



2020/0374(COD)

2.6.2021

AMENDMENTS

37 - 183

Draft opinion

Markus Ferber

(PE691.253v02-00)

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

Proposal for a regulation

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

Amendment 37

Ondřej Kovařík, José Ramón Bauzá Díaz

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) Core platform services, at the same time, feature a number of characteristics that can be exploited by their providers. These characteristics of core platform services include among others extreme scale economies, which often result from nearly zero marginal costs to add business users or end users. Other characteristics of core platform services are very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, a significant degree of dependence of both business users and end users, lock-in effects, a lack of multi-homing for the same purpose by end users, vertical integration, and data driven-advantages. All these characteristics combined with unfair conduct by providers of these services can have the effect of substantially undermining the contestability of the core platform services, as well as impacting the fairness of the commercial relationship between providers of such services and their business users and end users, leading to rapid and potentially far-reaching decreases in business users' and end users' choice in practice, and therefore can confer to the provider of those services the position of a so-called gatekeeper.

Amendment

(2) Core platform services, at the same time, feature a number of characteristics that can be exploited by their providers. These characteristics of core platform services include among others extreme scale economies, which often result from nearly zero marginal costs to add business users, **active users** or end users. Other characteristics of core platform services are very strong network effects, an ability to connect many business users with many **active users and** end users through the multi-sidedness of these services, a significant degree of dependence of both business users and end users, lock-in effects, a lack of multi-homing for the same purpose by end users, vertical integration, and data driven-advantages. All these characteristics combined with unfair conduct by providers of these services can have the effect of substantially undermining the contestability of the core platform services, as well as impacting the fairness of the commercial relationship between providers of such services and their business users and end users, leading to rapid and potentially far-reaching decreases in business users' and end users' choice in practice, and therefore can confer to the provider of those services the position of a so-called gatekeeper.

Or. en

Amendment 38

Ondřej Kovařík, Elsi Katainen

Proposal for a regulation

Recital 2 a (new)

Text proposed by the Commission

Amendment

(2 a) Acknowledges that the digital economy, particularly platforms, can have a significant impact on long-established regulated business models in many strategic sectors such as transportation and hospitality. Stresses the need to foster a level-playing field between gatekeepers and traditional enterprises operating in the transport and tourism sectors. Furthermore, emphasises the need for transparency, for the sake of consumers, in transport and tourism platforms, specifically of algorithms affecting service, pricing, advertising and digital trust building mechanisms such as ratings and reviews.

Or. en

Amendment 39
Ondřej Kovařík, José Ramón Bauzá Díaz

Proposal for a regulation
Recital 2 b (new)

Text proposed by the Commission

Amendment

(2 b) Considers that in defining gatekeepers and core platform services it is important to distinguish between two types of end user, the active end user and the passive end user. An active end user would in principle share their personal data with the gatekeeper or platform in the form of a profile or storing personal data with the gatekeeper in a similar way. Believes, therefore, that it is important to distinguish this type of user from an end user who browses a platform or page but does not share any personal data directly with the gatekeeper or platform.

Or. en

Amendment 40
Ondřej Kovařík, José Ramón Bauzá Díaz

Proposal for a regulation
Recital 3

Text proposed by the Commission

(3) A small number of large providers of core platform services have emerged with considerable economic power. Typically, they feature an ability to connect many business users with many end users through their services which, in turn, allows them to leverage their advantages, such as their access to large amounts of data, from one area of their activity to new ones. Some of these providers exercise control over whole platform ecosystems in the digital economy and are structurally extremely difficult to challenge or contest by existing or new market operators, irrespective of how innovative and efficient these may be. Contestability is particularly reduced due to the existence of very high barriers to entry or exit, including high investment costs, which cannot, or not easily, be recuperated in case of exit, and absence of (or reduced access to) some key inputs in the digital economy, such as data. As a result, the likelihood increases that the underlying markets do not function well – or will soon fail to function well.

Amendment

(3) A small number of large providers of core platform services have emerged with considerable economic power. Typically, they feature an ability to connect many business users with many **active users and** end users through their services which, in turn, allows them to leverage their advantages, such as their access to large amounts of data, from one area of their activity to new ones. Some of these providers exercise control over whole platform ecosystems in the digital economy and are structurally extremely difficult to challenge or contest by existing or new market operators, irrespective of how innovative and efficient these may be. Contestability is particularly reduced due to the existence of very high barriers to entry or exit, including high investment costs, which cannot, or not easily, be recuperated in case of exit, and absence of (or reduced access to) some key inputs in the digital economy, such as data. As a result, the likelihood increases that the underlying markets do not function well – or will soon fail to function well.

Or. en

Amendment 41
Ondřej Kovařík, José Ramón Bauzá Díaz

Proposal for a regulation
Recital 4

Text proposed by the Commission

(4) The combination of those features of gatekeepers is likely to lead in many cases to serious imbalances in bargaining

Amendment

(4) The combination of those features of gatekeepers is likely to lead in many cases to serious imbalances in bargaining

power and, consequently, to unfair practices and conditions for business users as well as end users of core platform services provided by gatekeepers, to the detriment of prices, quality, choice and innovation therein.

power and, consequently, to unfair practices and conditions for business users as well as **active and** end users of core platform services provided by gatekeepers, to the detriment of prices, quality, choice and innovation therein.

Or. en

Amendment 42

Ondřej Kovařík, José Ramón Bauzá Díaz

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) Gatekeepers have a significant impact on the internal market, providing gateways for a large number of business users, to reach end users, everywhere in the Union and on different markets. The adverse impact of unfair practices on the internal market and particularly weak contestability of core platform services, including their negative societal and economic implications, have led national legislators and sectoral regulators to act. A number of national regulatory solutions have already been adopted or proposed to address unfair practices and the contestability of digital services or at least with regard to some of them. This has created a risk of divergent regulatory solutions and thereby fragmentation of the internal market, thus raising the risk of increased compliance costs due to different sets of national regulatory requirements.

Amendment

(6) Gatekeepers have a significant impact on the internal market, providing gateways for a large number of business users, to reach **active and** end users, everywhere in the Union and on different markets. The adverse impact of unfair practices on the internal market and particularly weak contestability of core platform services, including their negative societal and economic implications, have led national legislators and sectoral regulators to act. A number of national regulatory solutions have already been adopted or proposed to address unfair practices and the contestability of digital services or at least with regard to some of them. This has created a risk of divergent regulatory solutions and thereby fragmentation of the internal market, thus raising the risk of increased compliance costs due to different sets of national regulatory requirements.

Or. en

Amendment 43

Ondřej Kovařík

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, active** 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. ***In this regard, calls on the Commission to clarify the liability of transport and tourism platforms, in order to promote responsible behaviour, transparency, legal certainty and thereby increase user confidence.*** Moreover, while gatekeepers tend to adopt global or at least pan-European business models and algorithmic structures, they can adopt, and in some cases have adopted, different business conditions and practices in different Member States, which is liable to create disparities between the competitive conditions for the users of core platform services provided by gatekeepers, to the detriment of integration within the internal market.

Or. en

Amendment 44

Ondřej Kovařík, José Ramón Bauzá Díaz, Elsi Katainen

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) By approximating diverging national laws, obstacles to the freedom to provide and receive services, including retail services, within the internal market should be eliminated. A targeted set of

Amendment

(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.

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.***

Or. en

Amendment 45
Carles Puigdemont i Casamajó

Proposal for a regulation
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8 a) Very large online platforms tend to disrupt also local retail markets, with a negative externality in the lack of diversification due to the inability of local producers to present their products in the digital markets. Therefore, this Regulation should take into account the principles set out by the Farm to Fork Strategy.

Or. en

Amendment 46
Ondřej Kovařík, José Ramón Bauzá Díaz

Proposal for a regulation
Recital 12

Text proposed by the Commission

Amendment

(12) Weak contestability and unfair practices in the digital sector are more frequent and pronounced for certain digital services than for others. This is the case in particular for widespread and commonly used digital services that mostly directly intermediate between business users and

(12) Weak contestability and unfair practices in the digital sector are more frequent and pronounced for certain digital services than for others. This is the case in particular for widespread and commonly used digital services that mostly directly intermediate between business users and

end users and where features such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration are the most prevalent. Often, there is only one or very few large providers of those digital services. These providers of core platform services have emerged most frequently as gatekeepers for business users and end users with far-reaching impacts, gaining the ability to easily set commercial conditions and terms in a unilateral and detrimental manner for their business users and end users. Accordingly, it is necessary to focus only on those digital services that are most broadly used by business users and end users and where, based on current market conditions, concerns about weak contestability and unfair practices by gatekeepers are more apparent and pressing from an internal market perspective.

end users and where features such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration are the most prevalent. Often, there is only one or very few large providers of those digital services. These providers of core platform services have emerged most frequently as gatekeepers for business users and end users with far-reaching impacts, gaining the ability to easily set commercial conditions and terms in a unilateral and detrimental manner for their business users and end users. Accordingly, it is necessary to focus only on those digital services that are most broadly used by business users and *active or* 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 regard, stresses the importance and the particularities of the transport and tourism online platform market, which require a sector-specific approach and special attention in this regard. Highlights the importance of collaborative economy platforms in the transport and tourism sectors, on which services are provided by both individuals and professionals and stresses the importance of avoiding imposing disproportionate information requirements and administrative burdens on peer-to-peer providers of services.*

Or. en

Amendment 47
Carles Puigdemont i Casamajó

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 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.

(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. ***This situation produces disruptions and restrictions, in particular on SMEs in the transport, tourism and hospitality sector, 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.

Or. en

Amendment 48
Carles Puigdemont i Casamajó

Proposal for a regulation
Recital 12 a (new)

(12 a) There are serious negative externalities posed by home-sharing digital services, transport applications such as car sharing or bike or scooter sharing, or delivery digital services, that disrupt the market, especially in urban areas or in densely inhabited territories. In order to find the best solutions to these problems, authorities should inform the Digital Services Coordinator set out in Regulation [...] on a Single Market for Digital Services (Digital Services Act), as well as their national or regional competent authority and the European Digital Services Board -also set out in the Digital Services Act-, of the legal measures or policies they wish to implement and enforce. Finally, through the Digital Services Data Space, local or regional authorities could also share their information as well as retrieve information from their peers and other stakeholders using this Data Space with the final aim to better solve the negative externalities posed by some digital services.

Or. en

Amendment 49
Kosma Zlotowski

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) A very significant turnover in the Union and the provision of a core platform service in at least **three** Member States constitute **compelling** indications that the provider of a core platform service has a significant impact on the internal market. This is equally true where a provider of a core platform service in at least **three** Member States has a very significant

Amendment

(17) A very significant turnover in the Union and the provision of a core platform service in at least **two** Member States constitute **sufficient** 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 **two** Member States has a very significant

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

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 **two** 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, **in cooperation with the Member States and after consulting the Advisory Committee**, develop an objective methodology to calculate that value, **taking into account relevant quantitative and qualitative criteria**. 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.

Or. pl

Amendment 50
Kosma Zlotowski

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.

Amendment

(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.

Or. pl

Amendment 51
Kosma Zlotowski

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

Amendment

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

three Member States to a very high number of business users and end users during at least three years.

two Member States to a very high number of business users and end users during at least three years.

Or. pl

Amendment 52
Kosma Zlotowski

Proposal for a regulation
Recital 22

Text proposed by the Commission

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

Amendment

(22) Such thresholds can be impacted by market and technical developments. The Commission should therefore be empowered, **in cooperation with the Member States and after consulting the Digital Markets Advisory Committee, to take steps** 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.

Or. pl

Amendment 53
Maria Grapini

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

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

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.

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.

Or. ro

Amendment 54 **Maria Grapini**

Proposal for a regulation **Recital 25**

Text proposed by the Commission

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

Amendment

(25) Such an assessment can only be done in light of a market investigation, while taking into account the quantitative thresholds. In its assessment the Commission should pursue the objectives of preserving and fostering the level of innovation, the quality of digital products and services, the degree to which prices are fair and competitive, and the degree to which quality or choice for business users and for end users is or remains high, **and whether or not fair competition is ensured**. Elements that are specific to the providers of core platform services concerned, such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration, can be taken into account. In addition, a very high market capitalisation, a very high ratio of equity value over profit or a very high turnover derived from end users of a single core platform service can point to the tipping of the market or leveraging potential of such providers. Together with market capitalisation, high growth rates, or decelerating growth rates read together with profitability growth, are

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.

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

Or. ro

Amendment 55
Kosma Zlotowski

Proposal for a regulation
Recital 25

Text proposed by the Commission

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

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. Elements that are specific to the providers of core platform services concerned, such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration, can be taken into account. In addition, a very high market capitalisation, a very high ratio of equity value over profit or a very high turnover derived from end users of a single core platform service can point to the tipping of the market or leveraging potential of such providers. Together with market capitalisation, high

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.

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

Or. pl

Amendment 56
Kosma Złotowski

Proposal for a regulation
Recital 26

Text proposed by the Commission

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

Amendment

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

Or. pl

Amendment 57
Kosma Zlotowski

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.

Or. pl

Amendment 58
Ondřej Kovařík, José Ramón Bauzá Díaz, Elsi Katainen

Proposal for a regulation
Recital 28

Text proposed by the Commission

(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.

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, following consultations with all relevant stakeholders, and to establish an obligation for platforms to hare 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.

Or. en

Amendment 59
Maria Grapini

Proposal for a regulation
Recital 28

Text proposed by the Commission

(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.

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, **efficiency** and contestability of the services concerned.

Or. ro

Amendment 60
Kosma Zlotowski

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

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, **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.

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** time limit for such regular reviews is necessary. It is also important to conduct such reviews at least every two years.

Or. pl

Amendment 61
Carles Puigdemont i Casamajó

Proposal for a regulation
Recital 31

Text proposed by the Commission

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

Amendment

(31) **Data has a very relevant role on digital competition. In order** to ensure **that the competitiveness in the European single market is not disrupted**, 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 acquisitions of other providers of core platform services or any other services provided within the digital sector. Such **market concentrations** should not only **be duly informed, but also cleared by the Commission. The information on these concentrations should eventually be subject to the merger control procedure. Finally, this information could** 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.

Or. en

Amendment 62

Ciarán Cuffe

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 32

Text proposed by the Commission

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

Amendment

(32) To safeguard the fairness and contestability of core platform services provided by gatekeepers, it is necessary to provide in a clear and unambiguous manner for a set of harmonised obligations with regard to those services. Such rules are needed to address the risk of harmful effects of unfair practices imposed by gatekeepers, to the benefit of the business environment in the services concerned, to the benefit of users and ultimately to the benefit of society as a whole. Given the fast-moving and dynamic nature of digital markets, and the substantial economic power of gatekeepers, it is important that these obligations are effectively applied without being circumvented. To that end, the obligations in question should apply to any practices by a gatekeeper, irrespective of its form and irrespective of whether it is of a contractual, commercial, technical or any other nature, ***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.

Or. en

Amendment 63
Kosma Zlotowski

Proposal for a regulation
Recital 33

Text proposed by the Commission

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

Amendment

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

Or. pl

Amendment 64
Carles Puigdemont i Casamajó

Proposal for a regulation
Recital 33 a (new)

(33 a) This Regulation should not pose a legal or administrative problem to the capacity of digital services in transport to design or develop interoperable digital services or applications, providing inter-ticketing across all modes. Moreover, this Regulation should be designed not to hamper the development of automation solutions, data storage, or artificial intelligence, or any other digital development, in transport services. Finally, all serious negative externalities appearing because of these developments should be assessed, measured and solved by the authorities, either national, regional, or local, following the principle of subsidiarity.

Or. en

Amendment 65

Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

Proposal for a regulation

Recital 37

Text proposed by the Commission

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

Amendment

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

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

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

Or. en

Amendment 66

Ciarán Cuffe

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 37

Text proposed by the Commission

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

Amendment

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

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.

measure with equivalent effect, such as for example increased commission rates or de-listing *or less favourable ranking* of the offers of business users.

Or. en

Amendment 67

Carles Puigdemont i Casamajó

Proposal for a regulation

Recital 39

Text proposed by the Commission

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

Amendment

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

Amendment 68**Maria Grapini****Proposal for a regulation****Recital 39***Text proposed by the Commission*

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

Amendment

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

Or. ro

Amendment 69**Carles Puigdemont i Casamajó**

Proposal for a regulation
Recital 40

Text proposed by the Commission

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

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

Amendment

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

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

Or. en

Amendment 70
Kosma Złotowski

Proposal for a regulation
Recital 41

Text proposed by the Commission

(41) Gatekeepers should not restrict the free choice of end users by technically

Amendment

(41) Gatekeepers should not restrict the free choice of end users by technically

preventing switching between or subscription to different software applications and services. Gatekeepers should therefore ensure a free choice irrespective of whether they are the manufacturer of any hardware by means of which such software applications or services are accessed and should not raise artificial technical barriers so as to make switching impossible or ineffective. The 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.

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

Or. pl

Amendment 71

Carles Puigdemont i Casamajó

Proposal for a regulation

Recital 58

Text proposed by the Commission

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

Amendment

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

Commission, following a dialogue with the gatekeeper concerned, to further specify some of the measures that the gatekeeper concerned should adopt in order to effectively comply with those obligations that are susceptible of being further specified. This possibility of a regulatory dialogue should facilitate compliance by gatekeepers and expedite the correct implementation of the Regulation.

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

Or. en

Amendment 72

Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

Proposal for a regulation

Recital 62

Text proposed by the Commission

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

Amendment

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

requisite degree of legal certainty.

Or. en

Amendment 73
Kosma Zlotowski

Proposal for a regulation
Recital 65

Text proposed by the Commission

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

Amendment

(65) The services and practices in core platform services and markets in which these intervene can change quickly and to a significant extent. To ensure that this Regulation remains up to date and constitutes an effective and holistic regulatory response to the problems posed by gatekeepers, it is important to provide for a regular review of the lists of core platform services as well as of the obligations provided for in this Regulation. This is particularly important to ensure that behaviour that may limit the contestability of core platform services or is unfair is identified. While it is important to conduct a review on a regular basis, given the dynamically changing nature of the digital sector, in order to ensure legal certainty as to the regulatory conditions, any reviews should be conducted within a reasonable and appropriate time-frame. 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. pl

Amendment 74
Kosma Złotowski

Proposal for a regulation
Recital 66

Text proposed by the Commission

(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

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

Or. pl

Amendment 75
Kosma Złotowski

Proposal for a regulation
Recital 71

Text proposed by the Commission

(71) The Commission should also be empowered to undertake onsite inspections and to interview any persons who may be in possession of useful information and to record the statements made.

Amendment

deleted

Or. pl

Amendment 76
Ondřej Kovařík, Elsi Katainen

Proposal for a regulation
Recital 72

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 77
Ciarán Cuffe
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 75

Text proposed by the Commission

(75) In the context of proceedings carried out under this Regulation, the undertakings concerned should be accorded the right to be heard by the Commission and the decisions taken should be widely publicised. While ensuring the rights to good administration and the rights of defence of the undertakings concerned, in particular, the right of access to the file and the right to be heard, it is essential that confidential information be protected. Furthermore, while respecting the confidentiality of the information, the Commission should

Amendment

(75) In the context of proceedings carried out under this Regulation, the undertakings concerned should be accorded the right to be heard by the Commission and the decisions taken should be widely publicised. While ensuring the rights to good administration and the rights of defence of the undertakings concerned, in particular, the right of access to the file and the right to be heard, it is essential that confidential information be protected. 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.

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. ***Other parties with sufficient interest should also have a right to be heard. Parties that are directly affected by the obligations contained in Articles 5 and 6 should be considered to have sufficient interest. Consumer associations that apply to be heard shall be regarded as having a sufficient interest, where the proceedings concern products or services used by end users.***

Or. en

Amendment 78

Ondřej Kovařík, José Ramón Bauzá Díaz

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

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

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.

an extent that allows the addressee of the decision to understand the facts and considerations that led up to the decision. Finally, under certain conditions certain business records, such as communication between lawyers and their clients, may be considered confidential if the relevant conditions are met.

Or. en

Amendment 79
Kosma Zlotowski

Proposal for a regulation
Recital 77

Text proposed by the Commission

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

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.

Better Law-Making of 13 April 2016³⁶. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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

Or. pl

Amendment 80
Carles Puigdemont i Casamajó

Proposal for a regulation
Recital 77

Text proposed by the Commission

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

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 their regions, in case they have devolved digital competences, and the opinions of stakeholders such as small and medium-sized enterprises(SMEs), consumer protection experts and 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, delegated acts should be adopted in respect of the methodology for determining the

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

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

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

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

Or. en

Amendment 81

Ciarán Cuffe

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 77

Text proposed by the Commission

(77) The advisory committee established in accordance with Regulation (EU) No 182//2011 should also deliver opinions on certain individual decisions of the Commission issued under this Regulation. In order to ensure contestable and fair

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. ***The Commission should involve third***

markets in the digital sector across the Union where gatekeepers are present, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to supplement this Regulation. In particular, delegated acts should be adopted in respect of the methodology for determining the quantitative thresholds for designation of gatekeepers under this Regulation and in respect of the update of the obligations laid down in this Regulation where, based on a market investigation the Commission has identified the need for updating the obligations addressing practices that limit the contestability of core platform services or are unfair. It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016³⁶. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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

parties in this committee, representing both affected business users and end-users, such as consumer rights organisations. In order to ensure contestable and fair markets in the digital sector across the Union where gatekeepers are present, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to supplement this Regulation. In particular, delegated acts should be adopted in respect of the methodology for determining the quantitative thresholds for designation of gatekeepers under this Regulation and in respect of the update of the obligations laid down in this Regulation where, based on a market investigation the Commission has identified the need for updating the obligations addressing practices that limit the contestability of core platform services or are unfair. It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016³⁶. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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

Or. en

Amendment 82

Ondřej Kovařík, José Ramón Bauzá Díaz, Elsi Katainen

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

(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, ***by Eurostat, and by the national statistics offices of the countries where the service providers operate***. Following the evaluation, the Commission should take appropriate measures. The Commission should to maintain a high level of protection and respect for the common EU rights and values, particularly equality and non-discrimination, as an objective when conducting the assessments and reviews of the practices and obligations provided in this Regulation.

Or. en

Amendment 83

Kosma Złotowski

Proposal for a regulation
Article 1 – paragraph 7

Text proposed by the Commission

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

Amendment

7. The Commission and Member States shall work in close cooperation and coordination in their enforcement actions ***in respect of this regulation.***

Or. pl

Amendment 84
Massimiliano Salini, Giuseppe Milazzo

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;

Or. it

Justification

It is considered appropriate to include in the definition of 'ancillary services' an explicit reference to postal services such as parcel delivery and freight transport, which are otherwise excluded from 'fulfilment services', as regulated by Article 3(11) of EU Regulation 2019/1020.

Amendment 85
Giuseppe Ferrandino

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) No 2018/644, freight transport services and** identification or advertising services;

Or. it

Justification

A fini di certezza giuridica, è opportuno integrare la definizione di “servizio ausiliare” inserendo espressamente un riferimento ai “servizi di consegna dei pacchi” e “di trasporto merci”. Questi, infatti, non sono compresi nella “logistica”, quale definita all’art. 3(11) del Regolamento 2019/1020 («fornitore di servizi di logistica»: qualsiasi persona fisica o giuridica che offre, nell’ambito di un’attività commerciale, almeno uno dei due servizi seguenti: immagazzinamento, imballaggio, indirizzamento e spedizione, senza essere proprietario dei prodotti interessati, escludendo i servizi postali definiti all’articolo 2, punto 1 della direttiva 97/67/CE del Parlamento europeo e del Consiglio (31), i servizi di consegna dei pacchi come definiti all’articolo 2, punto 2 del regolamento (UE) 2018/644 del Parlamento europeo e del Consiglio (32), nonché qualsiasi altro servizio postale o di trasporto merci).

Amendment 86
Marco Campomenosi, Paolo Borchia, Lucia Vuolo, Massimo Casanova

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

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, identification or advertising services;

provision of payment services as defined in Article 3(j) of Directive (EU) 2015/2366, fulfilment, **delivery of parcels as defined in Article 1(paragraph 2) of Regulation (EU) 2018/644**, identification or advertising services;

Or. en

Amendment 87

Ondřej Kovařík, José Ramón Bauzá Díaz

Proposal for a regulation

Article 2 – paragraph 1 – point 16 a (new)

Text proposed by the Commission

Amendment

(16 a) 'Active user' means any natural or legal person using core platform services, and having saved personal data in the form of a profile of that user or similar, on a platform on a long-term basis;

Or. en

Amendment 88

Kosma Złotowski

Proposal for a regulation

Article 2 – paragraph 1 – point 23

Text proposed by the Commission

Amendment

(23) 'Control' means the possibility of exercising decisive influence on an undertaking, as understood in Regulation (EU) No 139/2004.

(23) 'Control' means the possibility of exercising decisive influence on an undertaking, as understood in **Article 12 of Regulation (EU) No 139/2004**.

Or. pl

Amendment 89

Ondřej Kovařík, José Ramón Bauzá Díaz

Proposal for a regulation

Article 3 – paragraph 1 – point b

Text proposed by the Commission

(b) it operates a core platform service which serves as an important gateway for business users to reach end users; and

Amendment

(b) it operates a core platform service which serves as an important gateway for business users to reach ***both active and*** end users; and

Or. en

Amendment 90 Kosma Złotowski

Proposal for a regulation Article 3 – paragraph 1 – point c

Text proposed by the Commission

(c) it enjoys an entrenched and durable position in its operations or it is foreseeable that it will enjoy such a position ***in the near future.***

Amendment

(c) it enjoys an entrenched and durable position in its operations or it is foreseeable, ***on the basis of available quantitative and qualitative data,*** that it will enjoy such a position ***over the next 18 months.***

Or. pl

Amendment 91 Kosma Złotowski

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

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 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;

platform service in at least **two** Member States;

Or. pl

Amendment 92
István Ujhelyi

Proposal for a regulation
Article 3 – paragraph 2 – point b – introductory part

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 a demonstrable EU market share of more than 60% in a given digital sector or*** 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;

Or. en

Amendment 93
Ondřej Kovařík

Proposal for a regulation
Article 3 – paragraph 2 – point b – introductory part

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 **50** million monthly active 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;

Or. en

Amendment 94

Proposal for a regulation

Article 3 – paragraph 3 – introductory part

Text proposed by the Commission

3. 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

3. 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). ***Following notification by a provider of core platform services, the Commission shall take the decision to conduct a market investigation under Article 15 within 60 days.***

Or. en

Amendment 95

Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

Proposal for a regulation

Article 3 – paragraph 3 – subparagraph 1

Text proposed by the Commission

A failure by a relevant provider of core platform services to notify the required information pursuant to this paragraph shall not prevent the Commission from designating these providers as gatekeepers pursuant to paragraph 4 at any time.

Amendment

A failure by a relevant provider of core platform services to notify the required information pursuant to this paragraph shall not prevent the Commission from designating these providers as gatekeepers pursuant to paragraph 4 at any time. ***The possibility for the Commission to conduct a market investigation in the event of a failed notification by a provider of a core platform service shall not be subject to time limitation.***

Amendment 96
Kosma Zlotowski

Proposal for a regulation
Article 3 – paragraph 5

Text proposed by the Commission

5. The Commission is empowered to adopt delegated acts in accordance with Article 37 to specify the methodology for determining whether the quantitative thresholds laid down in paragraph 2 are met, **and to regularly adjust it to market and technological developments where necessary, in particular as regards the threshold in paragraph 2, point (a).**

Amendment

5. The Commission is empowered to adopt delegated acts in accordance with Article 37 to specify the methodology for determining whether the quantitative thresholds laid down in paragraph 2 are met.

Or. pl

Amendment 97
Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

Proposal for a regulation
Article 3 – paragraph 6 – introductory part

Text proposed by the Commission

6. 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.

Amendment

6. 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.

Or. en

Amendment 98
Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

Proposal for a regulation

Article 3 – paragraph 6 – subparagraph 1 – point f

Text proposed by the Commission

(f) other structural market characteristics.

Amendment

(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 three year timeframe.***

Or. en

Amendment 99

Maria Grapini

Proposal for a regulation

Article 3 – paragraph 6 – subparagraph 3

Text proposed by the Commission

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.

Amendment

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 ***time limit of 45 days***, and to submit observations, the Commission shall be entitled to designate that provider as a gatekeeper.

Or. ro

Amendment 100

Maria Grapini

Proposal for a regulation

Article 3 – paragraph 6 – subparagraph 4

Text proposed by the Commission

Where the provider of a core platform

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 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.

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 *time limit of 45 days* and to submit observations, the Commission shall be entitled to designate that provider as a gatekeeper based on facts available.

Or. ro

Amendment 101

Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

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, *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).

Or. en

Amendment 102

Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

Proposal for a regulation

Article 3 – paragraph 8

Text proposed by the Commission

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

Amendment

8. The gatekeeper shall comply with 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.

pursuant to paragraph 7 of this Article.

Or. en

Amendment 103
Kosma Zlotowski

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

Text proposed by the Commission

Amendment

8 a. The Commission shall exercise its supervisory powers and carry out the process of designating gatekeepers in cooperation with the Member States and after consulting the Digital Markets Advisory Committee;

Or. pl

Amendment 104
Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

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

Text proposed by the Commission

Amendment

8 a. 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.

Or. en

Amendment 105
Marco Campomenosi, Paolo Borchia, Lucia Vuolo, Massimo Casanova

Proposal for a regulation
Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

In respect of each of its core platform services identified *pursuant to* Article 3(7), a gatekeeper shall:

Amendment

In respect of each of its core platform services *and ancillary services as* identified, *respectively, in* Article 3(7) *and in Article 2 (paragraph 1, point 14)*, a gatekeeper shall:

Or. en

Amendment 106

Massimiliano Salini, Giuseppe Milazzo

Proposal for a regulation

Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

In respect of each of its core platform services identified pursuant to Article 3(7), a gatekeeper shall:

Amendment

In respect of each of its core platform services identified pursuant to Article 3(7), *and ancillary services*, a gatekeeper shall:

Or. it

Amendment 107

Giuseppe Ferrandino

Proposal for a regulation

Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

In respect of each of its core platform services identified pursuant to Article 3(7), a gatekeeper shall:

Amendment

In respect of each of its core platform services identified pursuant to Article 3(7), *and ancillary services*, a gatekeeper shall:

Or. it

Amendment 108

Ciarán Cuffe

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 5 – paragraph 1 – point b

Text proposed by the Commission

(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;

Amendment

(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;

Or. en

Amendment 109

Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

Proposal for a regulation

Article 5 – paragraph 1 – point b

Text proposed by the Commission

(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;

Amendment

(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;

Or. en

Amendment 110

Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(c a) refrain from treating more favourably in ranking services and from giving a more favourable display of 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;

Or. en

Amendment 111

Marco Campomenosi, Paolo Borchia, Lucia Vuolo, Massimo Casanova

Proposal for a regulation

Article 5 – paragraph 1 – point e

Text proposed by the Commission

(e) refrain from requiring business users to use, offer or interoperate with an identification service *of* the gatekeeper in the context of services offered by the business users using the core platform services of that gatekeeper;

Amendment

(e) refrain from requiring business users to use, offer or interoperate with an identification service *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;

Or. en

Amendment 112

Giuseppe Ferrandino

Proposal for a regulation

Article 5 – paragraph 1 – point e

Text proposed by the Commission

(e) refrain from requiring business users to use, offer or interoperate with an identification service of the gatekeeper in the context of services offered by the business users using the core platform services of that gatekeeper;

Amendment

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

Or. it

Justification

The obligation to refrain from requiring business users to use or offer gatekeeper identification services, in the context of services offered to end users, must be extended to all ancillary services offered by the gatekeeper, including those offered by third parties belonging to the same company.

Amendment 113

Massimiliano Salini, Giuseppe Milazzo

Proposal for a regulation

Article 5 – paragraph 1 – point e

Text proposed by the Commission

(e) refrain from requiring business users to use, offer or interoperate with an identification service of the gatekeeper in the context of services offered by the business users using the core platform services of that gatekeeper;

Amendment

(e) refrain from requiring business users to use, offer or interoperate with an identification service, ***or an ancillary service, of the gatekeeper or of third parties which are part of the same undertaking,*** in the context of services offered by the business users using the core platform services of that gatekeeper;

Or. it

Amendment 114

Ciarán Cuffe

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 5 – paragraph 1 – point e

Text proposed by the Commission

(e) refrain from requiring business users to use, offer or interoperate with an identification service of the gatekeeper in the context of services offered by the business users using the core platform services of that gatekeeper;

Amendment

(e) refrain from requiring business ***users or end*** users to use, offer or interoperate with an identification service of the gatekeeper in the context of services offered by the business users using the core platform services of that gatekeeper;

Or. en

Amendment 115

Peter Lundgren

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(g a) (h) 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;

(i) allow end users to uninstall any pre-installed software applications on its core platform service without prejudice to the possibility for a gatekeeper to restrict such un-installation in relation to software applications that are essential for the functioning of the operating system or of the device and which cannot technically be offered on a standalone basis by third-parties;

(j) allow the installation and effective use of third party software applications or software application stores using, or interoperating with, operating systems of that gatekeeper and allow these software applications or software application stores to be accessed by means other than the core platform services of that gatekeeper. The gatekeeper shall not be prevented from taking proportionate measures to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operatingsystem provided by the gatekeeper;

(k) 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;(l) 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;(m) allow business users and providers of ancillary services access to and interoperability with the same operating system, hardware or software features that are available or used in the provision by the gatekeeper of any ancillary services;

(n) provide advertisers and publishers, upon their request and free of charge, with access to the performance measuring tools of the gatekeeper and the information necessary for advertisers and publishers to carry out their own independent verification of the ad inventory;(o) provide effective portability of data generated through the activity of a business user or end user and shall, in particular, provide tools for end users to facilitate the exercise of data portability, in line with Regulation EU 2016/679, including by the provision of continuous and real-time access ;

(p) 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; ;

(g) provide to any third party providers of online search engines, upon their request, with access on fair, reasonable and non-discriminatory terms to ranking, query, click and view data in relation to free and paid search generated by end users on online search engines of the gatekeeper, subject to anonymisation for the query, click and view data that constitutes personal data;

(r) apply fair and non-discriminatory general conditions of access for business users to its software application store designated pursuant to Article 3 of this regulation.

Or. en

Justification

To strengthen the regulation all the provision in article 6 need to be under the scope of article 5.

Amendment 116

Marco Campomenosi, Paolo Borchia, Lucia Vuolo, Massimo Casanova

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(g a) refrain from using, in competition with business users and with ancillary services providers, 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;

Or. en

Amendment 117

István Ujhelyi

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

Text proposed by the Commission

Amendment

(g a) ensure that business users have the possibility to opt-out of new, modified or updated terms and conditions requested by the core platform service provider if such modifications to the terms and conditions are not the result of an existing or new legal requirement, and remain listed on the core platform service without experiencing a reduced or downgraded level of service.

Or. en

Amendment 118
Carles Puigdemont i Casamajó

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

Text proposed by the Commission

Amendment

(g a) refrain from anti-competitive behaviour, especially against local retail;

Or. en

Amendment 119
Marco Campomenosi, Paolo Borchia, Lucia Vuolo, Massimo Casanova

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

Text proposed by the Commission

Amendment

(g b) refrain from treating more favourably including 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;

Or. en

Amendment 120

Marco Campomenosi, Paolo Borchia, Lucia Vuolo, Massimo Casanova

Proposal for a regulation

Article 5 – paragraph 1 – point g c (new)

Text proposed by the Commission

Amendment

(g c) allow business users and providers of ancillary services access to and interoperability with the same operating system, hardware or software features that are available or used in the provision by the gatekeeper of any ancillary services;

Or. en

Amendment 121

Peter Lundgren

Proposal for a regulation

Article 6 – paragraph 1

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 122

Massimiliano Salini, Giuseppe Milazzo

Proposal for a regulation

Article 6 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. In respect of each of its core

1. In respect of each of its core

platform services identified pursuant to Article 3(7), a gatekeeper shall:

platform services identified pursuant to Article 3(7), **and ancillary services**, a gatekeeper shall:

Or. it

Amendment 123
Giuseppe Ferrandino

Proposal for a regulation
Article 6 – paragraph 1 – introductory part

Text proposed by the Commission

1. In respect of each of its core platform services identified pursuant to Article 3(7), a gatekeeper shall:

Amendment

1. In respect of each of its core platform services identified pursuant to Article 3(7), **and ancillary services**, a gatekeeper shall:

Or. it

Amendment 124
Marco Campomenosi, Paolo Borchia, Lucia Vuolo, Massimo Casanova

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

Text proposed by the Commission

(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

deleted

Or. en

Amendment 125
Massimiliano Salini, Giuseppe Milazzo

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

Text proposed by the Commission

(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

(a) refrain from using, **directly or through third parties which are part of the same undertaking**, in competition with business users **and with ancillary service providers**, any data not publicly available, which is generated through activities by those business users, including by the end users of business users, of its core platform services or provided by **the** business users of its core platform services or by the end users of these business users;

Or. it

Justification

Ancillary services should be among those for which there is an obligation for gatekeepers, and for third parties belonging to the same company, to refrain from using non-public data generated by activity on the platform by business users or end users.

Amendment 126
Giuseppe Ferrandino

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

Text proposed by the Commission

(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

(a) refrain from using, **directly or through third parties belonging to the same undertaking**, in competition with business users **and with ancillary service providers**, any data not publicly available, which is generated through activities by those business users, including by the end users of business users, of its core platform services or provided by **the** business users of its core platform services or by the end users of these business users;

Or. it

Justification

L'obbligo di astenersi dall'utilizzare dati non pubblici, generati dalle attività sulla piattaforma da parte degli utenti commerciali o dagli utenti finali degli stessi, per offrire servizi in concorrenza con gli utenti commerciali deve essere esteso anche alla fornitura in concorrenza di servizi ausiliari. L'utilizzo di tali informazioni da parte dei gatekeeper o di terzi che appartengono alla stessa impresa nella fornitura dei servizi ausiliari può infatti falsare la concorrenza a scapito degli utenti commerciali e degli utenti finali, che vedrebbero limitata la propria capacità di scelta.

Amendment 127

Marco Campomenosi, Paolo Borchia, Lucia Vuolo, Massimo Casanova

Proposal for a regulation

Article 6 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(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;

deleted

Or. en

Amendment 128

Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

Proposal for a regulation

Article 6 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(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;

deleted

Amendment 129

Massimiliano Salini, Giuseppe Milazzo

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) refrain from treating more favourably in ranking 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;

Or. it

Justification

Ancillary services should be among those for which there is an obligation for gatekeepers to refrain from treating more favourably their own services compared to those offered by third parties.

Amendment 130

Giuseppe Ferrandino

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) refrain from treating more favourably, **including** in ranking 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;

Justification

The obligation of gatekeepers to refrain from treating more favourably their own services/products compared to those offered by third parties must be extended to ancillary services, too.

Amendment 131**Ciarán Cuffe**

on behalf of the Verts/ALE Group

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;

Or. en

Amendment 132**Marco Campomenosi, Paolo Borchia, Lucia Vuolo, Massimo Casanova****Proposal for a regulation****Article 6 – paragraph 1 – point f***Text proposed by the Commission*

(f) allow business users and providers of ancillary services access to and interoperability with the same operating system, hardware or software features that are available or used in the provision by the gatekeeper of any ancillary services;

*Amendment****deleted***

Or. en

Amendment 133
Carles Puigdemont i Casamajó

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 effective, ***user-friendly, interoperable***, 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;

Or. en

Amendment 134
Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

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;

Amendment

(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 ***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;
;

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;
;

Or. en

Amendment 135
Kateřina Konečná

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

Text proposed by the Commission

Amendment

(k a) ensure their services, including user interfaces, are accessible to persons with disabilities in accordance with Article 13 of Directive (EU) 2019/882. They shall also ensure that business users which rely on their core platform service to reach consumers for offering services and products in the scope of Directive (EU) 2019/882, comply with the requirements of Directive (EU) 2019/882.

Or. en

Amendment 136
Maria Grapini

Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission

Amendment

1. The measures implemented by the gatekeeper to ensure compliance with the obligations laid down in Articles 5 and 6 shall be effective in achieving the objective of the relevant obligation. The gatekeeper

1. The measures implemented by the gatekeeper to ensure compliance with the obligations laid down in Articles 5 and 6 shall be effective in achieving the objective of the relevant obligation. The gatekeeper

shall ensure that these measures are implemented in compliance with Regulation (EU) 2016/679 and Directive 2002/58/EC, and with legislation on cyber security, consumer protection and product safety.

shall ensure that these measures are implemented in compliance with Regulation (EU) 2016/679 and Directive 2002/58/EC, and with legislation on cyber security, consumer protection and product safety, **and shall ensure that fair competition is maintained on the internal market.**

Or. ro

Amendment 137
Kosma Zlotowski

Proposal for a regulation
Article 7 – paragraph 2

Text proposed by the Commission

2. Where the Commission finds that the measures that the gatekeeper intends to implement pursuant to paragraph 1, or has implemented, do not ensure effective compliance with the relevant obligations laid down in Article 6, it may by decision specify the measures that the gatekeeper concerned shall implement. The Commission shall adopt such a decision within six months from the opening of proceedings pursuant to Article 18.

Amendment

2. Where the Commission finds that the measures that the gatekeeper intends to implement pursuant to paragraph 1, or has implemented, do not ensure effective compliance with the relevant obligations laid down in Article 6, it may by decision, **provided that consultations with gatekeepers as part of the regulatory dialogue do not result in an agreement,** specify the measures that the gatekeeper concerned shall implement. The Commission shall adopt such a decision within six months from the opening of proceedings pursuant to Article 18.

Or. pl

Amendment 138
Maria Grapini

Proposal for a regulation
Article 7 – paragraph 2

Text proposed by the Commission

2. Where the Commission finds that the measures that the gatekeeper intends to

Amendment

2. Where the Commission finds that the measures that the gatekeeper intends to

implement pursuant to paragraph 1, or has implemented, do not ensure effective compliance with the relevant obligations laid down in Article 6, it may by decision specify the measures that the gatekeeper concerned shall implement. The Commission shall adopt such a decision within *six* months from the opening of proceedings pursuant to Article 18.

implement pursuant to paragraph 1, or has implemented, do not ensure effective compliance with the relevant obligations laid down in Article 6, it may by decision specify the measures that the gatekeeper concerned shall implement. The Commission shall adopt such a decision within *three* months from the opening of proceedings pursuant to Article 18.

Or. ro

Amendment 139

Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

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).***

Or. en

Amendment 140

Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

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

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

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.

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).***

Or. en

Amendment 141
Maria Grapini

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

Text proposed by the Commission

Amendment

7a. The Commission shall ensure that no barriers are created to entry to the digital market for gatekeepers, while gatekeepers shall ensure that they update their business models and enhance their innovation capacities to meet the requirements of the market.

Or. ro

Amendment 142
Maria Grapini

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

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

Or. ro

Amendment 143

Carles Puigdemont i Casamajó

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. ***A report stating the reasons and motivations for the suspension decision shall accompany the decision itself.***

Or. en

Amendment 144

Carles Puigdemont i Casamajó

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 receiving a complete reasoned request.

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. ***A report stating the reasons and motivations for the exemption decision shall accompany the decision itself.***

Or. en

Amendment 145
Kosma Zlotowski

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 receiving a complete reasoned request.

Amendment

1. The Commission, ***in cooperation with the Member States and after consulting the Advisory Committee***, 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.

Amendment 146

Ciarán Cuffe

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 9 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) *public morality;*

deleted

Or. en

Amendment 147

Kosma Zlotowski

Proposal for a regulation

Article 9 – paragraph 3 – introductory part

Text proposed by the Commission

Amendment

3. The Commission may, acting on a reasoned request by a gatekeeper or on its own initiative, provisionally suspend the application of the relevant obligation to one or more individual core platform services already prior to the decision pursuant to paragraph 1.

3. The Commission, ***in cooperation with the Member States and after consulting the Advisory Committee***, may, acting on a reasoned request by a gatekeeper or on its own initiative, provisionally suspend the application of the relevant obligation to one or more individual core platform services already prior to the decision pursuant to paragraph 1.

Or. pl

Amendment 148

Kosma Zlotowski

Proposal for a regulation

Article 10

Text proposed by the Commission

Amendment

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.

Or. pl

Amendment 149

Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

Proposal for a regulation

Article 10 – paragraph 1

Text proposed by the Commission

Amendment

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

1. The Commission is empowered to adopt delegated acts in accordance with Article 34 to update **and strengthen** 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

practices addressed by the obligations laid down in Articles 5 and 6.

same way as the practices addressed by the obligations laid down in Articles 5 and 6.

Or. en

Amendment 150

Ciarán Cuffe

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 10 – paragraph 2 – point a

Text proposed by the Commission

(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

Amendment

(a) there is an imbalance of rights and obligations on business **users and end** 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

Or. en

Amendment 151

Ciarán Cuffe

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 11 – paragraph 1

Text proposed by the Commission

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.

Amendment

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.

Or. en

Amendment 152

Ciarán Cuffe

on behalf of the Verts/ALE Group

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.***

Or. en

Amendment 153

Maria Grapini

Proposal for a regulation

Article 13 – paragraph 1

Text proposed by the Commission

Within **six** months after its designation pursuant to Article 3, a gatekeeper shall

Amendment

Within **three** months after its designation pursuant to Article 3, a gatekeeper shall

submit to the Commission an independently audited description of any techniques for profiling of consumers that the gatekeeper applies to or across its core platform services identified pursuant to Article 3. This description shall be updated at least annually.

submit to the Commission an independently audited description of any techniques for profiling of consumers that the gatekeeper applies to or across its core platform services identified pursuant to Article 3. This description shall be updated at least annually.

Or. ro

Amendment 154

Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

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 aim sought to be achieved.***

Or. en

Amendment 155

Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

Proposal for a regulation

Article 15 – paragraph 1

Text proposed by the Commission

1. The Commission may conduct a market investigation for the purpose of examining whether a provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6), or in order to identify core platform services for a gatekeeper pursuant to Article 3(7). It shall endeavour to conclude its investigation by adopting a decision in accordance with the advisory procedure referred to in Article 32(4) within ***twelve*** months from the opening of the market investigation.

Amendment

1. The Commission may conduct a market investigation for the purpose of examining whether a provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6), or in order to identify core platform services for a gatekeeper pursuant to Article 3(7). It shall endeavour to conclude its investigation by adopting a decision in accordance with the advisory procedure referred to in Article 32(4) within ***six*** months from the opening of the market investigation.

Or. en

Amendment 156

Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

Proposal for a regulation

Article 15 – paragraph 2

Text proposed by the Commission

2. In the course of a market investigation pursuant to paragraph 1, the Commission shall endeavour to communicate its preliminary findings to the provider of core platform services concerned within **six** months from the opening of the investigation. In the preliminary findings, the Commission shall explain whether it considers, on a provisional basis, that the provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6).

Amendment

2. In the course of a market investigation pursuant to paragraph 1, the Commission shall endeavour to communicate its preliminary findings to the provider of core platform services concerned within **four** months from the opening of the investigation. In the preliminary findings, the Commission shall explain whether it considers, on a provisional basis, that the provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6).

Or. en

Amendment 157

Kosma Złotowski

Proposal for a regulation

Article 15 – paragraph 4

Text proposed by the Commission

4. When the Commission pursuant to Article 3(6) designates as a gatekeeper a provider of core platform services that does not yet enjoy an entrenched and durable position in its operations, but it is foreseeable that it will enjoy such a position **in the near future**, it shall declare applicable to that gatekeeper only obligations laid down in Article 5(b) and Article 6(1) points (e), (f), (h) and (i) as specified in the designation decision. The Commission shall only declare applicable those obligations that are appropriate and necessary to prevent that the gatekeeper concerned achieves by unfair means an

Amendment

4. When the Commission pursuant to Article 3(6) designates as a gatekeeper a provider of core platform services that does not yet enjoy an entrenched and durable position in its operations, but it is foreseeable that it will enjoy such a position **over the next 18 months**, it shall declare applicable to that gatekeeper only obligations laid down in Article 5(b) and Article 6(1) points (e), (f), (h) and (i) as specified in the designation decision. The Commission shall only declare applicable those obligations that are appropriate and necessary to prevent that the gatekeeper concerned achieves by unfair means an

entrenched and durable position in its operations. The Commission shall review such a designation in accordance with the procedure laid down in Article 4.

entrenched and durable position in its operations. The Commission shall review such a designation in accordance with the procedure laid down in Article 4.

Or. pl

Amendment 158

Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

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 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.

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 *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.

Or. en

Amendment 159

Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

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

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

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.

prima facie 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.

Or. en

Amendment 160
Kosma Zlotowski

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

Text proposed by the Commission

Amendment

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

deleted

Or. pl

Amendment 161
Kosma Zlotowski

Proposal for a regulation
Article 21 – paragraph 1

Text proposed by the Commission

Amendment

1. The Commission may conduct on-site inspections at the premises of an undertaking or association of undertakings.

1. ***At the request of*** the Commission, ***the competent authorities of the Member States*** may conduct on-site inspections at the premises of an undertaking or association of undertakings.

Or. pl

Amendment 162
Kosma Zlotowski

Proposal for a regulation
Article 21 – paragraph 3

Text proposed by the Commission

3. During on-site inspections the **Commission and auditors or experts appointed by it** may require the undertaking or association of undertakings to provide access to and explanations on its organisation, functioning, IT system, algorithms, data-handling and business conducts. The Commission and auditors or experts appointed by it may address questions to key personnel.

Amendment

3. During on-site inspections the **competent authorities of the Member States** may require the undertaking or association of undertakings to provide access to and explanations on its organisation, functioning, IT system, algorithms, data-handling and business conducts. The Commission and auditors or experts appointed by it **which are participating in the inspections** may address questions to key personnel.

Or. pl

Amendment 163
Kosma Złotowski

Proposal for a regulation
Article 21 – paragraph 4

Text proposed by the Commission

4. Undertakings or associations of undertakings are required to submit to an on-site inspection ordered **by decision** of the Commission. The **decision** shall specify the subject matter and purpose of the visit, set the date on which it is to begin and indicate the penalties provided for in Articles 26 and 27 and the right to have the decision reviewed by the Court of Justice.

Amendment

4. Undertakings or associations of undertakings are required to submit to an on-site inspection ordered **at the request** of the Commission. The **request** shall specify the subject matter and purpose of the visit, set the date on which it is to begin and indicate the penalties provided for in Articles 26 and 27 and the right to have the decision reviewed by the Court of Justice.

Or. pl

Amendment 164
Maria Grapini

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

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.

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.

Or. ro

Amendment 165
Carles Puigdemont i Casamajó

Proposal for a regulation
Article 24 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. The Commission shall implement and manage a publicly accessible and user-friendly website with information on the number of non-compliance decisions adopted, the number of fines imposed, and the names of the companies subject to the non-compliance decisions and fines. The Board set out in Regulation [...] on a Single Market for Digital Services shall make recommendations if the Commission shall require it to do so.

Or. en

Amendment 166
Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

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

Text proposed by the Commission

Amendment

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:

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 167

Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

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 168

Kosma Złotowski

Proposal for a regulation

Article 26 – paragraph 1 – introductory part

Text proposed by the Commission

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:

Amendment

1. In the decision pursuant to Article 25, the Commission may impose on a gatekeeper fines not exceeding **20%** of its total turnover in the preceding financial year where it finds that the gatekeeper, intentionally or negligently, fails to comply with:

Amendment 169

Kosma Zlotowski

Proposal for a regulation

Article 26 – paragraph 2 – introductory part

Text proposed by the Commission

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:

Amendment

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:

Or. pl

Amendment 170

Kosma Zlotowski

Proposal for a regulation

Article 27 – paragraph 1 – introductory part

Text proposed by the Commission

1. The Commission may by decision 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:

Amendment

1. The Commission may by decision 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:

Or. pl

Amendment 171

Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

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 172

Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

Proposal for a regulation

Article 30 – paragraph 1 – introductory part

Text proposed by the Commission

1. Before adopting a decision pursuant to Article 7, Article 8(1), Article 9(1), Articles 15, 16, 22, 23, 25 and 26 and Article 27(2), the Commission shall give the gatekeeper or undertaking or association of undertakings concerned the opportunity of being heard on:

Amendment

1. Before adopting a decision pursuant to Article 7, Article 8(1), Article 9(1), Articles 15, 16, 22, 23, 25 and 26 and Article 27(2), the Commission shall give the gatekeeper or undertaking or association of undertakings, ***together with other relevant stakeholders, including consumer organisations and business users***, concerned the opportunity of being heard on:

Or. en

Amendment 173

Ciarán Cuffe

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 30 – paragraph 1 – point b – indent 1 (new)

Text proposed by the Commission

Amendment

- ***Before taking decisions under Article 1, the Commission may, if it deems it necessary, hear and grant applications from third parties where they demonstrate sufficient interest. Applications to be heard on the part of such third parties shall, where sufficient interest is demonstrated, be granted. Member State authorities may also ask the Commission to hear third parties with sufficient interest.***

Or. en

Amendment 174

Ciarán Cuffe

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 30 – paragraph 3

Text proposed by the Commission

3. The Commission shall base its decisions only on objections on which gatekeepers, undertakings and associations of undertakings concerned have been able to comment.

Amendment

3. The Commission shall base its decisions only on objections on which gatekeepers, undertakings and associations of undertakings concerned **and interested third parties** have been able to comment.

Or. en

Amendment 175

Ciarán Cuffe

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 30 – paragraph 4 – indent 1 (new)

Text proposed by the Commission

Amendment

- **Other parties who can demonstrate sufficient interest shall be entitled to lodge complaints with regard to the non-designation of gatekeepers and non-compliance and systematic non-compliance by gatekeepers with their obligations under this Regulation.**

Or. en

Amendment 176

Kosma Złotowski

Proposal for a regulation

Article 32 – paragraph 1

Text proposed by the Commission

1. The Commission shall **be assisted**

Amendment

1. The Commission shall **take**

by the Digital Markets Advisory Committee. That Committee shall be a Committee within the meaning of Regulation (EU) No 182/2011.

decisions after consulting the Digital Markets Advisory Committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

Or. pl

Amendment 177

Josianne Cutajar, István Ujhelyi, Giuseppe Ferrandino, Maria Grapini, Rovana Plumb

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.***

Or. en

Amendment 178

Kosma Zlotowski

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

Amendment

1. When ***two*** 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 ***three*** months

examine whether there are reasonable grounds to open such an investigation.

examine whether there are reasonable grounds to open such an investigation.

Or. pl

Amendment 179

Ciarán Cuffe

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 33 a (new)

Text proposed by the Commission

Amendment

Article 33 a

Amendment to Directive (EU) 2020/1818

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

‘(67) Regulation (EU) 20XX/XXXX of the European Parliament and of the Council of DD MMM YYYY on contestable and fair markets in the digital sector.’

^{1a} 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

Or. en

Amendment 180

Kosma Zlotowski

Proposal for a regulation

Article 37 – paragraph 2

Text proposed by the Commission

Amendment

2. The power to adopt delegated acts referred to in **Articles 3(6) and 9(1)** shall

2. The power to adopt delegated acts referred to in **Article 3(5)** shall be

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.

conferred on the Commission for a period of **5** 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.

Or. pl

Amendment 181
Kosma Zlotowski

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.

Or. pl

Amendment 182
Kosma Zlotowski

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

Amendment

6. A delegated act adopted pursuant to **Article 3(5)** shall enter into force only if no

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.

objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and 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.

Or. pl

Amendment 183
Carles Puigdemont i Casamajó

Proposal for a regulation
Article 38 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. The Commission's and the Parliament's annual reports on Competition Policy shall include a chapter on the implementation of this Regulation.

Or. en