<td>2. The Commission may by decision impose on undertakings and associations of undertakings fines not exceeding 5% of the total turnover in the preceding financial year where they intentionally or negligently:</td>
</tr>
</tbody>
</table>

Amendment 71

Proposal for a regulation
Article 26 – paragraph 4 – subparagraph 5

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>The financial liability of each undertaking in respect of the payment of the fine shall not exceed 10% of its total turnover in the preceding financial year.</td>
<td>The financial liability of each undertaking in respect of the payment of the fine shall not exceed 30% of its total turnover in the preceding financial year.</td>
</tr>
</tbody>
</table>

Amendment 72

Proposal for a regulation
Article 27 – paragraph 1 – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The Commission may by decision impose on undertakings and associations of undertakings fines not exceeding 5% of the total turnover in the preceding financial year where they intentionally or negligently:</td>
<td>1. The Commission may by decision impose on undertakings and associations of undertakings fines not exceeding 10% of the total turnover in the preceding financial year where they intentionally or negligently:</td>
</tr>
</tbody>
</table>
impose on undertakings, including

gatekeepers where applicable, periodic

penalty payments not exceeding 5 % of the
-average daily turnover in the preceding
financial year per day, calculated from the
date set by that decision, in order to compel
them:

impose on undertakings, including

gatekeepers where applicable, periodic
penalty payments not exceeding 10 % of
-the average daily turnover in the preceding
financial year per day, calculated from the
date set by that decision, in order to compel
them:

Amendment 73

Proposal for a regulation
Article 28 – paragraph 1

Text proposed by the Commission

1. The powers conferred on the Commission by Articles 26 and 27 shall be subject to a three year limitation period.

Amendment

1. The powers conferred on the Commission by Articles 26 and 27 shall be subject to a five year limitation period.

Amendment 74

Proposal for a regulation
Article 29 – paragraph 1

Text proposed by the Commission

1. The power of the Commission to enforce decisions taken pursuant to Articles 26 and 27 shall be subject to a limitation period of five years.

Amendment

1. The power of the Commission to enforce decisions taken pursuant to Articles 26 and 27 shall be subject to a limitation period of seven years.

Amendment 75

Proposal for a regulation
Article 30 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The Commission shall also seek to consult other relevant stakeholders, including consumer organisations and business users.

Amendment 76
Proposal for a regulation
Article 33 – paragraph 1

Text proposed by the Commission

1. When three or more Member States request the Commission to open an investigation pursuant to Article 15 because they consider that there are reasonable grounds to suspect that a provider of core platform services should be designated as a gatekeeper, the Commission shall within four months examine whether there are reasonable grounds to open such an investigation.

Amendment

1. When three or more Member States request the Commission to open an investigation pursuant to Article 15 because they consider that there are reasonable grounds to suspect that a provider of core platform services should be designated as a gatekeeper, the Commission shall within four months examine whether there are reasonable grounds to open such an investigation. The result of any such investigation shall be made publicly available. The Commission shall not publish any commercially confidential information, which may prejudice the interests of a company.

Amendment 77

Proposal for a regulation
Article 33 a (new)

Text proposed by the Commission

Article 33a

Amendment to Directive (EU) 2020/1828

1. In the Annex I to Directive (EU) 2020/1828 of the European Parliament and of the Council, the following point is added:


Amendment 78

Proposal for a regulation
Article 37 – paragraph 2

Text proposed by the Commission

2. The power to adopt delegated acts referred to in Articles 3(6) and 9(1) shall be conferred on the Commission for a period of five years from DD/MM/YYYY. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

Amendment

2. The power to adopt delegated acts referred to in Article 3(5) shall be conferred on the Commission for a period of five years from DD/MM/YYYY. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

Amendment 79

Proposal for a regulation
Article 37 – paragraph 3

Text proposed by the Commission

3. The delegation of power referred to in Articles 3(6) and 9(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment

3. The delegation of power referred to in Article 3(5) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment 80
Proposal for a regulation
Article 37 – paragraph 6

Text proposed by the Commission

6. A delegated act adopted pursuant to Articles 3(6) and 9(1) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Amendment

6. A delegated act adopted pursuant to Article 3(5) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Amendment 81

Proposal for a regulation
Article 37 a (new)

Text proposed by the Commission

Article 37a

Reporting

The Commission’s annual report on Competition Policy shall include a chapter on the implementation of this Regulation.

Amendment

Proposal for a regulation
Article 38 – paragraph 1

Text proposed by the Commission

1. By DD/MM/YYYY, and subsequently every three years, the Commission shall evaluate this Regulation and report to the European Parliament, the Council and the European Economic and

Amendment

1. By three years and six months after the entry into force of this Regulation, and subsequently every three years, the Commission shall evaluate this Regulation and report to the European Parliament, the Council and the European
Amendment 83

Proposal for a regulation
Article 38 – paragraph 2

Text proposed by the Commission

2. The evaluations shall establish whether additional rules, including regarding the list of core platform services laid down in point 2 of Article 2, the obligations laid down in Articles 5 and 6 and their enforcement, may be required to ensure that digital markets across the Union are contestable and fair. Following the evaluations, the Commission shall take appropriate measures, which may include legislative proposals.

Amendment

2. The evaluations shall establish whether additional rules, including regarding the list of core platform services laid down in point 2 of Article 2, may be required to ensure that digital markets across the Union are contestable and fair. With respect to the obligations laid down in Article 5 and 6, the Commission shall carry out an evaluation by twelve months after the entry into force of this Regulation, and subsequently every twelve months. Following these evaluations, the Commission shall take appropriate measures, which may include legislative proposals.
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<th>PROCEDURE – COMMITTEE ASKED FOR OPINION</th>
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<tr>
<td><strong>Title</strong></td>
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<td><strong>References</strong></td>
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| **Committee responsible**  
  Date announced in plenary | IMCO  
  8.2.2021 |
| **Opinion by**  
  Date announced in plenary | TRAN  
  11.3.2021 |
| **Rapporteur for the opinion**  
  Date appointed | Markus Ferber  
  29.3.2021 |
| **Date adopted** | 27.9.2021 |
| **Result of final vote** | +: 46  
  -: 2  
  0: 1 |
| **Members present for the final vote** | Magdalena Adamowicz, Andris Ameriks, José Ramón Bauzá Díaz, Izaskun Bilbao Barandica, Paolo Borghia, Marco Campomenosi, Massimo Casanova, Ciarán Cuffe, Johan Danielsson, Karima Delli, Anna Deparnay-Grunenberg, Ismail Ertug, Gheorghe Falcă, Giuseppe Ferrandino, Mario Furore, Søren Gade, Isabel García Muñoz, Jens Gieseke, Elsi Katainen, Kateřina Konečná, Elena Kountoura, Julie Lechanteux, Peter Lundgren, Benoît Lutgen, Elżbieta Katarzyna Łukacijewska, Marian-Jean Marinescu, Tilly Metz, Cláudia Monteiro de Aguiar, Caroline Nagtegaal, Jan-Christoph Oetjen, Philippe Olivier, João Pimenta Lopes, Rovana Plumb, Tomasz Piotr Poręba, Dominique Riquet, Dorien Rookmaker, Massimiliano Salini, Vera Tax, Barbara Thaler, István Ujhelyi, Henna Virkkunen, Petar Vitanov, Eliassavet Vozemberg-Vronidhi, Roberts Zīle, Kosma Złotowski |
| **Substitutes present for the final vote** | Ignazio Corrao, Josianne Cutajar, Tomasz Frankowski, Markus Pieper |
### FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

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Key to symbols:
+ : in favour
- : against
0 : abstention