



2020/0361(COD)

8.7.2021

AMENDMENTS

183 - 376

Draft report
Christel Schaldemose
(PE693.594v01-00)

Single Market For Digital Services (Digital Services Act) and amending
Directive 2000/31/EC

Proposal for a regulation
(COM(2020)0825 – C9-0000/2021 – 2020/0361(COD))

Amendment 183
Maria da Graça Carvalho

Proposal for a regulation
Recital 1

Text proposed by the Commission

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

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

Amendment

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

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

Or. pt

Amendment 184
Maria da Graça Carvalho
Proposal for a regulation
Recital 2

Text proposed by the Commission

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

Amendment

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

Or. pt

Amendment 185

Ramona Strugariu, Vlad-Marius Botoș, Karen Melchior

Proposal for a regulation

Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) Member States also undertake to promote, through multilateral agreements such as the International Partnership for Information and Democracy initiated by Reporters Without Borders and signed by 21 EU Member States, the Regulation of the public information and communication space by establishing democratic guarantees for the digital space, based on the responsibility of platforms and guarantees for the

reliability of information. These multilateral commitments offer convergent solutions on matters covered by this Regulation.

Or. en

Amendment 186

Arba Kokalari, Andrey Kovatchev, Pablo Arias Echeverría, Andreas Schwab, Anna-Michelle Asimakopoulou, Maria da Graça Carvalho, Tomislav Sokol, Axel Voss, Ivan Štefanec, Pilar del Castillo Vera, Marion Walsmann, Barbara Thaler

Proposal for a regulation

Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) Moreover, complex national regulatory requirements, fragmented implementation and insufficient enforcement of legislation such as Directive 2000/31/EC have contributed to high administrative costs and legal uncertainty for intermediary services operating on the internal market, especially micro, small and medium sized companies.

Or. en

Amendment 187

David Lega, Hilde Vautmans, Antonio López-Istúriz White, Milan Brglez, Alex Agius Saliba, Brando Benifei, Eva Kaili, Ioan-Rareş Bogdan, Dragoş Pîslaru, Josianne Cutajar

Proposal for a regulation

Recital 3

Text proposed by the Commission

Amendment

(3) Responsible and diligent behaviour by providers of intermediary services is essential for a safe, predictable and trusted online environment and for allowing Union citizens and other persons to exercise their fundamental rights guaranteed in the Charter of Fundamental Rights of the

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European Union ('Charter'), in particular the freedom of expression and information and the freedom to conduct a business, and the right to non-discrimination.

European Union ('Charter'), in particular the freedom of expression and information and the freedom to conduct a business, and the right to non-discrimination. ***Children have specific rights enshrined in Article 24 of the Charter of Fundamental Rights of the European Union and in the United Nations Convention on the Rights of the Child. As such, the best interests of the child should be a primary consideration in all matters affecting them. The UNCRC General comment No. 25 on children's rights in relation to the digital environment formally sets out how these rights apply to the digital world.***

Or. en

Amendment 188

Brando Benifei, Monika Beňová, Christel Schaldemose, Marc Angel, Maria Grapini

Proposal for a regulation

Recital 3

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 189

Alessandra Basso, Marco Campomenosi, Antonio Maria Rinaldi, Isabella Tovaglieri, Markus Buchheit, Jean-Lin Lacapelle, Virginie Joron
on behalf of the ID Group

Proposal for a regulation
Recital 3

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 190
Maria da Graça Carvalho

Proposal for a regulation
Recital 4

Text proposed by the Commission

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

Amendment

(4) Therefore, in order to safeguard and improve the functioning of the internal market, a targeted set of uniform, effective and proportionate mandatory rules should be established at Union level. This Regulation provides the conditions for innovative digital services to emerge and to scale up in the internal market. The approximation of national regulatory measures at Union level concerning the requirements for providers of intermediary services is necessary in order to avoid and put an end to fragmentation of the internal market and to ensure legal certainty, thus reducing uncertainty for developers, **protecting consumers** and fostering interoperability. By using requirements that are technology neutral, innovation should

instead be stimulated.

not be hampered but instead be stimulated.

Or. pt

Amendment 191

Alessandra Basso, Marco Campomenosi, Antonio Maria Rinaldi, Isabella Tovaglieri, Markus Buchheit
on behalf of the ID Group

Proposal for a regulation

Recital 4

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 192

Alexandra Geese, Rasmus Andresen, Kim Van Sparrentak, Marcel Kolaja, Maria-Manuel Leitão-Marques, Paul Tang, Eva Kaili, Ismail Ertug, Evelyn Regner, Martin Schirdewan, Tiemo Wölken, Cornelia Ernst, Birgit Sippel, Alex Agius Saliba, Clare Daly

Proposal for a regulation

Recital 4 a (new)

(4a) Online advertisement plays an important role in the online environment, including in relation to the provision of the information society services. However, certain forms of online advertisement can contribute to significant risks, ranging from advertisement that is itself illegal content, to contributing to creating financial incentives for the publication or amplification of illegal or otherwise harmful content and activities online, to misleading or exploitative marketing or the discriminatory display of advertising with an impact on the equal treatment and the rights of consumers. Consumers are largely unaware of the volume and granularity of the data that is being collected and used to deliver personalised and micro-targeted advertisements, and have little agency and limited ways to stop or control data exploitation. The significant reach of a few online platforms, their access to extensive datasets and participation at multiple levels of the advertising value chain has created challenges for businesses, traditional media services and other market participants seeking to advertise or develop competing advertising services. In addition to the information requirements resulting from Article 6 of Directive 2000/31/EC, stricter rules on targeted advertising and micro-targeting are needed, in favour of less intrusive forms of advertising that do not require extensive tracking of the interaction and behaviour of recipients of the service. Therefore, providers of information society services may only deliver and display online advertising to a recipient or a group of recipients of the service when this is done based on contextual information, such as keywords or metadata. Providers should not deliver and display online advertising to a recipient or a clearly identifiable group of recipients of the service that is based on

personal or inferred data relating to the recipients or groups of recipients. Where providers deliver and display advertisement, they should be required to ensure that the recipients of the service have certain individualised information necessary for them to understand why and on whose behalf the advertisement is displayed, including sponsored content and paid promotion.

Or. en

Justification

In line with the IMCO INL (P9_TA(2020)0272), paragraph 33. The IMCO study published in June 2021 on online advertising has found that current targeted advertising practices are highly problematic from the perspective that they contribute to undermining consumer trust in digital markets. In addition, it found that “as harmful practices continue to evolve, they may work to impede some of the growth potential of the digital economy”. Small companies, traditional media services and other market participants increasingly report shrinking advertising revenue and are facing challenges as they are kept in the dark when it comes to the calculation of fees charged by various intermediaries along the advertising value chain. What is more, according to recent reports from the advertising industry, small businesses and large European companies alike are struggling with fraud in the online advertising market. Such fraudulent advertising practices are increasingly used in an anti-competitive way, such as fake clicks on competitors’ ads, impacting daily ad auction budgets, thereby capping the competitor’s potential market reach and brand awareness.

Amendment 193

Jordi Cañas, Maite Pagazaurtundúa

Proposal for a regulation

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) As Party to the United Nations Convention on the Rights of Persons with Disabilities (UN CRPD), provisions of the Convention are integral part of the Union legal order and binding upon the Union and its Member States. The UN CRPD requires its Parties to take appropriate measures to ensure that persons with disabilities have access, on an equal basis with others, to information and communications technologies and

systems, and other facilities and services open or provided to the public, both in urban and in rural areas. General Comment No 2 to the UNCRPD further states that “The strict application of universal design to all new goods, products, facilities, technologies and services should ensure full, equal and unrestricted access for all potential consumers, including persons with disabilities, in a way that takes full account of their inherent dignity and diversity^{1a}”. Given the ever-growing importance of digital services and platforms in private and public life, in line with the obligations enshrined in the UN CRPD, the EU must ensure a regulatory framework for digital services which protects rights of all recipients of services, including persons with disabilities. Declaration 22 annexed to the final Act of Amsterdam provides that the institutions of the Union are to take account of the needs of persons with disabilities in drawing up measures under Article 114 TFEU.

^{1a} General comment No. 2 (2014) on Article 9: Accessibility of the UN Convention on the Rights of Persons with Disabilities.

Or. en

Amendment 194

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Morten Løkkegaard, Marco Zullo, Svenja Hahn, Karen Melchior, Sandro Gozi, Stéphanie Yon-Courtin, Liesje Schreinemacher

Proposal for a regulation Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) As Party to the United Nations Convention on the Rights of Persons with Disabilities (UN CRPD), provisions of the

Convention are integral part of the Union legal order and binding upon the Union and its Member States. The UN CRPD requires its Parties to take appropriate measures to ensure that persons with disabilities have access, on an equal basis with others, to information and communications technologies and systems, and other facilities and services open or provided to the public, both in urban and in rural areas. General Comment No2 to the UN CRPD further states that “The strict application of universal design to all new goods, products, facilities, technologies and services should ensure full, equal and unrestricted access for all potential consumers, including persons with disabilities, in a way that takes full account of their inherent dignity and diversity.” Given the ever-growing importance of digital services and platforms in private and public life, in line with the obligations enshrined in the UN CRPD, the EU must ensure a regulatory framework for digital services which protects rights of all recipients of services, including persons with disabilities.

Or. en

Amendment 195
Alex Agius Saliba, Christel Schaldemose

Proposal for a regulation
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) The United Nations Convention on the Rights of Persons with Disabilities (UN CRPD) requires its Parties to take appropriate measures to ensure that persons with disabilities have access, on an equal basis with others, to information and communications technologies and systems, and other facilities and services open or provided to the public, both in

urban and in rural areas. The UNCRPD further states that the strict application of universal design to all new goods, products, facilities, technologies and services should ensure full, equal and unrestricted access for all potential consumers, including persons with disabilities, in a way that takes full account of their inherent dignity and diversity. Given the ever-growing importance of digital services in private and public life, in line with the obligations enshrined in the UN CRPD, the Union must ensure a regulatory framework for digital services which protects rights of all recipients of services, including persons with disabilities.

Or. en

Justification

The EU and all Member States are Party to the UN CRPD. As is the case in other EU mainstream law (passengers' rights regulations; European Audiovisual Media Services Directive, European Electronic Communications Code) and specific legislation on accessibility (e.g. European Accessibility Act; Web Accessibility Directive), it is important that legislative framework for digital services and platforms acknowledges rights of persons with disabilities for equal access to digital services and platforms, as enshrined in article 9 of the UN CRPD and is coherent with EU treaties.

Amendment 196

Alessandra Basso, Marco Campomenosi, Antonio Maria Rinaldi, Isabella Tovaglieri, Markus Buchheit, Jean-Lin Lacapelle, Virginie Joron
on behalf of the ID Group

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) This Regulation should apply to providers of certain information society services as defined in Directive (EU) 2015/1535 of the European Parliament and of the Council²⁶, that is, any service **normally** provided for remuneration, at a distance, by electronic means and at the individual request of a recipient.

Amendment

(5) This Regulation should apply to providers of certain information society services as defined in Directive (EU) 2015/1535 of the European Parliament and of the Council²⁶, that is, any service **frequently** provided for remuneration, at a distance, by electronic means and at the individual request of a recipient.

Specifically, this Regulation should apply to providers of intermediary services, and in particular intermediary services consisting of services known as ‘mere conduit’, ‘caching’ and ‘hosting’ services, given that the exponential growth of the use made of those services, mainly for legitimate and socially beneficial purposes of all kinds, has also increased their role in the intermediation and spread of ***unlawful or otherwise harmful information and activities***.

²⁶ Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

Specifically, this Regulation should apply to providers of intermediary services, and in particular intermediary services consisting of services known as ‘mere conduit’, ‘caching’ and ‘hosting’ services, given that the exponential growth of the use made of those services, mainly for legitimate and socially beneficial purposes of all kinds, has also increased their role in the intermediation and spread of ***illegal content***.

²⁶ Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

Or. en

Amendment 197
Jordi Cañas, Maite Pagazaurtundúa

Proposal for a regulation
Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Given the cross-border nature of the services at stake, Union action to harmonise accessibility requirements for intermediary services across the internal market is vital to avoid market fragmentation and ensure that equal right to access and choice of those services by all consumers and other recipients of services, including by persons with disabilities, is protected throughout the Union. Lack of harmonised accessibility requirements for digital services and platforms will also create barriers for the implementation of existing Union legislation on accessibility, as many of the services falling under those laws will rely

on intermediary services to reach end-users. Therefore, accessibility requirements for intermediary services, including their user interfaces, must be consistent with existing Union accessibility legislation, such as the European Accessibility Act^{1a} and the Web Accessibility Directive^{1b}, so that no one is left behind as result of digital innovation. This aim is in line with the Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030 and the Union's commitment to the United Nations' Sustainable Development Goals.

^{1a} Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services

^{1b} Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies

Or. en

Amendment 198

Alexandra Geese, Rasmus Andresen, Kim Van Sparrentak
on behalf of the Greens/EFA Group

Proposal for a regulation **Recital 5 a (new)**

Text proposed by the Commission

Amendment

(5a) Given the cross-border nature of the services concerned, Union action to harmonise accessibility requirements for intermediary services across the internal market is vital to avoid market fragmentation and ensure that equal right to access and choice of those services by all consumers and other recipients of services, including by persons with disabilities, is protected throughout the

Union. Lack of harmonised accessibility requirements for digital services and platforms will also create barriers for the implementation of existing Union legislation on accessibility, as many of the services falling under those laws will rely on intermediary services to reach end-users. Therefore, accessibility requirements for intermediary services, including their online interfaces, must be consistent with existing Union accessibility legislation, such as the European Accessibility Act and the Web Accessibility Directive, so that no one is left behind as result of digital innovation. This aim is in line with the Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030 and the Union's commitment to the United Nations' Sustainable Development Goals.

Or. en

Amendment 199

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Morten Løkkegaard, Marco Zullo, Svenja Hahn, Karen Melchior, Sandro Gozi, Stéphanie Yon-Courtin, Liesje Schreinemacher

Proposal for a regulation

Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Given the cross-border nature of the services at stake, Union action to harmonise accessibility requirements for intermediary services across the internal market is vital to avoid market fragmentation and ensure that equal right to access and choice of those services by all consumers and other recipients of services, including by persons with disabilities, is protected throughout the Union. Lack of harmonised accessibility requirements for digital services and platforms will also create barriers for the implementation of existing Union legislation on accessibility, as many of the

services falling under those laws will rely on intermediary services to reach end-users. Therefore, accessibility requirements for intermediary services, including their user interfaces, must be consistent with existing Union accessibility legislation, such as the European Accessibility Act and the Web Accessibility Directive, so that no one is left behind as result of digital innovation. This aim is in line with the Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030 and the Union's commitment to the United Nations' Sustainable Development Goals.

Or. en

Amendment 200
Alex Agius Saliba

Proposal for a regulation
Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Given the cross-border nature of digital services, any action at Union level to harmonise accessibility requirements for gatekeepers across the internal market should avoid market fragmentation and ensure equal rights to access and choice to all end-users, including by persons with disabilities. To this end the provision of this regulation should address the lack of harmonised accessibility requirements for gatekeepers in line with the existing Union accessibility legislation, such as the European Accessibility Act (Directive(EU) 2019/882 of the European Parliament and of the Council of 17 April 2019) and the Web Accessibility Directive (Directive(EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016on the accessibility of the websites and mobile applications of public sector bodies) and in line with the Union Strategy for the Rights of Persons

Justification

It is important that the legislative framework for digital services and platforms is consistent with Union legislation on accessibility, otherwise it will create barriers for implementation of EU law. For example, if an e-commerce service, which must be accessible according to the Accessibility Act, relies on an intermediary service covered by the Digital Services Act, it might end up not being accessible to consumers with disabilities if the user interface of the intermediary service is inaccessible. Or if a mobile application of a public sector body, which must be accessible according to the Web Accessibility Directive, is placed in an app store which is not accessible, citizens will not be able to access the public sector body mobile application. So, the DSA and DMA should reinforce existing Union law through consistency with them, rather than create barriers to their implementation.

Amendment 201

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Morten Løkkegaard, Marco Zullo, Svenja Hahn, Karen Melchior, Sandro Gozi, Stéphanie Yon-Courtin, Liesje Schreinemacher

Proposal for a regulation

Recital 5 b (new)

Text proposed by the Commission

Amendment

(5b) The notions of 'access' or 'accessibility' are often referred to with the meaning of affordability (financial access), availability, or in relation to access to data, use of network, etc. It is important to distinguish these from 'accessibility for persons with disabilities' which means that services, technologies and products are perceivable, operable, understandable and robust for persons with disabilities.

Amendment 202

Alex Agius Saliba, Christel Schaldemose

Proposal for a regulation
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) The notions of ‘access’ or ‘accessibility’ are often referred to with the meaning of affordability (financial access), availability, or in relation to access to data, use of network, etc. It is important to distinguish these from ‘accessibility for persons with disabilities’ which means that services, technologies and products are perceivable, operable, understandable and robust for persons with disabilities.

Or. en

Justification

This is important for clarity of the legal text. We propose using ‘accessibility for persons with disabilities’ or ‘equal access for persons with disabilities’ whenever the term is used with this meaning.

Amendment 203
Jean-Lin Lacapelle, Virginie Joron

Proposal for a regulation
Recital 7

Text proposed by the Commission

Amendment

(7) In order to ensure the effectiveness of the rules laid down in this Regulation and a level playing field within the internal market, those rules should apply to providers of intermediary services irrespective of their place of establishment or residence, in so far as they provide services in the Union, ***as evidenced by a substantial connection to the Union.***

(7) In order to ensure the effectiveness of the rules laid down in this Regulation and a level playing field within the internal market, those rules should apply to providers of intermediary services irrespective of their place of establishment or residence, in so far as they provide services in the Union.

Or. fr

Amendment 204

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Morten Løkkegaard, Svenja Hahn, Karen Melchior, Liesje Schreinemacher

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) In order to ensure the effectiveness of the rules laid down in this Regulation and a level playing field within the internal market, those rules should apply to providers of intermediary services irrespective of their place of establishment or residence, in so far as they provide services in the Union, as evidenced by a substantial connection to the Union.

Amendment

(7) In order to ensure the effectiveness of the rules laid down in this Regulation and a level playing field within the internal market, those rules should apply to providers of intermediary services irrespective of their place of establishment or residence, in so far as they provide **and direct** services **at and** in the Union, as evidenced by a substantial connection to the Union.

Or. en

Amendment 205

Jean-Lin Lacapelle, Virginie Joron

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) Such a substantial connection to the Union should be considered to exist where the service provider has an establishment in the Union or, in its absence, on the basis of the existence of a significant number of users in one or more Member States, or the targeting of activities towards one or more Member States. The targeting of activities towards one or more Member States can be determined on the basis of all relevant circumstances, including factors such as the use of a language or a currency generally used in that Member State, or the possibility of ordering products or services, or using a national top level domain. The targeting of activities towards a Member State could also be

Amendment

deleted

derived from the availability of an application in the relevant national application store, from the provision of local advertising or advertising in the language used in that Member State, or from the handling of customer relations such as by providing customer service in the language generally used in that Member State. A substantial connection should also be assumed where a service provider directs its activities to one or more Member State as set out in Article 17(1)(c) of Regulation (EU) 1215/2012 of the European Parliament and of the Council²⁷. On the other hand, mere technical accessibility of a website from the Union cannot, on that ground alone, be considered as establishing a substantial connection to the Union.

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

Or. fr

Amendment 206

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Karen Melchior

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) Such a substantial connection to the Union should be considered to exist where the service provider has an establishment in the Union or, in its absence, on the basis of the existence of a significant number of users in one or more Member States, or the **targeting** of activities towards one or more Member States. The targeting of activities towards one or more Member States can be determined on the basis of all relevant

Amendment

(8) Such a substantial connection to the Union should be considered to exist where the service provider has an establishment in the Union or, in its absence, on the basis of the existence of a significant number of **active monthly** users in one or more Member States, or the **proactive directing** of activities towards one or more Member States. The targeting of activities towards one or more Member States can be

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

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

determined on the basis of all relevant circumstances, including factors such using a national top level domain *or intermediary service provider solicits the conclusion of distance contracts from residents of the Union and that a contract has actually been concluded at a distance, by whatever means. In this respect, the language or currency which a website uses does not constitute a relevant factor.* *The proactive directing* of activities towards a Member State could also be derived from the availability of an application in the relevant national application store, from the provision of local advertising or advertising in the language used in that Member State, or from the handling of customer relations such as by providing customer service in the language generally used in that Member State. *The mere availability of a service in a Member State should not be considered as a proactive offering of a service by the provider.* A substantial connection should also be assumed where a service provider directs its activities to one or more Member State as set out in Article 17(1)(c) of Regulation (EU)1215/2012 of the European Parliament and of the Council²⁷. On the other hand, mere technical accessibility of a website from the Union *or the use of an international language of more than 100 Million native speakers* cannot, on *those* ground alone, be considered as establishing a substantial connection to the Union.

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

(The exact number which equals significant should be fixed during negotiations)

Or. en

Amendment 207

Alexandra Geese, Rasmus Andresen, Kim Van Sparrentak
on behalf of the Greens/EFA Group

Proposal for a regulation

Recital 8

Text proposed by the Commission

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

²⁷ Regulation (EU) No 1215/2012 of the European Parliament and of the Council of

Amendment

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

²⁷ Regulation (EU) No 1215/2012 of the European Parliament and of the Council of

12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L351, 20.12.2012, p.1).

12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L351, 20.12.2012, p.1).

Or. en

Amendment 208

Arba Kokalari, Pablo Arias Echeverría, Andreas Schwab, Anna-Michelle Asimakopoulou, Tomislav Sokol, Ivan Štefanec, Andrea Caroppo

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) Such a substantial connection to the Union should be considered to exist where the service provider has an establishment in the Union or, in its absence, on the ***basis of the existence of a significant number of users in one or more Member States, or the targeting*** of activities towards one or more Member States. The targeting of activities towards one or more Member States can be determined on the basis of all relevant circumstances, including factors such as the use of a language or a currency generally used in that Member State, or the possibility of ordering products or services, or using a national top level domain. The ***targeting*** of activities towards a Member State could also be derived from the availability of an application in the relevant national application store, from the provision of local advertising or advertising in the language used in that Member State, or from the handling of customer relations such as by providing customer service in the language generally used in that Member State. A substantial connection should also be assumed where a service provider directs its activities to one or more Member State as set out in Article 17(1)(c) of Regulation (EU) 1215/2012 of the European Parliament and of the Council²⁷. On the other hand, mere technical accessibility of a website from

Amendment

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

the Union cannot, on that ground alone, be considered as establishing a substantial connection to the Union.

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

connection to the Union.

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

Or. en

Amendment 209

Martin Schirdewan, Anne-Sophie Pelletier

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) Such a substantial connection to the Union should be considered to exist where the service provider has an establishment in the Union or, in its absence, on the basis of ***the existence of a significant number of users in one or more Member States, or*** the targeting of activities towards one or more Member States. The targeting of activities towards one or more Member States can be determined on the basis of all relevant circumstances, including factors such as the use of a language or a currency generally used in that Member State, or the possibility of ordering products or services, or using a national top level domain. The targeting of activities towards a Member State could also be derived from the availability of an application in the relevant national application store, from the provision of local advertising or advertising in the language used in that Member State, or from the handling of customer relations such as by providing customer service in the language generally used in that Member State. A substantial connection should also be assumed where a

Amendment

(8) Such a substantial connection to the Union should be considered to exist where the service provider has an establishment in the Union or, in its absence, on the basis of the targeting of activities towards one or more Member States. The targeting of activities towards one or more Member States can be determined on the basis of all relevant circumstances, including factors such as the use of a language or a currency generally used in that Member State, or the possibility of ordering products or services, or using a national top level domain. The targeting of activities towards a Member State could also be derived from the availability of an application in the relevant national application store, from the provision of local advertising or advertising in the language used in that Member State, or from the handling of customer relations such as by providing customer service in the language generally used in that Member State. A substantial connection should also be assumed where a service provider directs its activities to one or more Member State as set out in Article

service provider directs its activities to one or more Member State as set out in Article 17(1)(c) of Regulation (EU) 1215/2012 of the European Parliament and of the Council²⁷. On the other hand, mere technical accessibility of a website from the Union cannot, on that ground alone, be considered as establishing a substantial connection to the Union.

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

17(1)(c) of Regulation (EU) 1215/2012 of the European Parliament and of the Council²⁷. On the other hand, mere technical accessibility of a website from the Union cannot, on that ground alone, be considered as establishing a substantial connection to the Union.

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

Or. en

Amendment 210

Alessandra Basso, Marco Campomenosi, Antonio Maria Rinaldi, Isabella Tovaglieri, Markus Buchheit, Jean-Lin Lacapelle, Virginie Joron
on behalf of the ID Group

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) Such a substantial connection to the Union should be considered to exist where the service provider has an establishment in the Union or, in its absence, on the basis of ***the existence of a significant number of users in one or more Member States, or*** the targeting of activities towards one or more Member States. The targeting of activities towards one or more Member States can be determined on the basis of all relevant circumstances, including factors such as the use of a language or a currency generally used in that Member State, or the possibility of ordering products or services, or using a national top level domain. The targeting of activities towards a Member State could also be derived from the availability of an application in the relevant

Amendment

(8) Such a substantial connection to the Union should be considered to exist where the service provider has an establishment in the Union or, in its absence, on the basis of the targeting of activities towards one or more Member States. The targeting of activities towards one or more Member States can be determined on the basis of all relevant circumstances, including factors such as the use of a language or a currency generally used in that Member State, or the possibility of ordering products or services, or using a national top level domain. The targeting of activities towards a Member State could also be derived from the availability of an application in the relevant national application store, from the provision of local advertising or

national application store, from the provision of local advertising or advertising in the language used in that Member State, or from the handling of customer relations such as by providing customer service in the language generally used in that Member State. A substantial connection should also be assumed where a service provider directs its activities to one or more Member State as set out in Article 17(1)(c) of Regulation (EU) 1215/2012 of the European Parliament and of the Council²⁷. On the other hand, mere technical accessibility of a website from the Union cannot, on that ground alone, be considered as establishing a substantial connection to the Union.

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

advertising in the language used in that Member State, or from the handling of customer relations such as by providing customer service in the language generally used in that Member State. A substantial connection should also be assumed where a service provider directs its activities to one or more Member State as set out in Article 17(1)(c) of Regulation (EU) 1215/2012 of the European Parliament and of the Council²⁷. On the other hand, mere technical accessibility of a website from the Union cannot, on that ground alone, be considered as establishing a substantial connection to the Union.

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

Or. en

Amendment 211

Marc Angel, Maria Grapini, Maria-Manuel Leitão-Marques, Evelyne Gebhardt

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) This Regulation should complement, yet not affect the application of rules resulting from other acts of Union law regulating certain aspects of the provision of intermediary services, in particular Directive 2000/31/EC, with the exception of those changes introduced by this Regulation, Directive 2010/13/EU of the European Parliament and of the Council as amended,²⁸ and Regulation (EU) .../.. of the European Parliament and of the Council²⁹ – proposed Terrorist

Amendment

(9) This ***Regulation fully harmonises the rules applicable to intermediary services when dealing with illegal content online in the internal market to ensure a safe, predictable and trusted online environment where fundamental rights enshrined in the Charter are effectively protected, in order to improve the functioning of the Internal Market. Accordingly, Member States should not adopt or maintain additional national requirements on those matters falling***

Content Online Regulation. Therefore, this Regulation leaves those other acts, which are to be considered *lex specialis* in relation to the generally applicable framework set out in this Regulation, unaffected. However, the rules of this Regulation apply in respect of issues that are not or not fully addressed by those other acts as well as issues on which those other acts leave Member States the possibility of adopting certain measures at national level.

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

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

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

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

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

Or. en

Amendment 212

Petra Kammerevert, Evelyne Gebhardt, Christel Schaldemose

Proposal for a regulation

Recital 9

Text proposed by the Commission

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

²⁸ Directive 2010/13/EU of the European

Amendment

(9) This Regulation should complement, yet not affect the application of rules resulting from other acts of Union law regulating certain aspects of the provision of intermediary services, in particular Directive 2000/31/EC, with the exception of those changes introduced by this Regulation, Directive 2010/13/EU of the European Parliament and of the Council as amended,²⁸ and Regulation (EU) .../.. of the European Parliament and of the Council²⁹ – proposed Terrorist Content Online Regulation. Therefore, this Regulation leaves those other acts, which are to be considered *lex specialis* in relation to the generally applicable framework set out in this Regulation, unaffected. However, the rules of this Regulation *should* apply in respect of issues that are not addressed by those other acts *and should be without prejudice to the* Member States' possibility *to adopt and further develop laws, regulations and other* measures, *which serve a legitimate public interest, in particular to protect the freedom of information and media or to foster the diversity of media or opinion and cultural or linguistic diversity. In particular, in the event of a conflict between Directive 2010/13/EU and the present Regulation, the provisions of the Directive 2010/13/EU should prevail. Similarly, legislation that is in accordance with Directive 2010/13/EU at national level, aiming at securing and fostering the fulfilment of various objectives underpinning the audiovisual policy of the Union and its Member States, should also prevail.*

²⁸ Directive 2010/13/EU of the European

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

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

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

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

Or. en

Justification

The current approach could lead to the rules of the DSA de facto taking precedence over media and sector-specific rules of the Member States as well as over sector-specific Union law. Therefore, it should be clarified that the DSA will not impede Member States' possibilities to adopt further measures aiming to protect media freedom and to foster media pluralism and cultural diversity, including rules for intermediary service providers in the implementation of the AVMSD.

Amendment 213

Arba Kokalari, Andrey Kovatchev, Pablo Arias Echeverría, Andreas Schwab, Anna-Michelle Asimakopoulou, Maria da Graça Carvalho, Tomislav Sokol, Ivan Štefanec, Pilar del Castillo Vera

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) This Regulation ***should complement, yet not affect the application of rules resulting from other acts of Union law regulating certain aspects of the provision*** of intermediary services, ***in particular*** Directive 2000/31/EC, with the exception of those changes introduced by this Regulation, Directive 2010/13/EU of the European Parliament and of the Council as amended,²⁸ and Regulation (EU) .../.. of the European Parliament and of the Council²⁹ – proposed Terrorist Content Online Regulation. Therefore, this Regulation leaves those other acts, which are to be considered *lex specialis* in

Amendment

(9) This Regulation ***fully harmonises the rules applicable to intermediary services in the internal market with the objective to ensure a safe and trusted online environment, effective protection of fundamental rights and a favourable business climate. Accordingly, Member States should not adopt or maintain additional national requirements on those matters falling within the scope of this Regulation. This does not preclude the possibility to apply other national legislation applicable to providers of intermediary services in accordance with Union law, including*** Directive

relation to the generally applicable framework set out in this Regulation, unaffected. However, the rules of this Regulation apply in respect of issues that are not or not fully addressed by those other acts as well as issues on which those other acts leave Member States the possibility of adopting certain measures at national level.

2000/31/EC, *in particular its Article 3*, with the exception of those changes introduced by this Regulation, Directive 2010/13/EU of the European Parliament and of the Council as amended,²⁸ and Regulation (EU) .../. of the European Parliament and of the Council²⁹ – proposed Terrorist Content Online Regulation. Therefore, this Regulation leaves those other acts, which are to be considered *lex specialis* in relation to the generally applicable framework set out in this Regulation, unaffected. However, the rules of this Regulation apply in respect of issues that are not or not fully addressed by those other acts as well as issues on which those other acts leave Member States the possibility of adopting certain measures at national level..

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

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

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

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

Or. en

Amendment 214

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Morten Løkkegaard, Svenja Hahn, Karen Melchior, Sandro Gozi, Stéphanie Yon-Courtin, Liesje Schreinemacher

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) This Regulation should

Amendment

(9) This Regulation should

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

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

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

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

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

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

Or. en

Amendment 215

Alexandra Geese, Rasmus Andresen, Kim Van Sparrentak
on behalf of the Greens/EFA Group

Proposal for a regulation

Recital 9

Text proposed by the Commission

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

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

²⁹ Regulation (EU) .../.. of the European

Amendment

(9) This Regulation should complement, yet not affect the application of rules resulting from other acts of Union law regulating certain aspects of the provision of intermediary services, in particular Directive 2000/31/EC, with the exception of those changes introduced by this Regulation, Directive 2010/13/EU of the European Parliament and of the Council as amended,²⁸ and Regulation (EU) .../.. of the European Parliament and of the Council²⁹ – proposed Terrorist Content Online Regulation. Therefore, this Regulation leaves those other acts, which are to be considered *lex specialis* in relation to the generally applicable framework set out in this Regulation, unaffected. However, the rules of this Regulation apply in respect of issues that are not or not fully addressed by those other acts as well as issues on which those other acts leave Member States the possibility of adopting certain measures at national level. ***Therefore, Chapter III (Articles 10 to 37) also applies as a horizontal framework mutatis mutandis to intermediary services when implementing other secondary legislation, to the extent no more specific rules are laid down.***

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

²⁹ Regulation (EU) .../.. of the European

Amendment 216

Sandro Gozi, Stéphanie Yon-Courtin, Valérie Hayer, Fabienne Keller, Christophe Grudler, Marco Zullo, Stéphane Séjourné, Laurence Farreng

Proposal for a regulation

Recital 9

Text proposed by the Commission

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

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

Amendment

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

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

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

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

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

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

Or. en

Amendment 217

Petra Kammerevert, Christel Schaldemose, Evelyne Gebhardt

Proposal for a regulation

Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) The right of the Member States to provide additional obligations, exemptions or derogations, which serve a legitimate public interest, in particular to protect the freedom of information and media or to foster the diversity of media or opinion and cultural or linguistic diversity, should remain unaffected. Because of the convergence of media, legislation and other measures that ensure and promote media pluralism may be necessary for the entire online environment. The right of the Member States especially includes substantive rules, rules of procedure and enforcement rules, including the regulatory structure.

Or. en

Justification

The current approach could lead to the rules of the DSA de facto taking precedence over media and sector-specific rules of the Member States for audiovisual media services as well as over sector-specific Union law. Therefore, it should be clarified that the DSA will not impede Member States' provisions to safeguard media pluralism and cultural diversity and to promote media pluralism and cultural diversity, including rules for intermediary service providers, in the implementation of the AVMSD.

Amendment 218

Petra Kammerevert, Christel Schaldemose, Evelyne Gebhardt

Proposal for a regulation

Recital 9 b (new)

Text proposed by the Commission

Amendment

(9b) Respecting the Union’s subsidiary competence to take cultural aspects into account in its action according to Article 167(4) of the Treaty on the Functioning of the European Union, this Regulation should not affect Member States’ competences in their respective cultural policies, nor should it prejudice national measures addressed to intermediary service providers in order to protect the freedom of expression and information, media freedom and to foster media pluralism as well as cultural and linguistic diversity.

Or. en

Amendment 219

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Morten Løkkegaard, Svenja Hahn, Karen Melchior, Sandro Gozi, Stéphanie Yon-Courtin, Liesje Schreinemacher

Proposal for a regulation

Recital 10

Text proposed by the Commission

Amendment

(10) For reasons of clarity, it should also be specified that this Regulation is without prejudice to Regulation (EU) 2019/1148 of the European Parliament and of the Council³⁰ and Regulation (EU) 2019/1150 of the European Parliament and of the Council,³¹ Directive 2002/58/EC of the European Parliament and of the Council³² and Regulation [...] on temporary derogation from certain provisions of Directive 2002/58/EC³³ as well as Union

(10) For reasons of clarity, it should also be specified that this Regulation is without prejudice to Regulation (EU) 2019/1148 of the European Parliament and of the Council³⁰ and Regulation (EU) 2019/1150 of the European Parliament and of the Council,³¹ Directive 2002/58/EC of the European Parliament and of the Council³² and Regulation [...] on temporary derogation from certain provisions of Directive 2002/58/EC³³ as well as Union

law on consumer protection, in particular Directive 2005/29/EC of the European Parliament and of the Council³⁴, Directive 2011/83/EU of the European Parliament and of the Council³⁵ and Directive 93/13/EEC of the European Parliament and of the Council³⁶, as amended by Directive (EU) 2019/2161 of the European Parliament and of the Council³⁷, and on the protection of personal data, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council.³⁸ The protection of individuals with regard to the processing of personal data is solely governed by the rules of Union law on that subject, in particular Regulation (EU) 2016/679 and Directive 2002/58/EC. This Regulation is also without prejudice to the rules of Union law on working conditions.

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

³¹ Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (OJ L 186, 11.7.2019, p. 57).

³² Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), OJ L 201, 31.7.2002, p. 37.

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

³⁴ Directive 2005/29/EC of the European

law on consumer protection, in particular Directive 2005/29/EC of the European Parliament and of the Council³⁴, Directive 2011/83/EU of the European Parliament and of the Council.³⁵ **Directive (EU) 2019/882 of the European Parliament and of the Council**, and Directive 93/13/EEC of the European Parliament and of the Council³⁶, as amended by Directive (EU) 2019/2161 of the European Parliament and of the Council³⁷, and on the protection of personal data, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council.³⁸ The protection of individuals with regard to the processing of personal data is solely governed by the rules of Union law on that subject, in particular Regulation (EU) 2016/679 and Directive 2002/58/EC. This Regulation is also without prejudice to the rules of Union law on working conditions.

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

³¹ Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (OJ L 186, 11.7.2019, p. 57).

³² Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), OJ L 201, 31.7.2002, p. 37.

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

³⁴ Directive 2005/29/EC of the European

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

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

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

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

³⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

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

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

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

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

³⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

Or. en

Amendment 220
Martin Schirdewan, Anne-Sophie Pelletier

Proposal for a regulation

Recital 10

Text proposed by the Commission

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

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

³¹ Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (OJ L 186,

Amendment

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

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

³¹ Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (OJ L 186,

11.7.2019, p. 57).

³² Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), OJ L 201, 31.7.2002, p. 37.

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

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

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

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

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

³⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural

11.7.2019, p. 57).

³² Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), OJ L 201, 31.7.2002, p. 37.

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

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

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

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

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

³⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural

persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

Or. en

Amendment 221

Sandro Gozi, Stéphanie Yon-Courtin, Valérie Hayer, Fabienne Keller, Christophe Grudler, Stéphane Séjourné, Marco Zullo, Laurence Farreng

Proposal for a regulation

Recital 11

Text proposed by the Commission

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

Amendment

(11) It should be clarified that this Regulation is without prejudice to the rules of Union law on copyright and related rights, ***in particular Directive (EU) 2019/790 on Copyright and Related Rights in Digital Single Market***, which establish specific rules and procedures that should remain unaffected.

Or. en

Amendment 222

Alexandra Geese, Rasmus Andresen, Kim Van Sparrentak
on behalf of the Greens/EFA Group

Proposal for a regulation

Recital 11

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 223

Jean-Lin Lacapelle, Virginie Joron

Proposal for a regulation

Recital 12

Text proposed by the Commission

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

Amendment

(12) In order to achieve the objective of ensuring a safe, predictable and trusted online environment, for the purpose of this Regulation the concept of ***‘illegal content’*** should be ***strictly defined, with the term covering any activity stipulated or punishable by the applicable*** law of the ***Member State concerned.***

Or. fr

Amendment 224

Tomislav Sokol, Ivan Štefanec, Pablo Arias Echeverría

Proposal for a regulation

Recital 12

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

(12) In order to achieve the objective of ensuring a safe, predictable and trusted online environment, for the purpose of this Regulation the concept of “illegal content” should be defined broadly and also covers information relating to illegal content, products, services and activities, ***including fake online profile accounts. Illegal content is often spread online precisely via fake online profile accounts. Namely, false representation in the ‘online world’ should not be legal as it is also not legal to falsely present oneself in the ‘offline world’. This approach is an evident manifestation of the principle that what is illegal offline should not be allowed to remain legal online. Moreover, the*** concept of “illegal content” should be understood to refer to information, irrespective of its form, that under the applicable law is either itself illegal, such as illegal hate speech or terrorist content and unlawful discriminatory content, or that relates to activities that are illegal, such as the sharing of images depicting child sexual abuse, unlawful non-consensual sharing of private images, online stalking, the sale of non-compliant or counterfeit products, the non-authorised use of copyright protected material or activities involving infringements of consumer protection law. In this regard, it is immaterial whether the illegality of the information or activity results from Union law or from national law that is consistent with Union law and what the precise nature or subject matter is of the law in question.

Or. en

Amendment 225

Morten Løkkegaard, Vlad-Marius Botoș, Ivars Ijabs, Marco Zullo, Jordi Cañas, Karen Melchior

Proposal for a regulation

Recital 12

Text proposed by the Commission

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

Amendment

(12) In order to achieve the objective of ensuring a safe, predictable and trusted online environment, for the purpose of this Regulation the **concepts** of “illegal content” **and “illegal goods” should underpin the general idea that what is illegal offline should also be illegal online**. **The concepts** should be defined broadly **to cover** information relating to illegal content, products, services and activities. In particular, **the concepts** should be understood to refer to information, irrespective of its form, that under the applicable law is either itself illegal, such as illegal hate speech or terrorist content and unlawful discriminatory content, or that **is not in compliance with Union law since it** relates to activities that are illegal, such as the sharing of images depicting child sexual abuse, unlawful non-consensual sharing of private images, online stalking, the sale of non-compliant or counterfeit products, **the sale of products or the provision of services in infringement of consumer protection law**, **the** non-authorised use of copyright protected material. In this regard, it is immaterial whether the illegality of the information or activity results from Union law or from national law that is consistent with Union law and what the precise nature or subject matter is of the law in question.

Or. en

Justification

Illegal products should be mentioned explicitly. It is insufficient to include “illegal products” in the definition of “illegal content” since products are regulated very differently from content.

Amendment 226

Arba Kokalari, Pablo Arias Echeverría, Andreas Schwab, Anna-Michelle

Proposal for a regulation
Recital 12

Text proposed by the Commission

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

Amendment

(12) For the purpose of this Regulation the concept of “illegal content” should be understood to refer to information, irrespective of its form, that under the applicable law is either itself illegal, such as illegal hate speech or terrorist content and unlawful discriminatory content, or that ***it is not in compliance with Union law as it refers*** to activities that are illegal, such as the sharing of images depicting child sexual abuse, unlawful non-consensual sharing of private images, online stalking, the sale of non-compliant or counterfeit products, the non-authorised use of copyright protected material or activities involving infringements of consumer protection law. In this regard, it is immaterial whether the illegality of the information or activity results from Union law or from national law that is consistent with Union law and what the precise nature or subject matter is of the law in question.

Or. en

Justification

To clarify that the definition of illegal content does not include content only depicting or referring to illegal activities.

Amendment 227

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Morten Løkkegaard, Marco Zullo, Svenja Hahn, Karen Melchior, Sandro Gozi, Stéphanie Yon-Courtin, Liesje Schreinemacher

Proposal for a regulation

Recital 12

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 228

Martin Schirdewan, Anne-Sophie Pelletier

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) In order to achieve the objective of

Amendment

(12) In order to achieve the objective of

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

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

Or. en

Amendment 229

Adam Bielan, Kosma Złotowski, Eugen Jurzyca, Beata Mazurek

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) In order to achieve the objective of ensuring a safe, predictable and trusted online environment, for the purpose of this Regulation the concept of “illegal content” should be defined broadly *and also covers* information relating to illegal content, products, services and activities. In

Amendment

(12) In order to achieve the objective of ensuring a safe, predictable and trusted online environment, for the purpose of this Regulation the concept of “illegal content” should *underpin the general idea that what is illegal offline should also be illegal online. The concept should be*

particular, that concept should be understood to refer to information, irrespective of its form, that under the applicable law is either itself illegal, such as illegal hate speech or terrorist content and unlawful discriminatory content, or that relates to activities that are illegal, such as the sharing of images depicting child sexual abuse, unlawful non-consensual sharing of private images, online stalking, the sale of non-compliant or counterfeit products, the non-authorised use of copyright protected material or activities involving infringements of consumer protection law. In this regard, it is immaterial whether the illegality of the information or activity results from Union law or from national law ***that is consistent with Union law*** and what the precise nature or subject matter is of the law in question.

defined broadly ***to cover*** information relating to illegal content, products, services and activities. In particular, that concept should be understood to refer to information, irrespective of its form, that under the applicable law is either itself illegal, such as illegal hate speech or terrorist content and unlawful discriminatory content, or that relates to activities that are illegal, such as the sharing of images depicting child sexual abuse, unlawful non-consensual sharing of private images, online stalking, the sale of non-compliant or counterfeit products, the non-authorised use of copyright protected material or activities involving infringements of consumer protection law. In this regard, it is immaterial whether the illegality of the information or activity results from Union law or from national law and what the precise nature or subject matter is of the law in question.

Or. en

Amendment 230

Sandro Gozi, Stéphanie Yon-Courtin, Valérie Hayer, Fabienne Keller, Christophe Grudler, Marco Zullo, Stéphane Séjourné, Karen Melchior, Laurence Farreng

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) In order to achieve the objective of ensuring a safe, predictable and trusted online environment, for the purpose of this Regulation the concept of “illegal content” should be defined broadly and also covers information relating to illegal content, products, services and activities. In particular, that concept should be understood to refer to information, irrespective of its form, that under the applicable law is either itself illegal, such as illegal hate speech or terrorist content and unlawful discriminatory content, or that relates to activities that are illegal,

Amendment

(12) In order to achieve the objective of ensuring a safe, predictable and trusted online environment, for the purpose of this Regulation the concept of “illegal content” should be defined broadly and also covers information relating to illegal content, products, services and activities. In particular, that concept should be understood to refer to information, irrespective of its form, that under the applicable law is either itself illegal, such as illegal hate speech or terrorist content and unlawful discriminatory content, or that relates to activities that are illegal,

such as the sharing of images depicting child sexual abuse, unlawful non-consensual sharing of private images, online stalking, the sale of non-compliant or counterfeit products, the non-authorised use of copyright protected material or activities involving infringements of consumer protection law. In this regard, it is immaterial whether the illegality of the information or activity results from Union law or from national law that is consistent with Union law and what the precise nature or subject matter is of the law in question.

such as the sharing of images depicting child sexual abuse, unlawful non-consensual sharing of private images, online stalking, the sale of non-compliant or counterfeit products, the non-authorised use of copyright protected material or activities involving infringements of consumer protection law. In this regard, it is immaterial whether the illegality of the information or activity results from Union law or from national law that is consistent with Union law, ***including the EU Charter on Fundamental Rights*** and what the precise nature or subject matter is of the law in question.

Or. en

Amendment 231

Alexandra Geese, Rasmus Andresen, Kim Van Sparrentak
on behalf of the Greens/EFA Group

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) In order to achieve the objective of ensuring a safe, predictable and trusted online environment, for the purpose of this Regulation the concept of “illegal content” should be defined ***broadly*** and also ***covers*** information relating to illegal content, products, services and activities. In particular, that concept should be understood to refer to information, irrespective of its form, that under the applicable law is either itself illegal, such as illegal hate speech or terrorist content and unlawful discriminatory content, or that relates to activities that are illegal, such as the sharing of images depicting child sexual abuse, unlawful non-consensual sharing of private images, online stalking, the sale of non-compliant or counterfeit products, the non-authorised use of copyright protected material or activities involving infringements of

Amendment

(12) In order to achieve the objective of ensuring a safe, predictable and trusted online environment, for the purpose of this Regulation the concept of “illegal content” should be defined ***appropriately*** and also ***cover unlawful*** information ***directly*** relating to illegal content, products, services and activities. In particular, that concept should be understood to refer to information, irrespective of its form, that under the applicable law is either itself illegal, such as illegal hate speech or terrorist content and unlawful discriminatory content, or that ***directly*** relates to activities that are illegal, such as the sharing of images depicting child sexual abuse, unlawful non-consensual sharing of private images, online stalking, the sale of non-compliant or counterfeit products, ***illegally-traded animals*** the non-authorised use of copyright protected

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

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

Or. en

Amendment 232

Jiří Pospíšil

Proposal for a regulation

Recital 12

Text proposed by the Commission

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

Amendment

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

Amendment 233

Marc Angel, Christel Schaldemose, Maria Grapini, Brando Benifei, Maria-Manuel Leitão-Marques, Evelyne Gebhardt

Proposal for a regulation**Recital 12***Text proposed by the Commission*

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

Amendment

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

Or. en

Justification

National law needs to be in conformity with Union law. Also, we should avoid that the DSA indirectly validates national laws that define illegal content where these national laws violate Union law.

Amendment 234
Carlo Fidanza

Proposal for a regulation
Recital 12

Text proposed by the Commission

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

Amendment

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

Or. it

Amendment 235
Barbara Thaler

Proposal for a regulation
Recital 12 a (new)

(12a) Tourism is one of the main pillars of the European Economy, therefore it is of utmost importance, that also the provision of accommodation services on short-term rental platforms need to be addressed directly in the legislation, to ensure a fair level playing field within the Internal Market.

Or. en

Amendment 236

Andrea Caroppo, Salvatore De Meo

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) Considering the particular characteristics of the services concerned and the corresponding need to make the providers thereof subject to certain specific obligations, it is necessary to distinguish, within the broader category of providers of hosting services as defined in this Regulation, the subcategory of online platforms. Online platforms, such as social networks or online marketplaces, should be defined as providers of hosting services that not only store information provided by the recipients of the service at their request, but that also disseminate that information to the public, again at their request. However, in order to avoid imposing overly broad obligations, providers of hosting services should not be considered as online platforms where the dissemination to the public is merely a minor and purely ancillary feature of another service and that feature cannot, for objective technical reasons, be used without that other, principal service, and the integration of that feature is not a means to circumvent the applicability of

Amendment

(13) Considering the particular characteristics of the services concerned and the corresponding need to make the providers thereof subject to certain specific obligations, it is necessary to distinguish, within the broader category of providers of hosting services as defined in this Regulation, the subcategory of online platforms. Online platforms, such as social networks or online marketplaces, should be defined as providers of hosting services that not only store information provided by the recipients of the service at their request, but that also disseminate that information to the public, again at their request. However, in order to avoid imposing overly broad obligations, providers of hosting services should not be considered as online platforms where the ***service is provided by cooperative organisations exclusively to their members established in the European Union with whom they have a direct organisational, cooperative or capital ownership link within the framework of an organised distribution network operating publicly under a***

the rules of this Regulation applicable to online platforms. For example, the comments section in an online newspaper could constitute such a feature, where it is clear that it is ancillary to the main service represented by the publication of news under the editorial responsibility of the publisher.

common brand, or where the dissemination to the public is merely a minor and purely ancillary feature of another service and that feature cannot, for objective technical reasons, be used without that other, principal service, and the integration of that feature is not a means to circumvent the applicability of the rules of this Regulation applicable to online platforms. For example, the comments section in an online newspaper could constitute such a feature, where it is clear that it is ancillary to the main service represented by the publication of news under the editorial responsibility of the publisher.

Or. en

Amendment 237

Adam Bielan, Kosma Złotowski, Eugen Jurzyca, Beata Mazurek

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) Considering the particular characteristics of the services concerned and the corresponding need to make the providers thereof subject to certain specific obligations, it is necessary to distinguish, within the broader category of providers of hosting services as defined in this Regulation, the subcategory of online platforms. Online platforms, such as social networks or online marketplaces, should be defined as providers of hosting services that not only store information provided by the recipients of the service at their request, but that also disseminate that information to the public, again at their request. However, in order to avoid imposing overly broad obligations, providers of hosting services should not be considered as online platforms where the dissemination to the public is merely a minor and purely ancillary feature of

Amendment

(13) Considering the particular characteristics of the services concerned and the corresponding need to make the providers thereof subject to certain specific obligations, it is necessary to distinguish, within the broader category of providers of hosting services as defined in this Regulation, the subcategory of online platforms. Online platforms, such as social networks or online marketplaces, should be defined as providers of hosting services that not only store information provided by the recipients of the service at their request, but that also disseminate that information to the public, again at their request. However, in order to avoid imposing overly broad obligations, providers of hosting services should not be considered as online platforms where the dissemination to the public is merely a minor and purely ancillary feature of

another service and that feature cannot, for objective technical reasons, be used without that other, principal service, and the integration of that feature is not a means to circumvent the applicability of the rules of this Regulation applicable to online platforms. For example, the comments section in an online newspaper could constitute such a feature, where it is clear that it is ancillary to the main service represented by the publication of news under the editorial responsibility of the publisher.

another service and that feature cannot, for objective technical reasons, be used without that other, principal service, and the integration of that feature is not a means to circumvent the applicability of the rules of this Regulation applicable to online platforms. For example, the comments section in an online newspaper could constitute such a feature, where it is clear that it is ancillary to the main service represented by the publication of news under the editorial responsibility of the publisher. ***Furthermore, cloud services that have no active role in the dissemination, monetisation and organisation of the information to the public or end users, at their request, should not be considered as online platforms.***

Or. en

Amendment 238
Maria Grapini

Proposal for a regulation
Recital 13

Text proposed by the Commission

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

Amendment

(13) Considering the particular characteristics of the services concerned and the corresponding need to make the providers thereof subject to certain specific obligations, it is necessary to distinguish, within the broader category of providers of hosting services as defined in this Regulation, the subcategory of online platforms. Online platforms, such as social networks or online marketplaces, should be defined as providers of hosting services that not only store information provided by the recipients of the service at their request, but that also disseminate that information to the public, again at their request; ***or interact with user generated content, or retain available technical capabilities to address the problem in most expedient***

as online platforms where the dissemination to the public is merely a minor and purely ancillary feature of another service and that feature cannot, for objective technical reasons, be used without that other, principal service, and the integration of that feature is not a means to circumvent the applicability of the rules of this Regulation applicable to online platforms. For example, the comments section in an online newspaper could constitute such a feature, where it is clear that it is ancillary to the main service represented by the publication of news under the editorial responsibility of the publisher.

and proportionate manner. However, in order to avoid imposing overly broad obligations, providers of hosting services should not be considered as online platforms where the dissemination to the public is merely a minor and purely ancillary feature of another service and that feature cannot, for objective technical reasons, be used without that other, principal service, and the integration of that feature is not a means to circumvent the applicability of the rules of this Regulation applicable to online platforms. For example, the comments section in an online newspaper could constitute such a feature, where it is clear that it is ancillary to the main service represented by the publication of news under the editorial responsibility of the publisher.

Or. en

Amendment 239

Sandro Gozi, Stéphanie Yon-Courtin, Valérie Hayer, Fabienne Keller, Christophe Grudler, Stéphane Séjourné, Laurence Farreng, Karen Melchior, Marco Zullo

Proposal for a regulation

Recital 13

Text proposed by the Commission

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

Amendment

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

hosting services should not be considered as online platforms where the dissemination to the public is merely a minor and purely ancillary feature of another service and that feature cannot, for objective technical reasons, be used without that other, principal service, and the integration of that feature is not a means to circumvent the applicability of the rules of this Regulation applicable to online platforms. For example, the comments section in an online newspaper could constitute such a feature, where it is clear that it is ancillary to the main service represented by the publication of news under the editorial responsibility of the publisher.

request. However, in order to avoid imposing overly broad obligations, providers of hosting services should not be considered as online platforms where the dissemination to the public is merely a minor and purely ancillary feature of another service and that feature cannot, for objective technical reasons, be used without that other, principal service, and the integration of that feature is not a means to circumvent the applicability of the rules of this Regulation applicable to online platforms. For example, the comments section in an online newspaper could constitute such a feature, where it is clear that it is ancillary to the main service represented by the publication of news under the editorial responsibility of the publisher.

Or. en

Amendment 240
Geoffroy Didier, Nathalie Colin-Oesterlé

Proposal for a regulation
Recital 13

Text proposed by the Commission

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

Amendment

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

as online platforms where the dissemination to the public is merely a minor and purely ancillary feature of another service and that feature cannot, for objective technical reasons, be used without that other, principal service, and the integration of that feature is not a means to circumvent the applicability of the rules of this Regulation applicable to online platforms. For example, the comments section in an online newspaper could constitute such a feature, where it is clear that it is ancillary to the main service represented by the publication of news under the editorial responsibility of the publisher.

overly broad obligations, providers of hosting services should not be considered as online platforms where the dissemination to the public is merely a minor and purely ancillary feature of another service and that feature cannot, for objective technical reasons, be used without that other, principal service, and the integration of that feature is not a means to circumvent the applicability of the rules of this Regulation applicable to online platforms. For example, the comments section in an online newspaper could constitute such a feature, where it is clear that it is ancillary to the main service represented by the publication of news under the editorial responsibility of the publisher.

Or. en

Amendment 241

Karen Melchior

Proposal for a regulation

Recital 13

Text proposed by the Commission

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

Amendment

(13) Considering the particular characteristics of the services concerned and the corresponding need to make the providers thereof subject to certain specific obligations, it is necessary to distinguish, within the broader category of providers of hosting services as defined in this Regulation, the subcategory of online platforms. Online platforms, such as social networks, *search engines*, online marketplaces, *and messaging services used as sales channels* should be defined as providers of hosting services that not only store information provided by the recipients of the service at their request, but that also disseminate that information to the public, again at their request. However, in order to avoid imposing overly broad obligations, providers of

dissemination to the public is merely a minor and purely ancillary feature of another service and that feature cannot, for objective technical reasons, be used without that other, principal service, and the integration of that feature is not a means to circumvent the applicability of the rules of this Regulation applicable to online platforms. For example, the comments section in an online newspaper could constitute such a feature, where it is clear that it is ancillary to the main service represented by the publication of news under the editorial responsibility of the publisher.

hosting services should not be considered as online platforms where the dissemination to the public is merely a minor and purely ancillary feature of another service and that feature cannot, for objective technical reasons, be used without that other, principal service, and the integration of that feature is not a means to circumvent the applicability of the rules of this Regulation applicable to online platforms. For example, the comments section in an online newspaper could constitute such a feature, where it is clear that it is ancillary to the main service represented by the publication of news under the editorial responsibility of the publisher.

Or. en

Amendment 242

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Svenja Hahn, Karen Melchior, Liesje Schreinemacher

Proposal for a regulation Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) Additionally in order to avoid imposing obligations simultaneously on two providers for the same content, a hosting service should only be deemed an online platform when it has a direct relationship with the recipient of the service. A hosting provider who is acting as the infrastructure for an online platform should not be considered as an online platform based on this relationship, where it implements the decisions of the online platform and its user indirectly.

Or. en

Amendment 243

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Morten Løkkegaard, Svenja Hahn, Karen Melchior, Sandro Gozi, Stéphanie Yon-Courtin, Liesje Schreinemacher

Proposal for a regulation

Recital 13 b (new)

Text proposed by the Commission

Amendment

(13b) For the purpose of this Regulation, a cloud computing service should not be considered as an ‘online platform’ where allowing the dissemination of hyperlinks to a specific content is a minor and ancillary feature. Moreover a cloud computing service when serving as infrastructure, for example as the underlining infrastructural storage and computing services of an internet-based application or online platform, should not in itself be seen as disseminating to the public information stored or processed at the request of a recipient of an application or online platform which it hosts.

Or. en

Amendment 244

Sandro Gozi, Stéphanie Yon-Courtin, Valérie Hayer, Fabienne Keller, Christophe Grudler, Stéphane Séjourné, Laurence Farreng

Proposal for a regulation

Recital 14

Text proposed by the Commission

Amendment

(14) The concept of ‘dissemination to the public’, as used in this Regulation, should entail the making available of information to a potentially unlimited number of persons, that is, making the information easily accessible to users in general without further action by the recipient of the service providing the information being required, irrespective of whether those persons actually access the

(14) The concept of ‘dissemination to the public’, as used in this Regulation, should entail the making available of information to a **large or** potentially unlimited number of persons, that is, making the information easily accessible to users in general without further action by the recipient of the service providing the information being required, irrespective of whether those persons actually access the

information in question. The mere possibility to create groups of users of a given service should not, in itself, be understood to mean that the information disseminated in that manner is not disseminated to the public. However, the concept should exclude dissemination of information within closed groups consisting of a *finite* number of pre-determined persons. Interpersonal communication services, as defined in Directive (EU) 2018/1972 of the European Parliament and of the Council,³⁹ such as emails or private messaging services, fall outside the scope of this Regulation. Information should be considered disseminated to the public within the meaning of this Regulation only where that occurs upon the direct request by the recipient of the service that provided the information.

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

information in question. *Accordingly, where access to information requires registration or admission to a user group, such information should only be considered to be publicly available when users seeking to access such information are automatically registered or admitted without human intervention to decide or select the users to whom access is granted.* The mere possibility to create groups of users of a given *service, including a messaging* service should not, in itself, be understood to mean that the information disseminated in that manner is not disseminated to the public. However, the concept should exclude dissemination of information within closed groups consisting of a *limited* number of pre-determined persons *taking into account the potential for groups to become tools for wide dissemination of content to the public.* Interpersonal communication services, as defined in Directive (EU) 2018/1972 of the European Parliament and of the Council,³⁹ such as emails or private messaging services, fall outside the scope of this Regulation *where they do not meet the above criteria for "dissemination to the public"*. Information should be considered disseminated to the public within the meaning of this Regulation only where that occurs upon the direct request by the recipient of the service that provided the information. *File-sharing services and other cloud services fall within the scope of this Regulation, to the extent that such services are used to make the stored information available to the public at the direct request of the content provider.*

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

Or. en

Amendment 245

Brando Benifei, Christel Schaldemose, Monika Beňová

Proposal for a regulation

Recital 14

Text proposed by the Commission

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

Amendment

(14) The concept of ‘dissemination to the public’, as used in this Regulation, should entail the making available of information to a potentially unlimited number of persons, that is, making the information easily accessible to users in general without further action by the recipient of the service providing the information being required, irrespective of whether those persons actually access the information in question. The mere possibility to create groups of users of a given service should not, in itself, be understood to mean that the information disseminated in that manner is not disseminated to the public. However, the concept should exclude dissemination of information within closed groups consisting of a finite number of pre-determined persons. Interpersonal communication services, as defined in Directive (EU) 2018/1972 of the European Parliament and of the Council,³⁹ such as emails or private messaging services, fall outside the scope of this Regulation. Information should be considered disseminated to the public within the meaning of this Regulation only where that occurs upon the direct request by the recipient of the service that provided the information. ***Consequently, providers of services, such as cloud infrastructure, which are provided at the request of parties other than the content providers and only indirectly benefit the latter, should not be covered by this Regulation. This Regulation should cover, for example, providers of social media, video, image and audio-sharing services, as well as file-sharing services and other cloud services, insofar as those services are used to make the stored information available***

to the public at the direct request of the content provider. Where a service provider offers services other than hosting, this Regulation should apply only to the services that fall within its scope.

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

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

Or. en

Amendment 246

Adam Bielan, Kosma Złotowski, Eugen Jurzyca, Beata Mazurek

Proposal for a regulation

Recital 14

Text proposed by the Commission

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

Amendment

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

Information should be considered disseminated to the public within the meaning of this Regulation only where that occurs upon the direct request by the recipient of the service that provided the information.

Information should be considered disseminated to the public within the meaning of this Regulation only where that occurs upon the direct request by the recipient of the service that provided the information. ***Concept of 'dissemination to the public' should not apply to cloud services, including business-to-business cloud services, with respect to which the service provider has no contractual rights concerning what content is stored or how it is processed or made publicly available by its customers or by the end-users of such customers, and where the service provider has no technical capability to remove specific content stored by their customers or the end-users of their services. Where a service provider offers several services, this Regulation should be applied only in respect of the services that fall within its scope.***

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

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

Or. en

Amendment 247

Alexandra Geese, Rasmus Andresen, Kim Van Sparrentak
on behalf of the Greens/EFA Group

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) The concept of ‘dissemination to the public’, as used in this Regulation, should entail the making available of information to a potentially unlimited number of persons, that is, making the information easily accessible to users in general without further action by the recipient of the service providing the

Amendment

(14) The concept of ‘dissemination to the public’, as used in this Regulation, should entail the making available of information to a potentially unlimited number of persons, that is, making the information easily accessible to users in general without further action by the recipient of the service providing the

information being required, irrespective of whether those persons actually access the information in question. The mere possibility to create groups of users of a given service should not, in itself, be understood to mean that the information disseminated in that manner is not disseminated to the public. However, the concept should exclude dissemination of information within closed groups consisting of a finite number of pre-determined persons. Interpersonal communication services, as defined in Directive (EU) 2018/1972 of the European Parliament and of the Council,³⁹ such as emails or private messaging services, ***fall outside the scope of this Regulation.*** Information should be considered disseminated to the public within the meaning of this Regulation only where that occurs upon the direct request by the recipient of the service that provided the information.

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

information being required, irrespective of whether those persons actually access the information in question. The mere possibility to create groups of users of a given service should not, in itself, be understood to mean that the information disseminated in that manner is not disseminated to the public. However, the concept should exclude dissemination of information within closed groups consisting of a finite number of pre-determined persons. ***Accordingly, where access to information requires registration or admittance to a group of users, that information should be considered to be disseminated to the public only where users seeking to access the information are automatically registered or admitted without a human decision or selection of whom to grant access.*** Interpersonal communication services, as defined in Directive (EU) 2018/1972 of the European Parliament and of the Council,³⁹ such as emails or private messaging services ***may, in general, not be considered as a dissemination to the public.*** Information should be considered disseminated to the public within the meaning of this Regulation only where that occurs upon the direct request by the recipient of the service that provided the information.

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

Or. en

Amendment 248

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Morten Løkkegaard, Svenja Hahn, Karen Melchior, Liesje Schreinemacher

Proposal for a regulation

Recital 14

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

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

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

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

Amendment 249

Arba Kokalari, Pablo Arias Echeverría, Andreas Schwab, Anna-Michelle Asimakopoulou, Maria da Graça Carvalho, Tomislav Sokol, Axel Voss, Ivan Štefanec, Pilar del Castillo Vera

Proposal for a regulation

Recital 14

Text proposed by the Commission

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

Amendment

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

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

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

Or. en

Amendment 250

Christel Schaldemose, Andreas Schieder, Maria Grapini, Maria-Manuel Leitão-Marques, Clara Aguilera, Adriana Maldonado López, Brando Benifei, Monika Beňová

Proposal for a regulation

Recital 14

Text proposed by the Commission

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

Amendment

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

recipient of the service that provided the information.

recipient of the service that provided the information. ***Consequently, providers of services, such as cloud infrastructure, which are provided at the request of parties other than the content providers and only indirectly benefit the latter, should not be covered by the definition of online platforms.***

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

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

Or. en

Amendment 251

Jiří Pospíšil

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) The concept of ‘dissemination to the public’, as used in this Regulation, should entail the making available of information to a potentially unlimited number of persons, that is, making the information easily accessible to users in general without further action by the recipient of the service providing the information being required, irrespective of whether those persons actually access the information in question. The mere possibility to create groups of users of a given service should not, in itself, be understood to mean that the information disseminated in that manner is not disseminated to the public. However, the concept should exclude dissemination of information within closed groups consisting of a finite number of pre-determined persons. Interpersonal communication services, as defined in Directive (EU) 2018/1972 of the European

Amendment

(14) The concept of ‘dissemination to the public’, as used in this Regulation, should entail the making available of information to a potentially unlimited number of persons, that is, making the information easily accessible to users in general without further action by the recipient of the service providing the information being required, irrespective of whether those persons actually access the information in question. The mere possibility to create groups of users of a given service should not, in itself, be understood to mean that the information disseminated in that manner is not disseminated to the public. ***Closed groups consisting of a definite number of predetermined users should be recognised as a means of dissemination to the public.*** However, the concept should exclude dissemination of information within closed groups consisting of a finite number of pre-

Parliament and of the Council,³⁹ such as emails or private messaging services, fall outside the scope of this Regulation. Information should be considered disseminated to the public within the meaning of this Regulation only where that occurs upon the direct request by the recipient of the service that provided the information.

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

determined persons. Interpersonal communication services, as defined in Directive (EU) 2018/1972 of the European Parliament and of the Council,³⁹ such as emails or private messaging services, fall outside the scope of this Regulation. Information should be considered disseminated to the public within the meaning of this Regulation only where that occurs upon the direct request by the recipient of the service that provided the information.

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

Or. en

Amendment 252

Alex Agius Saliba

Proposal for a regulation

Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) Online marketplace services merit special attention due to the high number of illegal activities found on their online interfaces. Online marketplaces are services that enable or facilitate traders to make their products and services available to consumers, regardless of whether the contract is concluded within or outside the online interface of the online platform provider. Therefore, online marketplace services should be understood not only as platforms that directly facilitate the selling of goods or services, but online platforms where recipients of the service can place advertisements to offer products or services, online platforms which offer comparison, advisory or reputational services to recipients would also be

covered as, without them, consumers would not have had access to such products, services or traders.

Or. en

Justification

It is important to clarify what falls under the definition of online market places.

Amendment 253
Alex Agius Saliba

Proposal for a regulation
Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) In line with the Directive 2000/31/EC of the European Parliament and of the Council on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce), this Regulation should not apply to gambling activities and this exclusion should cover only games of chance, lotteries and betting transactions, which involve wagering a stake with monetary value; this does not cover promotional competitions or games where the purpose is to encourage the sale of goods or services and where payments, if they arise, serve only to acquire the promoted goods or services.

Or. en

Amendment 254
Alexandra Geese, Rasmus Andresen, Kim Van Sparrentak
on behalf of the Greens/EFA Group

Proposal for a regulation
Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) Ensuring that providers of intermediary services can offer strong and effective end-to-end encryption is essential for trust in and security of digital services in the Digital Single Market, and effectively prevents unauthorised third-party access.

Or. en

Justification

In line with IMCO INL (P9_TA(2020)0272), paragraph 26: “Stresses the importance to apply effective end-to-end encryption to data, as it is essential for trust in and security on the Internet, and effectively prevents unauthorised third party access;”

Amendment 255

Adam Bielan, Kosma Złotowski, Eugen Jurzyca, Beata Mazurek

Proposal for a regulation

Recital 16

Text proposed by the Commission

Amendment

(16) The legal certainty provided by the horizontal framework of conditional exemptions from liability for providers of intermediary services, laid down in Directive 2000/31/EC, has allowed many novel services to emerge and scale-up across the internal market. That framework should therefore be preserved. However, in view of the divergences when transposing and applying the relevant rules at national level, and for reasons of clarity and coherence, that framework should be incorporated in this Regulation. It is also necessary to clarify certain elements of that framework, having regard to case law of the Court of Justice of the European Union.

(16) The legal certainty provided by the horizontal framework of conditional exemptions from liability for providers of intermediary services, laid down in Directive 2000/31/EC, has allowed many novel services to emerge and scale-up across the internal market. That framework should therefore be preserved. However, in view of the divergences when transposing and applying the relevant rules at national level, and for reasons of clarity and coherence, that framework should be incorporated in this Regulation. It is also necessary to clarify certain elements of that framework, having regard to case law of the Court of Justice of the European Union, ***as well as technological and market developments.***

Or. en

Amendment 256
Jean-Lin Lacapelle, Virginie Joron

Proposal for a regulation
Recital 17

Text proposed by the Commission

Amendment

(17) The relevant rules of Chapter II should only establish when the provider of intermediary services concerned cannot be held liable in relation to illegal content provided by the recipients of the service. Those rules should not be understood to provide a positive basis for establishing when a provider can be held liable, which is for the applicable rules of Union or national law to determine. Furthermore, the exemptions from liability established in this Regulation should apply in respect of any type of liability as regards any type of illegal content, irrespective of the precise subject matter or nature of those laws.

deleted

Or. fr

Amendment 257
Arba Kokalari, Pablo Arias Echeverría, Andreas Schwab, Anna-Michelle Asimakopoulou, Tomislav Sokol, Axel Voss, Ivan Štefanec, Pilar del Castillo Vera, Barbara Thaler

Proposal for a regulation
Recital 17

Text proposed by the Commission

Amendment

(17) The relevant rules of Chapter II should only establish when the provider of intermediary services concerned cannot be held liable in relation to illegal content provided by the recipients of the service. Those rules should **not** be understood to provide a positive basis for establishing when a provider can be held liable, which is for the applicable rules of Union or

(17) The relevant rules of Chapter II should only establish when the provider of intermediary services concerned cannot be held liable in relation to illegal content provided by the recipients of the service. Those rules should **by no means** be understood to provide a positive basis for establishing when a provider can be held liable, which is for the applicable rules of

national law to determine. Furthermore, the exemptions from liability established in this Regulation should apply in respect of any type of liability as regards any type of illegal content, irrespective of the precise subject matter or nature of those laws.

Union or national law to determine. Furthermore, the exemptions from liability established in this Regulation should apply in respect of any type of liability as regards any type of illegal content, irrespective of the precise subject matter or nature of those laws.

Or. en

Amendment 258

Geoffroy Didier, Sabine Verheyen, Brice Hortefeux, Tomasz Frankowski

Proposal for a regulation

Recital 18

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 259

Andrea Caroppo, Salvatore De Meo, Carlo Fidanza

Proposal for a regulation
Recital 18

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 260
Martin Schirdewan, Anne-Sophie Pelletier

Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) The exemptions from liability established in this Regulation should not apply where, ***instead of confining itself to providing the services neutrally, by a merely technical and automatic processing of the information provided by the recipient of the service,*** the provider of intermediary services ***plays an active role of such a kind as to give it*** knowledge of,

Amendment

(18) The exemptions from liability established in this Regulation should not apply where, the provider of intermediary services ***has*** knowledge of, or control over, that information. Those exemptions should accordingly not be available in respect of liability relating to information provided not by the recipient of the service but by the provider of intermediary service itself,

or control over, that information. Those exemptions should accordingly not be available in respect of liability relating to information provided not by the recipient of the service but by the provider of intermediary service itself, including where the information has been developed under the editorial responsibility of that provider.

including where the information has been developed under the editorial responsibility of that provider.

Or. en

Amendment 261
Petra Kammerevert

Proposal for a regulation
Recital 18

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 262
Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Morten Løkkegaard, Svenja Hahn, Karen Melchior, Liesje Schreinemacher

Proposal for a regulation
Recital 18

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 263
Morten Løkkegaard

Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) The exemptions from liability established in this Regulation should not apply where, instead of confining itself to providing the services neutrally, by a merely technical and automatic processing of the information provided by the recipient of the service, the provider of intermediary services plays an active role of such a kind as to give it knowledge of, or control over, that information. Those

Amendment

(18) The exemptions from liability established in this Regulation should not apply where, instead of confining itself to providing the services neutrally, by a merely technical and automatic processing of the information provided by the recipient of the service, the provider of intermediary services plays an active role of such a kind as to give it knowledge of, or control over, ***or access to*** that

exemptions should accordingly not be available in respect of liability relating to information provided not by the recipient of the service but by the provider of intermediary service itself, including where the information has been developed under the editorial responsibility of that provider.

information. Those exemptions should accordingly not be available in respect of liability relating to information provided not by the recipient of the service but by the provider of intermediary service itself, including where the information has been developed under the editorial responsibility of that provider.

Or. en

Justification

In line with EC-Ruling C-324/09.

Amendment 264

Andrea Caroppo, Salvatore De Meo, Carlo Fidanza

Proposal for a regulation

Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) Those exemptions from liability should also not be available to providers of intermediary services that do not comply with the due diligence obligations in this Regulation. The conditionality should further ensure that the standards to qualify for those exemptions contribute to a high level of safety and trust in the online environment in a manner that promotes a fair balance of the rights of all stakeholders.

Or. en

Amendment 265

Geoffroy Didier, Sabine Verheyen, Brice Hortefeux, Nathalie Colin-Oesterlé

Proposal for a regulation

Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) The exemptions from liability

established in this Regulation should not be available to providers of intermediary services that do not comply with the due diligence obligations in this Regulation. The conditionality should further ensure that the standards to qualify for such exemptions contribute to a high-level of safety and trust in the online environment.

Or. en

Amendment 266

Adam Bielan, Kosma Zlotowski, Beata Mazurek

Proposal for a regulation

Recital 20

Text proposed by the Commission

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

Amendment

(20) A provider of intermediary services that deliberately collaborates with a recipient of the services in order to undertake illegal activities **or the main purpose of which is to engage in or facilitate such activities** should therefore not be able to benefit from the exemptions from liability provided for in this Regulation.

Or. en

Amendment 267

Andrea Caroppo, Salvatore De Meo, Carlo Fidanza

Proposal for a regulation

Recital 20

Text proposed by the Commission

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

Amendment

(20) A provider of intermediary services that **engages** with a recipient of the services in order to undertake illegal activities does not provide its service neutrally **nor passively** and should therefore not be able to benefit from the

from liability provided for in this Regulation.

exemptions from liability provided for in this Regulation.

Or. en

Amendment 268

Geoffroy Didier, Sabine Verheyen, Brice Hortefeux

Proposal for a regulation

Recital 20

Text proposed by the Commission

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

Amendment

(20) A provider of intermediary services *the main purpose of which is to engage in or facilitate* illegal activities does not provide its service neutrally and should therefore not be able to benefit from the exemptions from liability provided for in this Regulation.

Or. en

Amendment 269

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Morten Løkkegaard, Svenja Hahn, Karen Melchior, Liesje Schreinemacher

Proposal for a regulation

Recital 21

Text proposed by the Commission

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

Amendment

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

transmitted.

transmitted. *It also should not be understood to cover the ranking or sorting of information to make it accessible to a user or actions required to ensure the security of the transmissions.*

Or. en

Amendment 270

Adam Bielan, Kosma Złotowski, Beata Mazurek

Proposal for a regulation

Recital 21

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 271

Brando Benifei, Christel Schaldemose, Monika Beňová, Maria Grapini

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) A provider should be able to benefit from the exemptions from liability for ‘mere conduit’ and for ‘caching’ services when it is in no way involved with the information transmitted. This requires,

Amendment

(21) A provider should be able to benefit from the exemptions from liability for ‘mere conduit’ and for ‘caching’ services when it is in no way involved with the information transmitted. This requires,

among other things, that the provider does not modify the information that it transmits. However, this requirement should not be understood to cover manipulations of a technical nature which take place in the course of the transmission, as such manipulations do not alter the integrity of the information transmitted.

among other things, that the provider does not ***select, rank or*** modify the information that it transmits. However, this requirement should not be understood to cover manipulations of a technical nature which take place in the course of the transmission, as such manipulations do not alter the integrity of the information transmitted.

Or. en

Amendment 272

Christel Schaldemose, Andreas Schieder, Maria Grapini, Maria-Manuel Leitão-Marques, Clara Aguilera, Adriana Maldonado López, Biljana Borzan, Monika Beňová, Marc Angel

Proposal for a regulation

Recital 22

Text proposed by the Commission

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

Amendment

(22) In order to benefit from the exemption from liability for hosting services, the provider should, upon obtaining actual knowledge or awareness of illegal content, act expeditiously to remove or to disable access to that content ***taking into account the potential harm the illegal content in question may create. In order to ensure a harmonised implementation of illegal content removal throughout the Union, the provider should, within 24 hours, remove or disable access to illegal content that can seriously harm public policy, public security or public health or seriously harm consumers' health or safety. According to the well-established case-law of the Court of Justice and in line with Directive 2000/31/EC, the concept of 'public policy' involves a genuine, present and sufficiently serious threat which affects one of the fundamental interest of society, in particular for the prevention, investigation, detection and prosecution of criminal offences, including the protection of minors and the fight against***

any incitement to hatred on grounds of race, sex, religion or nationality, and violations of human dignity concerning individual persons. The concept of ‘public security’ as interpreted by the Court of Justice covers both the internal security of a Member State, which may be affected by, inter alia, a direct threat and physical security of the population of the Member State concerned, and the external security, which may be affected by, inter alia, the risk of a serious disturbance to the foreign relations of that Member State of to the peaceful coexistence of nations. Where the illegal content does not seriously harm public policy, public security, public health or consumers’ health or safety, the provider should remove or disable access to illegal content within seven days. The deadlines referred to in this Regulation should be without prejudice to specific deadlines set out Union law or within administrative or judicial orders. The provider may derogate from the deadlines referred to in this Regulation on the grounds of force majeure or for justifiable technical or operational reasons but it should be required to inform the competent authorities as provided for in this Regulation. The removal or disabling of access should be undertaken in the observance of the principle *the Charter of Fundamental Rights, including a high level of consumer protection and* freedom of expression. The provider can obtain such actual knowledge or awareness through, in particular, its own-initiative investigations or notices submitted to it by individuals or entities in accordance with this Regulation in so far as those notices are sufficiently precise and adequately substantiated to allow a diligent economic operator to reasonably identify, assess and where appropriate act against the allegedly illegal content.

Or. en

Amendment 273

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Svenja Hahn, Sandro Gozi, Stéphanie Yon-Courtin, Liesje Schreinemacher

Proposal for a regulation

Recital 22

Text proposed by the Commission

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

Amendment

(22) In order to benefit from the exemption from liability for hosting services, the provider should, upon obtaining actual knowledge or awareness of illegal content, act expeditiously to remove or to disable access to that content. The removal or disabling of access should be undertaken in the observance of the principle of freedom of expression. The provider can obtain such actual knowledge or awareness through, in particular, its own-initiative investigations or notices submitted to it by individuals or entities in accordance with this Regulation in so far as those notices are sufficiently precise and adequately substantiated to allow a diligent economic operator to reasonably identify, assess and where appropriate act against the allegedly illegal content. ***As long as providers act upon obtaining actual knowledge, providers should maintain the exemptions from liability referred to in article 3, 4, and 5, even when under taking voluntary own-initiative investigations or actions in line with Article 27.***

Or. en

Amendment 274

Karen Melchior

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) In order to benefit from the exemption from liability for hosting

Amendment

(22) In order to benefit from the exemption from liability for hosting

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

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

Or. en

Amendment 275

Alexandra Geese, Rasmus Andresen, Kim Van Sparrentak
on behalf of the Greens/EFA Group

Proposal for a regulation **Recital 22**

Text proposed by the Commission

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

Amendment

(22) In order to benefit from the exemption from liability for hosting services, the provider should act expeditiously to remove or to disable access to ***content where it is evident to a layperson, without any substantive analysis, that the content is manifestly illegal or where it has become aware of the unlawful nature of the*** content. The removal or disabling of access should be undertaken in the observance of the principle of freedom of expression. The provider can obtain such actual knowledge or awareness through, in particular, its own-initiative investigations or notices submitted to it by individuals or entities in

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

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

Or. en

Amendment 276
Petra Kammerevert

Proposal for a regulation
Recital 22

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 277
Geert Bourgeois

Proposal for a regulation
Recital 22

Text proposed by the Commission

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

Amendment

(22) In order to benefit from the exemption from liability for hosting services, the provider should, upon obtaining actual knowledge of *manifestly* illegal content *related to serious crimes*, act *promptly* to remove or to disable access to that content. The removal or disabling of access should be undertaken in the observance of the principle of freedom of expression. The provider can obtain such actual knowledge or awareness through, in particular, its own-initiative investigations or notices submitted to it by individuals or entities in accordance with this Regulation in so far as those notices are sufficiently precise and adequately substantiated *so that it is evident to a layperson, without any substantive analysis, that the content is illegal and related to serious crimes.*

Or. nl

Amendment 278

Arba Kokalari, Andrey Kovatchev, Pablo Arias Echeverría, Andreas Schwab, Anna-Michelle Asimakopoulou, Maria da Graça Carvalho, Tomislav Sokol, Axel Voss, Ivan Štefanec, Barbara Thaler

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) In order to benefit from the exemption from liability for hosting services, the provider should, upon obtaining actual knowledge or awareness of illegal content, act *expeditiously* to remove or to disable access to that content. The removal or disabling of access should be undertaken in the observance of the principle of freedom of expression. The provider can obtain such actual knowledge or awareness through, in particular, its own-initiative investigations or notices submitted to it by individuals or entities in

Amendment

(22) In order to benefit from the exemption from liability for hosting services, the provider should, upon obtaining actual knowledge or awareness of illegal content, act *without undue delay* to remove or to disable access to that content. The removal or disabling of access should be undertaken in the observance of the principle of freedom of expression. The provider can obtain such actual knowledge or awareness through, in particular, its own-initiative investigations or notices submitted to it by individuals or entities in

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

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

Or. en

Amendment 279
Jean-Lin Lacapelle, Virginie Joron

Proposal for a regulation
Recital 22

Text proposed by the Commission

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

Amendment

(Does not affect the English version.)

Or. fr

Amendment 280
Alessandra Basso, Marco Campomenosi, Antonio Maria Rinaldi, Isabella Tovaglieri, Markus Buchheit, Jean-Lin Lacapelle, Virginie Joron
on behalf of the ID Group

Proposal for a regulation
Recital 22

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 281

Arba Kokalari, Pablo Arias Echeverría, Andreas Schwab, Anna-Michelle Asimakopoulou, Maria da Graça Carvalho, Tomislav Sokol, Axel Voss, Ivan Štefanec, Pilar del Castillo Vera, Barbara Thaler

Proposal for a regulation

Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) The exemption of liability should not apply where the recipient of the service is acting under the authority or the control of the provider of a hosting service. In particular, where the provider of the online platform that allows consumers to conclude distance contracts with traders does not allow traders to determine the basic elements of the trader-consumer contract, such as the terms and conditions governing such relationship or the price, it should be considered that the trader acts under the

authority or control of that platform.

Or. en

Justification

To clarify the concept of "authority or control" referred to in article 5(3).

Amendment 282

Arba Kokalari, Andrey Kovatchev, Pablo Arias Echeverría, Andreas Schwab, Anna-Michelle Asimakopoulou, Maria da Graça Carvalho, Tomislav Sokol, Axel Voss, Ivan Štefanec, Pilar del Castillo Vera, Barbara Thaler

Proposal for a regulation

Recital 23

Text proposed by the Commission

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

Amendment

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

whether the online platform operator withholds such identity or contract details until after the conclusion of the trader-consumer contract, or is marketing the product or service in its own name rather than using the name of the trader who will supply it.

Or. en

Justification

To clarify the concept of "authority or control" referred to in article 5(3).

Amendment 283

Jean-Lin Lacapelle, Virginie Joron

Proposal for a regulation

Recital 23

Text proposed by the Commission

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

Amendment

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

which will be liable in this way should ensure they have the possibility of redress against the trader actually responsible if this is not provided for in the conditions of use of their services.

Or. fr

Amendment 284

Andrea Caroppo, Salvatore De Meo, Carlo Fianza

Proposal for a regulation

Recital 23

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 285

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Svenja Hahn, Karen Melchior, Sandro Gozi, Stéphanie Yon-Courtin, Liesje Schreinemacher

Proposal for a regulation

Recital 23

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 286

Alessandra Basso, Marco Campomenosi, Antonio Maria Rinaldi, Isabella Tovaglieri, Markus Buchheit, Jean-Lin Lacapelle, Virginie Joron
on behalf of the ID Group

Proposal for a regulation
Recital 23

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 287
Martin Schirdewan, Anne-Sophie Pelletier

Proposal for a regulation
Recital 23

Text proposed by the Commission

(23) In order to ensure the effective protection of consumers when engaging in intermediated commercial transactions online, certain providers of hosting services, namely, online platforms that allow consumers to conclude distance

Amendment

(23) In order to ensure the effective protection of consumers when engaging in intermediated commercial transactions online, certain providers of hosting services, namely, online platforms that allow consumers to conclude distance

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

contracts with traders, should not be able to benefit from the exemption from liability for hosting service providers established in this Regulation, ***unless they comply with certain due diligence obligation of this regulation and*** in so far as those online platforms present the relevant information relating to the transactions at issue in such a way that it leads consumers to believe that the information was provided by those online platforms themselves or by recipients of the service acting under their authority or control, and that those online platforms thus have knowledge of or control over the information, even if that may in reality not be the case. In that regard, it should be determined objectively, on the basis of all relevant circumstances, whether the presentation could lead to such a belief on the side of an average and reasonably well-informed consumer.

Or. en

Amendment 288

Geoffroy Didier, Sabine Verheyen, Brice Hortefeux

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) ***In order to ensure the effective protection of consumers when engaging in intermediated commercial transactions online, certain*** providers of hosting services, ***namely***, online platforms that allow consumers to conclude distance contracts with traders, should not be able to benefit from the exemption from liability for hosting service providers established in this Regulation, in so far as ***those online platforms*** present the relevant information relating to the transactions at issue in such a way that it leads consumers to believe that the information was provided by those ***online platforms*** themselves or by

Amendment

(23) Providers of hosting services, ***such as*** online platforms that allow consumers to conclude distance contracts with traders, ***and other service providers*** should not be able to benefit from the exemption from liability for hosting service providers established in this Regulation, in so far as ***they*** present the relevant information relating to the transactions ***or exchanges*** at issue in such a way that it leads consumers to believe that the information was provided by those ***hosting service providers*** themselves or by recipients of the service acting under their authority or control, and that those ***hosting service***

recipients of the service acting under their authority or control, and that those **online platforms** thus have knowledge of or control over the information, even if that may in reality not be the case. In that regard, is should be determined objectively, on the basis of all relevant circumstances, whether the presentation could lead to such a belief on the side of an average and reasonably well-informed consumer.

providers thus have knowledge of or control over the information, even if that may in reality not be the case. In that regard, is should be determined objectively, on the basis of all relevant circumstances, whether the presentation could lead to such a belief on the side of an average and reasonably well-informed consumer.

Or. en

Amendment 289

Rasmus Andresen, Kim Van Sparrentak, Alexandra Geese
on behalf of the Greens/EFA Group

Proposal for a regulation

Recital 23

Text proposed by the Commission

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

Amendment

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

consumer.

consumer.

Or. en

Amendment 290

Alessandra Basso, Marco Campomenosi, Antonio Maria Rinaldi, Isabella Tovaglieri, Markus Buchheit, Jean-Lin Lacapelle, Virginie Joron
on behalf of the ID Group

Proposal for a regulation

Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) European consumers should be able to safely purchase products and services online, regardless of whether a product or service has been produced in the Union or not. Online platforms allowing distance contracts with third-country traders should establish, before approving that trader on their platform, that the third-country trader complies with the relevant Union or national law on product safety and product compliance. In addition, if the third-country trader does not provide an economic operator inside the Union liable for the product safety, online platforms should not be able to benefit from the exemption from liability for hosting service providers established in this Regulation.

Or. en

Amendment 291

Arba Kokalari, Andrey Kovatchev, Pablo Arias Echeverría, Andreas Schwab, Krzysztof Hetman, Anna-Michelle Asimakopoulou, Maria da Graça Carvalho, Tomislav Sokol, Axel Voss, Ivan Štefanec, Marion Walsmann, Barbara Thaler

Proposal for a regulation

Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) Consumers should be able to safely purchase products and services online, irrespective of whether a product or service has been produced in the Union. For that reason, traders from third countries should establish a legal representative in the Union to whom claims regarding product safety could be addressed. Providers of intermediary services from inside the Union as well as from third countries should ensure compliance with product requirements set out in Union law.

Or. en

Amendment 292

Jean-Lin Lacapelle, Virginie Joron

Proposal for a regulation

Recital 24

Text proposed by the Commission

Amendment

(24) The exemptions from liability established in this Regulation should not affect the possibility of injunctions of different kinds against providers of intermediary services, even where they meet the conditions set out as part of those exemptions. Such injunctions could, in particular, consist of orders by courts or administrative authorities requiring the termination or prevention of any infringement, including the removal of illegal content specified in such orders, issued in compliance with Union law, or the disabling of access to it.

(Does not affect the English version.)

Or. fr

Amendment 293

Karen Melchior

Proposal for a regulation
Recital 25

Text proposed by the Commission

Amendment

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

deleted

Or. en

Justification

Justification: Platforms should not need to take voluntary actions beyond what is required by law if the latter is clear about the duties they need to undertake. We are very sceptical about introducing a “Good Samaritan”-type clause to add more protections to intermediary service providers that adopt “voluntary” actions. This could render enforcement less effective. Just because voluntary action is taken, it does not mean platforms will effectively protect consumers.

Amendment 294

Alexandra Geese, Rasmus Andresen, Kim Van Sparrentak
on behalf of the Greens/EFA Group

Proposal for a regulation

Recital 25

Text proposed by the Commission

Amendment

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

Or. en

Justification

See justification given for deleting Article 6.

Amendment 295
Alex Agius Saliba

Proposal for a regulation
Recital 25

Text proposed by the Commission

Amendment

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

Or. en

Justification

Technical Amendment to adjust the text with articles.

Amendment 296
Andrea Caroppo, Salvatore De Meo, Carlo Fidanza

Proposal for a regulation
Recital 25

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 297
Martin Schirdewan, Anne-Sophie Pelletier

Proposal for a regulation
Recital 25

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

deleted

Or. en

Amendment 298

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Morten Løkkegaard, Svenja Hahn, Sandro Gozi, Stéphanie Yon-Courtin

Proposal for a regulation

Recital 25

(25) In order to create legal certainty and not to discourage activities aimed at

(25) In order to create legal certainty and not to discourage activities aimed at

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

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

Or. en

Amendment 299

Sandro Gozi, Stéphanie Yon-Courtin, Valérie Hayer, Fabienne Keller, Christophe Grudler, Stéphane Séjourné, Laurence Farreng

Proposal for a regulation

Recital 25

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 300
Carlo Fidanza

Proposal for a regulation
Recital 25

Text proposed by the Commission

(25) In order to create legal certainty and not to discourage activities aimed at

Amendment

(25) In order to create legal certainty and not to discourage activities aimed at

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

detecting, identifying and acting against **manifestly** illegal content **related to serious crimes** that providers of intermediary services may undertake on a voluntary basis, it should be clarified that the mere fact that providers undertake such activities does not lead to the unavailability of the exemptions from liability set out in this Regulation, provided those activities are carried out in good faith, **diligently** and **never on a discretionary basis**. In addition, it is appropriate to clarify that the mere fact that those providers take measures, in good faith, to comply with the requirements of Union law, including those set out in this Regulation as regards the implementation of their terms and conditions, should not lead to the unavailability of those exemptions from liability. Therefore, any such activities and measures that a given provider may have taken should not be taken into account when determining whether the provider can rely on an exemption from liability, in particular as regards whether the provider provides its service neutrally and can therefore fall within the scope of the relevant provision, without this rule however implying that the provider can necessarily rely thereon.

Or. it

Amendment 301

Geoffroy Didier, Sabine Verheyen, Brice Hortefeux, Nathalie Colin-Oesterlé

Proposal for a regulation

Recital 25

Text proposed by the Commission

(25) In order to create legal certainty and not to discourage activities aimed at detecting, identifying and acting against illegal content that providers of intermediary services may undertake on a voluntary basis, it should be clarified that the mere fact that providers undertake such activities does not lead to the unavailability

Amendment

(25) In order to create legal certainty and not to discourage activities aimed at detecting, identifying and acting against illegal content that providers of intermediary services may undertake on a voluntary basis, it should be clarified that the mere fact that providers undertake such activities does not lead to the unavailability

of the exemptions from liability set out in this Regulation, provided those activities are carried out in good faith and in a diligent manner. In addition, it is appropriate to clarify that the mere fact that those providers take measures, in good faith, to comply with the requirements of Union law, including those set out in this Regulation as regards the implementation of their terms and conditions, should not lead to the unavailability of those exemptions from liability. Therefore, any such activities and measures that a given provider may have taken should not be taken into account when determining whether the provider can rely on an exemption from liability, in particular as regards whether the provider provides its service neutrally and can therefore fall within the scope of the relevant provision, without this rule however implying that the provider can necessarily rely thereon.

of the exemptions from liability set out in this Regulation, provided those activities are carried out in good faith and in a diligent manner. In addition, it is appropriate to clarify that the mere fact that those providers take measures, in good faith, to comply with the requirements of Union *or national* law, including those set out in this Regulation as regards the implementation of their terms and conditions, should not lead to the unavailability of those exemptions from liability *set out in this Regulation*. Therefore, any such activities and measures that a given provider may have taken should not be taken into account when determining whether the provider can rely on an exemption from liability, in particular as regards whether the provider provides its service neutrally and can therefore fall within the scope of the relevant provision, without this rule however implying that the provider can necessarily rely thereon.

Or. en

Amendment 302

Brando Benifei, Christel Schaldemose, Monika Beňová, Maria Grapini

Proposal for a regulation

Recital 25

Text proposed by the Commission

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

Amendment

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

those providers take measures, in good faith, to comply with the requirements of Union law, including those set out in this Regulation as regards the implementation of their terms and conditions, should not lead to the unavailability of those exemptions from liability. Therefore, any such activities and measures that a given provider may have taken should not be taken into account when determining whether the provider can rely on an exemption from liability, in particular as regards whether the provider provides its service neutrally and can therefore fall within the scope of the relevant provision, without this rule however implying that the provider can necessarily rely thereon.

clarify that the mere fact that those providers take measures, in good faith, to comply with the requirements of Union law, including those set out in this Regulation as regards the implementation of their terms and conditions, should not lead to the unavailability of those exemptions from liability. Therefore, any such activities and measures that a given provider may have taken should not be taken into account when determining whether the provider can rely on an exemption from liability, in particular as regards whether the provider provides its service neutrally and can therefore fall within the scope of the relevant provision, without this rule however implying that the provider can necessarily rely thereon.

Or. en

Amendment 303
Jean-Lin Lacapelle, Virginie Joron

Proposal for a regulation
Recital 25

Text proposed by the Commission

(25) In order to create legal certainty and not to discourage activities aimed at detecting, identifying and acting against illegal content that providers of intermediary services may undertake on a voluntary basis, it should be clarified that the mere fact that providers undertake such activities does not lead to the unavailability of the exemptions from liability set out in this Regulation, provided those activities are carried out in good faith and in a diligent manner. In addition, it is appropriate to clarify that the mere fact that those providers take measures, in good faith, to comply with the requirements of Union law, including those set out in this Regulation as regards the implementation of their terms and conditions, should not lead to the unavailability of those

Amendment

(Does not affect the English version.)

exemptions from liability. Therefore, any such activities and measures that a given provider may have taken should not be taken into account when determining whether the provider can rely on an exemption from liability, in particular as regards whether the provider provides its service neutrally and can therefore fall within the scope of the relevant provision, without this rule however implying that the provider can necessarily rely thereon.

Or. fr

Amendment 304

Adam Bielan, Kosma Złotowski, Eugen Jurzyca, Beata Mazurek

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) Whilst the rules in Chapter II of this Regulation concentrate on the exemption from liability of providers of intermediary services, it is important to recall that, despite the generally important role played by those providers, the problem of illegal content and activities online should not be dealt with by solely focusing on their liability and responsibilities. Where possible, third parties affected by illegal content transmitted or stored online should attempt to resolve conflicts relating to such content without involving the providers of intermediary services in question. Recipients of the service should be held liable, where the applicable rules of Union and national law determining such liability so provide, for the illegal content that they provide and may disseminate through intermediary services. Where appropriate, other actors, such as group moderators in closed online environments, in particular in the case of large groups, should also help to avoid the spread of illegal content online, in accordance with the applicable law. Furthermore, where it is necessary to

Amendment

(26) Whilst the rules in Chapter II of this Regulation concentrate on the exemption from liability of providers of intermediary services, it is important to recall that, despite the generally important role played by those providers, the problem of illegal content and activities online should not be dealt with by solely focusing on their liability and responsibilities. Where possible, third parties affected by illegal content transmitted or stored online should attempt to resolve conflicts relating to such content without involving the providers of intermediary services in question. Recipients of the service should be held liable, where the applicable rules of Union and national law determining such liability so provide, for the illegal content that they provide and may disseminate through intermediary services. Where appropriate, other actors, such as group moderators in closed online environments, in particular in the case of large groups, should also help to avoid the spread of illegal content online, in accordance with the applicable law. Furthermore, where it is necessary to

involve information society services providers, including providers of intermediary services, any requests or orders for such involvement should, as a general rule, be directed to the actor that has the technical and operational ability to act against specific items of illegal content, so as to prevent and minimise any possible negative effects for the availability and accessibility of information that is not illegal content.

involve information society services providers, including providers of intermediary services, any requests or orders for such involvement should, as a general rule, be directed to the actor that has the technical and operational ability to act against specific items of illegal content ***or that ability originates from the regulatory or contractual provisions***, so as to prevent and minimise any possible negative effects for the availability and accessibility of information that is not illegal content. ***Consequently, providers of intermediary services should act on the specific illegal content only if they are in the best place to do so, and the blocking orders should be considered as a last resort measure and applied only when all other options are exhausted.***

Or. en

Amendment 305

Alexandra Geese, Rasmus Andresen, Kim Van Sparrentak

on behalf of the Greens/EFA Group

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) Whilst the rules in Chapter II of this Regulation concentrate on the exemption from liability of providers of intermediary services, it is important to recall that, despite the generally important role played by those providers, the problem of illegal content and activities online should not be dealt with by solely focusing on their liability and responsibilities. Where possible, third parties affected by illegal content transmitted or stored online should attempt to resolve conflicts relating to such content without involving the providers of intermediary services in question. Recipients of the service should be held liable, where the applicable rules of Union and national law determining such liability

Amendment

(26) Whilst the rules in Chapter II of this Regulation concentrate on the exemption from liability of providers of intermediary services, it is important to recall that, despite the generally important role played by those providers, the problem of illegal content and activities online should not be dealt with by solely focusing on their liability and responsibilities. Where possible, third parties affected by illegal content transmitted or stored online should attempt to resolve conflicts relating to such content without involving the providers of intermediary services in question. Recipients of the service should be held liable, where the applicable rules of Union and national law determining such liability

so provide, for the illegal content that they provide and may disseminate through intermediary services. Where appropriate, other actors, such as group moderators in closed online environments, in particular in the case of large groups, should also help to avoid the spread of illegal content online, in accordance with the applicable law. Furthermore, where it is necessary to involve information society services providers, including providers of intermediary services, any requests or orders for such involvement should, as a general rule, be directed to the actor that has the technical and operational ability to act against specific items of illegal content, so as to prevent and minimise any possible negative effects for the availability and accessibility of information that is not illegal content.

so provide, for the illegal content that they provide and may disseminate through intermediary services. Where appropriate, other actors, such as group moderators in closed *and open* online environments, in particular in the case of large groups, should also help to avoid the spread of illegal content online, in accordance with the applicable law. Furthermore, where it is necessary to involve information society services providers, including providers of intermediary services, any requests or orders for such involvement should, as a general rule, be directed to the actor that has the technical and operational ability to act against specific items of illegal content, so as to prevent and minimise any possible negative effects for the availability and accessibility of information that is not illegal content.

Or. en

Justification

The DSA should ensure that community-led moderation in public fora, such as Reddit or Mastodon, can be an acceptable means to avoid the spread of illegal content – in addition to providers' terms and conditions

Amendment 306

Jean-Lin Lacapelle, Virginie Joron

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) Whilst the rules in Chapter II of this Regulation concentrate on the exemption from liability of providers of intermediary services, it is important to recall that, despite the generally important role played by those providers, the problem of illegal content and activities online should not be dealt with by solely focusing on their liability and responsibilities. Where possible, third parties affected by illegal content transmitted or stored online should

Amendment

(26) Whilst the rules in Chapter II of this Regulation concentrate on the exemption from liability of providers of intermediary services, it is important to recall that, despite the generally important role played by those providers, the problem of illegal content and activities online should not be dealt with by solely focusing on their liability and responsibilities. Where possible, third parties affected by illegal content transmitted or stored online should

attempt to resolve conflicts relating to such content without involving the providers of intermediary services in question.

Recipients of the service should be held liable, where the applicable rules of Union and national law determining such liability so provide, for the illegal content that they provide and may disseminate through intermediary services. Where appropriate, other actors, such as group moderators in closed online environments, in particular in the case of large groups, should also help to avoid the spread of illegal content online, in accordance with the applicable law. Furthermore, where it is necessary to involve information society services providers, including providers of intermediary services, any requests or orders for such involvement should, as a general rule, be directed to the actor that has the technical and operational ability to act against specific items of illegal content, so as to prevent and minimise any possible negative effects for the availability and accessibility of information that is not illegal content.

attempt to resolve conflicts relating to such content without involving the providers of intermediary services in question.

Recipients of the service should be held liable, where the applicable rules of Union and national law determining such liability so provide, for the illegal content that they provide and may disseminate through intermediary services. Where appropriate, other actors, such as group moderators in closed online environments, in particular in the case of large groups, should also help to avoid the spread of illegal content online, in accordance with the applicable law. Furthermore, where it is necessary to involve information society services providers, including providers of intermediary services, any requests or *court* orders for such involvement should, as a general rule, be directed to the actor that has the technical and operational ability to act against specific items of illegal content, so as to prevent and minimise any possible negative effects for the availability and accessibility of information that is not illegal content.

Or. fr

Amendment 307

Adam Bielan, Kosma Zlotowski, Eugen Jurzyca, Beata Mazurek

Proposal for a regulation

Recital 27

Text proposed by the Commission

(27) Since 2000, new technologies have emerged that improve the availability, efficiency, speed, reliability, capacity and security of systems for the transmission and storage of data online, leading to an increasingly complex online ecosystem. In this regard, it should be recalled that providers of services establishing and facilitating the underlying logical architecture and proper functioning of the internet, including technical auxiliary

Amendment

(27) Since 2000, new technologies have emerged that improve the availability, efficiency, speed, reliability, capacity and security of systems for the transmission and storage of data online, leading to an increasingly complex online ecosystem. In this regard, it should be recalled that providers of services establishing and facilitating the underlying logical architecture and proper functioning of the internet, including technical auxiliary

functions, can also benefit from the exemptions from liability set out in this Regulation, to the extent that their services qualify as ‘mere conduits’, ‘caching’ or hosting services. Such services include, as the case may be, wireless local area networks, domain name system (DNS) services, top-level domain name registries, certificate authorities that issue digital certificates, or content delivery networks, that enable or improve the functions of other providers of intermediary services. Likewise, services used for communications purposes, and the technical means of their delivery, have also evolved considerably, giving rise to online services such as Voice over IP, messaging services and web-based e-mail services, where the communication is delivered via an internet access service. Those services, too, can benefit from the exemptions from liability, to the extent that they qualify as ‘mere conduit’, ‘caching’ or hosting service.

functions, can also benefit from the exemptions from liability set out in this Regulation, to the extent that their services qualify as ‘mere conduits’, ‘caching’ or hosting services. Such services include, as the case may be, wireless local area networks, domain name system (DNS) services, top-level domain name registries, certificate authorities that issue digital certificates, or content delivery networks, that enable or improve the functions of other providers of intermediary services. Likewise, services used for communications purposes, and the technical means of their delivery, have also evolved considerably, giving rise to online services such as Voice over IP, messaging services and web-based e-mail services, where the communication is delivered via an internet access service. Those services, ***although they do not fall within the obligations under this Regulations***, too, can benefit from the exemptions from liability, to the extent that they qualify as ‘mere conduit’, ‘caching’ or hosting service.

Or. en

Amendment 308

Alexandra Geese, Rasmus Andresen, Kim Van Sparrentak
on behalf of the Greens/EFA Group

Proposal for a regulation **Recital 27**

Text proposed by the Commission

(27) Since 2000, new technologies have emerged that improve the availability, efficiency, speed, reliability, capacity and security of systems for the transmission and storage of data online, leading to an increasingly complex online ecosystem. In this regard, it should be recalled that providers of services establishing and facilitating the underlying logical architecture and proper functioning of the

Amendment

(27) Since 2000, new technologies have emerged that improve the availability, efficiency, speed, reliability, capacity and security of systems for the transmission and storage of data online, leading to an increasingly complex online ecosystem. In this regard, it should be recalled that providers of services establishing and facilitating the underlying logical architecture and proper functioning of the

internet, including technical auxiliary functions, can also benefit from the exemptions from liability set out in this Regulation, to the extent that their services qualify as ‘mere conduits’, ‘caching’ or hosting services. Such services include, as the case may be, wireless local area networks, **domain name system (DNS) services, top-level domain name registries**, certificate authorities that issue digital certificates, or content delivery networks, that enable or improve the functions of other providers of intermediary services. Likewise, services used for communications purposes, and the technical means of their delivery, have also evolved considerably, giving rise to online services such as Voice over IP, messaging services and web-based e-mail services, where the communication is delivered via an internet access service. Those services, too, can benefit from the exemptions from liability, to the extent that they qualify as ‘mere conduit’, ‘caching’ or hosting service.

internet, including technical auxiliary functions, can also benefit from the exemptions from liability set out in this Regulation, to the extent that their services qualify as ‘mere conduits’, ‘caching’ or hosting services. Such services include, as the case may be, wireless local area networks, certificate authorities that issue digital certificates, or content delivery networks, that enable or improve the functions of other providers of intermediary services. Likewise, services used for communications purposes, and the technical means of their delivery, have also evolved considerably, giving rise to online services such as Voice over IP, messaging services and web-based e-mail services, where the communication is delivered via an internet access service. Those services, too, can benefit from the exemptions from liability, to the extent that they qualify as ‘mere conduit’, ‘caching’ or hosting service. **Domain name system (DNS) registration services can also benefit from the exemptions from liability set out in this Regulation.**

Or. en

Justification

The DSA should avoid ambiguity with respect to whether DNS services are indeed in scope or not, created by (a) the phrase “as the case may be” and primarily (b) the phrase “to the extent that their services qualify as ‘mere conduits’, ‘caching’ or hosting services”. Moreover, technically these entities’ services may not qualify as “caching”, mere conduit” or “hosting”. The entities performing these DNS services constitute an extremely broad spectrum of actors who may have practically no control over the content that is transmitted using their services and, therefore, would seem to fall outside the intended scope of the DSA proposed Regulation. Imposing intermediary services obligations to DNS services, such as the DNS root or the root name servers, does not appear to be consistent with the EU’s vision of a single and unfragmented internet and its commitment to the multi-stakeholder internet governance approach.

Amendment 309

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Morten Løkkegaard, Svenja Hahn, Karen Melchior, Sandro Gozi, Stéphanie Yon-Courtin, Liesje Schreinemacher

Proposal for a regulation
Recital 27

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 310

Arba Kokalari, Pablo Arias Echeverría, Andreas Schwab, Anna-Michelle Asimakopoulou, Maria da Graça Carvalho, Tomislav Sokol, Axel Voss, Ivan Štefanec, Pilar del Castillo Vera, Barbara Thaler

Proposal for a regulation
Recital 27

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 311

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Morten Løkkegaard, Svenja Hahn, Karen Melchior, Liesje Schreinemacher

Proposal for a regulation
Recital 27 a (new)

Text proposed by the Commission

Amendment

(27a) A single webpage or website may include elements that qualify differently between ‘mere conduit’, ‘caching’ or hosting services and the rules for exemptions from liability should apply to each accordingly. For example, a search engine may act solely as a ‘caching’ service as to information included in the results of an inquiry. Elements displayed alongside those results, such as online advertisements, would however still meet the standard of a hosting service.

Or. en

Amendment 312

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Morten Løkkegaard, Svenja Hahn, Karen Melchior, Sandro Gozi, Stéphanie Yon-Courtin, Liesje Schreinemacher

Proposal for a regulation
Recital 28

Text proposed by the Commission

Amendment

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

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

in this Regulation should prevent providers from enacting end-to-end encrypting of their services.

Or. en

Amendment 313

Sandro Gozi, Stéphanie Yon-Courtin, Valérie Hayer, Fabienne Keller, Christophe Grudler, Stéphane Séjourné, Karen Melchior, Laurence Farreng

Proposal for a regulation

Recital 28

Text proposed by the Commission

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

Amendment

(28) Providers of intermediary services should not be subject to a monitoring obligation with respect to obligations of a general nature. This does not concern monitoring obligations in a specific case and, in particular, does not affect orders by national authorities in accordance with national legislation, in accordance with the conditions established in this Regulation. Nothing in this Regulation should be construed as an imposition of a general monitoring obligation or active fact-finding obligation, or as a general obligation for providers to take proactive measures to relation to illegal content. ***This should be without prejudice to decisions of Member States to require service providers, who host information provided by users of their service, to apply due diligence measures.***

Or. en

Amendment 314

Adam Bielan, Kosma Zlotowski, Eugen Jurzyca, Beata Mazurek

Proposal for a regulation

Recital 28

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 315

Arba Kokalari, Andrey Kovatchev, Pablo Arias Echeverría, Anna-Michelle Asimakopoulou, Maria da Graça Carvalho, Tomislav Sokol, Axel Voss, Ivan Štefanec, Pilar del Castillo Vera

Proposal for a regulation

Recital 28

Text proposed by the Commission

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

Amendment

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

relation to illegal content.

relation to illegal content.

Or. en

Amendment 316

Geoffroy Didier, Sabine Verheyen, Brice Hortefeux

Proposal for a regulation

Recital 28

Text proposed by the Commission

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

Amendment

(28) ***Member States are prevented from imposing*** a monitoring obligation ***on service providers only*** with respect to obligations of a general nature. This does not concern monitoring obligations in a specific case and, in particular, does not affect orders by national authorities in accordance with national legislation, in accordance with the conditions established in this Regulation. Nothing in this Regulation should be construed as ***impeding providers from taking*** proactive measures to ***identify and remove*** illegal content ***and to prevent that it reappears.***

Or. en

Amendment 317

Alexandra Geese, Rasmus Andresen, Kim Van Sparrentak
on behalf of the Greens/EFA Group

Proposal for a regulation

Recital 28

Text proposed by the Commission

(28) Providers of intermediary services should not be subject to a monitoring obligation with respect to obligations of a general nature. This does not concern monitoring obligations in ***a specific case and***, in particular, does not affect orders by national authorities in accordance with

Amendment

(28) Providers of intermediary services should not be subject to a monitoring obligation with respect to obligations of a general nature. This does not concern monitoring obligations in specific ***cases and therefore***, in particular, does not affect orders by national authorities in accordance

national legislation, in accordance with the conditions established in this Regulation. Nothing in this Regulation should be construed as an imposition of a general monitoring obligation or active fact-finding obligation, or as a general obligation for providers to take proactive measures to relation to illegal content.

with national legislation, in accordance with the conditions established in this Regulation. Nothing in this Regulation should be construed as an imposition of a general monitoring obligation or active fact-finding obligation, or as a general obligation for providers to take proactive measures to relation to illegal content.

Or. en

Amendment 318
Jean-Lin Lacapelle, Virginie Joron

Proposal for a regulation
Recital 28

Text proposed by the Commission

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

Amendment

(Does not affect the English version.)

Or. fr

Amendment 319
Karen Melchior

Proposal for a regulation
Recital 28

Text proposed by the Commission

(28) Providers of intermediary services

Amendment

(28) Providers of intermediary services

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

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

Or. en

Amendment 320

Petra Kammerevert, Christel Schaldemose, Evelyne Gebhardt

Proposal for a regulation

Recital 28 a (new)

Text proposed by the Commission

Amendment

(28a) Since media service providers hold editorial responsibility for the content and services they make available, such content and services should benefit from a specific regime that prevents a multiple control of those content and services. Those content and services are typically offered in accordance with professional and journalistic standards as well as legislation and are already subject to systems of supervision and control, often enshrined in commonly accepted self-regulatory standards and codes. In addition, media service providers usually have in place complaints handling mechanisms to resolve content-related disputes. Editorial responsibility means the exercise of effective control both over the selection of content and over its provision by means of its presentation, composition and organisation. Editorial responsibility does not necessarily imply any legal liability under national law for

the content or the services provided. Intermediary service providers should refrain from removing, suspending or disabling access to any such content or services. Intermediary service providers should be exempt from liability for content and services offered by media service providers. A presumption of legality should exist in relation to the content and services provided by media service providers who carry out their activities in respect of European values and fundamental rights. Compliance by media service providers with these rules and regulations should be overseen by the respective independent regulatory authorities, bodies or both and the respective European networks they are organised in.

Or. en

Justification

Online platforms should not assume editor-like roles as they do currently. Thus, a general prohibition of interference with content and services provided by media service providers is needed, as the secondary control of media content in compliance with sector-specific rules and national law and constitutions would pose great risks to media freedom and the availability of trustworthy information online. As media service providers should benefit from a special regime that presumes their content's legality, intermediary service providers likewise should not be held liable for it.

Amendment 321

Carlo Fidanza

Proposal for a regulation

Recital 29

Text proposed by the Commission

(29) Depending on the legal system of each Member State and the field of law at issue, national judicial or **administrative** authorities **may order providers** of intermediary **services** to act against certain specific items of illegal content or to provide certain specific items of information. The national laws on the basis

Amendment

(29) Depending on the legal system of each Member State and the field of law at issue, national judicial, **administrative** or **police** authorities **should be the only bodies entitled to decide on the removal of specific content, except in the case of manifestly illegal content related to serious crimes, which might require**

of which such orders are issued differ considerably and the orders are increasingly addressed in cross-border situations. In order to ensure that those orders can be complied with in an effective and efficient manner, so that the public authorities concerned can carry out their tasks and the providers are not subject to any disproportionate burdens, without unduly affecting the rights and legitimate interests of any third parties, it is necessary to set certain conditions that those orders should meet and certain complementary requirements relating to the processing of those orders.

immediate intervention by the intermediary service provider to act against certain specific items of illegal content or to provide certain specific items of information. The national laws on the basis of which such orders are issued differ considerably and the orders are increasingly addressed in cross-border situations. In order to ensure that those orders can be complied with in an effective and efficient manner, so that the public authorities concerned can carry out their tasks and the providers are not subject to any disproportionate burdens, without unduly affecting the rights and legitimate interests of any third parties, it is necessary to set certain conditions that those orders should meet and certain complementary requirements relating to the processing of those orders.

Or. it

Amendment 322

Sandro Gozi, Stéphanie Yon-Courtin, Valérie Hayer, Fabienne Keller, Christophe Grudler, Stéphane Séjourné, Laurence Farreng, Karen Melchior, Marco Zullo

Proposal for a regulation

Recital 29

Text proposed by the Commission

(29) Depending on the legal system of each Member State and the field of law at issue, national judicial or administrative authorities may order providers of intermediary services to act against certain specific items of illegal content or to provide certain specific items of information. The national laws on the basis of which such orders are issued differ considerably and the orders are increasingly addressed in cross-border situations. In order to ensure that those orders can be complied with in an effective and efficient manner, so that the public authorities concerned can carry out their tasks and the providers are not subject to

Amendment

(29) Depending on the legal system of each Member State and the field of law at issue, national judicial or administrative authorities may order providers of intermediary services to act against certain specific items of illegal content or to provide certain specific items of information. The national laws *in conformity with the Union law, including the EU Charter on Fundamental Rights* on the basis of which such orders are issued differ considerably and the orders are increasingly addressed in cross-border situations. In order to ensure that those orders can be complied with in an effective and efficient manner, so that the public

any disproportionate burdens, without unduly affecting the rights and legitimate interests of any third parties, it is necessary to set certain conditions that those orders should meet and certain complementary requirements relating to *the* processing of those orders.

authorities concerned can carry out their tasks and the providers are not subject to any disproportionate burdens, without unduly affecting the rights and legitimate interests of any third parties, it is necessary to set certain conditions that those orders should meet and certain complementary requirements relating to *ensure the effective* processing of those orders.

Or. en

Amendment 323

Alexandra Geese, Rasmus Andresen, Kim Van Sparrentak
on behalf of the Greens/EFA Group

Proposal for a regulation **Recital 29**

Text proposed by the Commission

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

Amendment

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

Amendment 324

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Morten Løkkegaard, Svenja Hahn, Karen Melchior, Sandro Gozi, Stéphanie Yon-Courtin, Liesje Schreinemacher

Proposal for a regulation**Recital 29***Text proposed by the Commission*

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

Amendment

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

Amendment 325

Andrea Caroppo, Salvatore De Meo, Carlo Fidanza

Proposal for a regulation**Recital 29**

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 326
Jean-Lin Lacapelle, Virginie Joron

Proposal for a regulation
Recital 29

Text proposed by the Commission

(29) Depending on the legal system of each Member State and the field of law at issue, national judicial or administrative authorities may order providers of intermediary services to act against certain specific items of illegal content or to provide certain specific items of information. The national laws on the basis of which such orders are issued differ considerably and the orders are increasingly addressed in cross-border

Amendment

(Does not affect the English version.)

situations. In order to ensure that those orders can be complied with in an effective and efficient manner, so that the public authorities concerned can carry out their tasks and the providers are not subject to any disproportionate burdens, without unduly affecting the rights and legitimate interests of any third parties, it is necessary to set certain conditions that those orders should meet and certain complementary requirements relating to the processing of those orders.

Or. fr

Amendment 327

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Morten Løkkegaard, Svenja Hahn, Karen Melchior, Sandro Gozi, Stéphanie Yon-Courtin

Proposal for a regulation

Recital 30

Text proposed by the Commission

(30) Orders to act against illegal content or to provide information should be issued in compliance with Union law, in particular Regulation (EU) 2016/679 and the prohibition of general obligations to monitor information or to actively seek facts or circumstances indicating illegal activity laid down in this Regulation. The conditions and requirements laid down in this Regulation which apply to orders to act against illegal content are without prejudice to other Union acts providing for similar systems for acting against specific types of illegal content, such as Regulation (EU) .../.... [proposed Regulation addressing the dissemination of terrorist content online], or Regulation (EU) 2017/2394 that confers specific powers to order the provision of information on Member State consumer law enforcement authorities, whilst the conditions and requirements that apply to orders to provide information are without prejudice to other Union acts providing for similar

Amendment

(30) Orders to act against illegal content or to provide information should be issued in compliance with Union law, in particular Regulation (EU) 2016/679 and the prohibition of general obligations to monitor information or to actively seek facts or circumstances indicating illegal activity laid down in this Regulation. The conditions and requirements laid down in this Regulation which apply to orders to act against illegal content are without prejudice to other Union acts providing for similar systems for acting against specific types of illegal content, such as Regulation (EU) .../.... [proposed Regulation addressing the dissemination of terrorist content online], or Regulation (EU) 2017/2394 that confers specific powers to order the provision of information on Member State consumer law enforcement authorities, whilst the conditions and requirements that apply to orders to provide information are without prejudice to other Union acts providing for similar

relevant rules for specific sectors. Those conditions and requirements should be without prejudice to retention and preservation rules under applicable national law, in conformity with Union law and confidentiality requests by law enforcement authorities related to the non-disclosure of information.

relevant rules for specific sectors. Those conditions and requirements should be without prejudice to retention and preservation rules under applicable national law, in conformity with Union law and confidentiality requests by law enforcement authorities related to the non-disclosure of information. *Nevertheless, the same relevant protections for providers and users granted in the Regulation (EU) .../... [proposed Regulation addressing the dissemination of terrorist content online] should be provided here in order to ensure equivalent rules and protections for all types of content and information covered by such orders. This includes the ability of a provider to challenge an order before its Digital Services Coordinator of establishment and to seek a decision as to the effect to be given to the order. Digital Services Coordinator of establishment should be able to take a decision to suspend or limit the application of the order, where it views it as in conflict with Union or its national law.*

Or. en

Amendment 328

Sandro Gozi, Stéphanie Yon-Courtin, Valérie Hayer, Fabienne Keller, Christophe Grudler, Stéphane Séjourné, Laurence Farreng

Proposal for a regulation

Recital 30

Text proposed by the Commission

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

Amendment

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

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

Member States should be able to object to the Board orders to act against illegal content, that they consider are in breach of the Union law, including the Charter. The procedure for objection should be simplified and fast-tracked when such orders are issued from an administrative or judicial authority of a Member State that is under an Article 7 procedure for infringement of European values according to Article 2 of TEU. The conditions and requirements laid down in this Regulation which apply to orders to act against illegal content are without prejudice to other Union acts providing for similar systems for acting against specific types of illegal content, such as Regulation (EU) .../.... [proposed Regulation addressing the dissemination of terrorist content online], or Regulation (EU) 2017/2394 that confers specific powers to order the provision of information on Member State consumer law enforcement authorities, whilst the conditions and requirements that apply to orders to provide information are without prejudice to other Union acts providing for similar relevant rules for specific sectors. Those conditions and requirements should be without prejudice to retention and preservation rules under applicable national law, in conformity with Union law and confidentiality requests by law enforcement authorities related to the non-disclosure of information.

Or. en

Amendment 329

Andrea Caroppo, Salvatore De Meo, Carlo Fidanza

Proposal for a regulation

Recital 30

Text proposed by the Commission

(30) Orders to act against illegal content or to provide information should be issued

Amendment

(30) Orders to act against illegal content or to provide information should be issued

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

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

Or. en

Amendment 330

Jean-Lin Lacapelle, Virginie Joron

Proposal for a regulation

Recital 30

Text proposed by the Commission

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

Amendment

(Does not affect the English version.)

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

Or. fr

Amendment 331

Arba Kokalari, Pablo Arias Echeverría, Andreas Schwab, Krzysztof Hetman, Anna-Michelle Asimakopoulou, Maria da Graça Carvalho, Tomislav Sokol, Axel Voss, Ivan Štefanec, Pilar del Castillo Vera, Barbara Thaler

Proposal for a regulation

Recital 31

Text proposed by the Commission

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

Amendment

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

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

with the legal basis enabling its issuance, with the rights and legitimate interests of all third parties that may be affected by the order, in particular their fundamental rights under the Charter. In addition, where the order referring to the specific information may have effects beyond the territory of the Member State of the authority concerned, the authority should assess whether the information at issue is likely to constitute illegal content in other Member States concerned and, where relevant, take account of the relevant rules of Union law or international law and the interests of international comity. ***Since intermediaries should not be required to remove information which is legal in their country of establishment, national and Union authorities should be able to order the blocking of content legally published outside the Union only for the territory of the Union where Union law is infringed and for the territory of the issuing Member State where national law is infringed.***

Or. en

Amendment 332

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Karen Melchior

Proposal for a regulation

Recital 31

Text proposed by the Commission

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

Amendment

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

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

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

Or. en

Amendment 333

Sandro Gozi, Stéphanie Yon-Courtin, Valérie Hayer, Fabienne Keller, Christophe Grudler, Stéphane Séjourné, Karen Melchior, Laurence Farreng

Proposal for a regulation

Recital 31

Text proposed by the Commission

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

Amendment

(31) The territorial scope of such orders to act against illegal content should be clearly set out on the basis of the applicable Union or national law ***in conformity with the Union law, including the EU Charter on Fundamental Rights*** enabling the issuance of the order and should not exceed what is strictly necessary to achieve its objectives. In that regard, the national judicial or administrative authority issuing the order should balance the objective that the order seeks to achieve, in accordance with the legal basis enabling its issuance, with the rights and legitimate interests of all third parties that may be affected by the order, in particular their fundamental rights under the Charter. In addition, where the order referring to the specific information may have effects beyond the territory of the

constitute illegal content in other Member States concerned and, where relevant, take account of the relevant rules of Union law or international law and the interests of international comity.

Member State of the authority concerned, the authority should assess whether the information at issue is likely to constitute illegal content in other Member States concerned and, where relevant, take account of the relevant rules of *national*, Union law or international law and the interests of international comity.

Or. en

Amendment 334
Jean-Lin Lacapelle, Virginie Joron

Proposal for a regulation
Recital 31

Text proposed by the Commission

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

Amendment

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

Or. fr

Amendment 335

Andrea Caroppo, Salvatore De Meo, Carlo Fianza

Proposal for a regulation

Recital 31

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 336

Geoffroy Didier, Sabine Verheyen, Brice Hortefeux, Nathalie Colin-Oesterlé

Proposal for a regulation

Recital 32

Text proposed by the Commission

(32) The orders to provide information regulated by this Regulation concern the production of specific information about individual recipients of the intermediary

Amendment

(32) The orders to provide information regulated by this Regulation concern the production of specific information about individual recipients of the intermediary

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

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

Or. en

Amendment 337

Andrea Caroppo, Salvatore De Meo, Carlo Fidanza

Proposal for a regulation

Recital 32

Text proposed by the Commission

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

Amendment

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

Amendment 338

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Morten Løkkegaard, Svenja Hahn, Karen Melchior, Liesje Schreinemacher

Proposal for a regulation**Recital 33***Text proposed by the Commission*

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

Amendment

(33) Orders to act against illegal content and to provide information are subject to the rules safeguarding the competence of the Member State where the service provider addressed is established and laying down possible derogations from that competence in certain cases, set out in Article 3 of Directive 2000/31/EC, only if the conditions of that Article are met. Given that the orders in question relate to specific items of illegal content and information ***as defined in Union or national law***, respectively, where they are addressed to providers of intermediary services established in another Member State, they do not in principle restrict those providers' freedom to provide their services across borders. Therefore, the rules set out in Article 3 of Directive 2000/31/EC, including those regarding the need to justify measures derogating from the competence of the Member State where the service provider is established on certain specified grounds and regarding the notification of such measures, do not apply in respect of those orders. ***Article 3 of Directive 200/31/EC, however, continues to apply to any other orders related to non-specific individual items of illegal or legal content or information, general orders related to geoblocking of whole websites, webpages, or domains and any other matter which could be seen as restricting the freedom to provide their service across border.***

Amendment 339

Sandro Gozi, Stéphanie Yon-Courtin, Valérie Hayer, Fabienne Keller, Christophe Grudler, Stéphane Séjourné, Marco Zullo, Laurence Farreng, Karen Melchior

Proposal for a regulation

Recital 33

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 340

Jean-Lin Lacapelle, Virginie Joron

Proposal for a regulation

Recital 33

Text proposed by the Commission

Amendment

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

(Does not affect the English version.)

Or. fr

Amendment 341

Marc Angel, Christel Schaldemose, Maria Grapini, Maria-Manuel Leitão-Marques, Evelyne Gebhardt

Proposal for a regulation

Recital 33

Text proposed by the Commission

Amendment

(33) Orders to act against illegal content and to provide information are subject to the rules safeguarding the competence of the Member State where the service provider addressed is established and laying down possible derogations from that competence in certain cases, set out in Article 3 of Directive 2000/31/EC, only if

(33) Orders to act against illegal content and to provide information are subject to the rules safeguarding the competence of the Member State where the service provider addressed is established and laying down possible derogations from that competence in certain cases, set out in Article 3 of Directive 2000/31/EC, only if

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

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

Or. en

Amendment 342

Karen Melchior, Samira Rafaela, Hilde Vautmans, Michal Šimečka, Ivars Ijabs, Anna Júlia Donáth, Olivier Chastel, Fabienne Keller, Petras Auštrevičius, Irène Tolleret, Ramona Strugariu, Barry Andrews, Susana Solís Pérez, Dragoş Pîslaru, Katalin Cseh

Proposal for a regulation

Recital 34

Text proposed by the Commission

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

Amendment

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

oversight by competent authorities.

necessary oversight by competent authorities.

Or. en

Amendment 343

Brando Benifei, Christel Schaldemose, Monika Beňová, Marc Angel, Maria Grapini

Proposal for a regulation

Recital 34

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 344

Maria da Graça Carvalho

Proposal for a regulation

Recital 34

Text proposed by the Commission

(34) In order to achieve the objectives of

Amendment

(34) In order to achieve the objectives of

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

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

Or. pt

Amendment 345

David Lega, Hilde Vautmans, Antonio López-Istúriz White, Dragoş Pîslaru, Milan Brglez, Alex Agius Saliba, Brando Benifei, Eva Kaili, Ioan-Rareş Bogdan, Josianne Cutajar

Proposal for a regulation

Recital 34

Text proposed by the Commission

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

Amendment

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

accountability of those providers and to empower recipients and other affected parties, whilst facilitating the necessary oversight by competent authorities.

meaningful accountability of those providers and to empower recipients and other affected parties, whilst facilitating the necessary oversight by competent authorities.

Or. en

Amendment 346

Arba Kokalari, Pablo Arias Echeverría, Andreas Schwab, Anna-Michelle Asimakopoulou, Tomislav Sokol, Axel Voss, Ivan Štefanec, Marion Walsmann, Barbara Thaler

Proposal for a regulation

Recital 34

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 347

Geoffroy Didier, Sabine Verheyen, Brice Hortefeux, Nathalie Colin-Oesterlé, Tomasz Frankowski

Proposal for a regulation

Recital 34

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 348

Jean-Lin Lacapelle, Virginie Joron

Proposal for a regulation

Recital 34

Text proposed by the Commission

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

Amendment

(34) In order to achieve the objectives of this Regulation, and in particular to improve the functioning of the internal market and ensure a safe and transparent online environment, it is necessary **clearly** to establish **the legal obligations which will apply to** providers of intermediary services. Those obligations should aim in particular to guarantee different public policy objectives such as the safety and trust of the recipients of the service, including minors and vulnerable users, protect the relevant fundamental rights enshrined in the Charter, to ensure meaningful accountability of those

accountability of those providers and to empower recipients and other affected parties, whilst facilitating the necessary oversight by competent authorities.

providers and to empower recipients and other affected parties, whilst facilitating the necessary oversight by competent authorities.

Or. fr

Amendment 349
Marco Zullo

Proposal for a regulation
Recital 34 a (new)

Text proposed by the Commission

Amendment

(34a) The lack of clarity in the use of so-called chatbots is capable of causing discomfort in some categories of particularly vulnerable people. Therefore, it should be explicitly indicated when a user interfaces with chatbots, to ensure a safe and transparent online environment.

Or. en

Amendment 350
Jean-Lin Lacapelle, Virginie Joron

Proposal for a regulation
Recital 35

Text proposed by the Commission

Amendment

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

deleted

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

Or. fr

Amendment 351

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Morten Løkkegaard, Svenja Hahn, Karen Melchior, Liesje Schreinemacher

Proposal for a regulation

Recital 35

Text proposed by the Commission

(35) In that regard, it is important that the due diligence obligations are adapted to the type and nature of the intermediary service concerned. This Regulation therefore sets out basic obligations applicable to all providers of intermediary services, as well as additional obligations for providers of hosting services and, more specifically, online platforms and very large online platforms. To the extent that providers of intermediary services may fall within those different categories in view of the nature of their services and their size, they should comply with all of the corresponding obligations of this Regulation. Those harmonised due diligence obligations, which should be reasonable and non-arbitrary, are needed to achieve the identified public policy concerns, such as safeguarding the legitimate interests of the recipients of the service, addressing illegal practices and protecting fundamental rights online.

Amendment

(35) In that regard, it is important that the due diligence obligations are adapted to the type and nature of the intermediary service concerned. This Regulation therefore sets out basic obligations applicable to all providers of intermediary services, as well as additional obligations for providers of hosting services and, more specifically, online platforms and very large online platforms. To the extent that providers of intermediary services may fall within those different categories in view of the nature of their services and their size, they should comply with all of the corresponding obligations of this Regulation ***in relations to those services. Services that do not fall within those different categories should not be effected, even when provided by the same provider or under the same ownership structure.*** Those harmonised due diligence obligations, which should be reasonable and non-arbitrary, are needed to achieve the identified public policy concerns, such as safeguarding the legitimate interests of the recipients of the service, addressing

illegal practices and protecting
fundamental rights online.

Or. en

Amendment 352
Geert Bourgeois

Proposal for a regulation
Recital 35

Text proposed by the Commission

(35) In that regard, it is important that the due diligence obligations are adapted to the type and nature of the intermediary service concerned. This Regulation therefore sets out basic obligations applicable to all providers of intermediary services, as well as additional obligations for providers of hosting services and, more specifically, online platforms and very large online platforms. To the extent that providers of intermediary services may fall within those different categories in view of the nature of their services and their size, they should comply with all of the corresponding obligations of this Regulation. Those harmonised due diligence obligations, which should be reasonable and non-arbitrary, are needed to achieve the identified public policy concerns, such as safeguarding the legitimate interests of the recipients of the service, addressing illegal practices and protecting fundamental rights online.

Amendment

(35) In that regard, it is important that the due diligence obligations are adapted to the type and nature of the intermediary service concerned. This Regulation therefore sets out basic obligations applicable to all providers of intermediary services, as well as additional obligations for providers of hosting services and, more specifically, **very large** online platforms and very large **social** online platforms. To the extent that providers of intermediary services may fall within those different categories in view of the nature of their services and their size, they should comply with all of the corresponding obligations of this Regulation. Those harmonised due diligence obligations, which should be reasonable and non-arbitrary, are needed to achieve the identified public policy concerns, such as safeguarding the legitimate interests of the recipients of the service, addressing illegal practices and protecting fundamental rights online.

Or. nl

Amendment 353
Arba Kokalari, Pablo Arias Echeverría, Andreas Schwab, Anna-Michelle Asimakopoulou, Maria da Graça Carvalho, Tomislav Sokol, Axel Voss, Ivan Štefanec, Pilar del Castillo Vera, Andrea Caroppo, Barbara Thaler

Proposal for a regulation
Recital 35

Text proposed by the Commission

(35) In that regard, it is important that the due diligence obligations are adapted to the type and nature of the intermediary service concerned. This Regulation therefore sets out basic obligations applicable to all providers of intermediary services, as well as additional obligations for providers of hosting services and, more specifically, online platforms and very large online platforms. To the extent that providers of intermediary services may fall within those different categories in view of the nature of their services and their size, they should comply with all of the corresponding obligations of this Regulation. Those harmonised due diligence obligations, which should be reasonable and non-arbitrary, are needed to achieve the identified public policy concerns, such as safeguarding the legitimate interests of the recipients of the service, addressing illegal practices and protecting fundamental rights online.

Amendment

(35) In that regard, it is important that the due diligence obligations are adapted to the type and nature **and size** of the intermediary service concerned. This Regulation therefore sets out basic obligations applicable to all providers of intermediary services, as well as additional obligations for providers of hosting services and, more specifically, online platforms and very large online platforms. To the extent that providers of intermediary services may fall within those different categories in view of the nature of their services and their size, they should comply with all of the corresponding obligations of this Regulation. Those harmonised due diligence obligations, which should be reasonable and non-arbitrary, are needed to achieve the identified public policy concerns, such as safeguarding the legitimate interests of the recipients of the service, addressing illegal practices and protecting fundamental rights online.

Or. en

Amendment 354

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Morten Løkkegaard, Svenja Hahn, Karen Melchior, Sandro Gozi, Stéphanie Yon-Courtin, Liesje Schreinemacher

Proposal for a regulation

Recital 35 a (new)

Text proposed by the Commission

Amendment

(35a) Similarly, in order to ensure that the obligations are only applied to those providers of intermediary services where the benefit would outweigh the burden on the provider, the Commission should be empowered to issue a waiver to the requirements of Chapter III, in whole or in parts, to those providers of

intermediary services that are non-for-profit or equivalent and serve a manifestly positive role in the public interest, or are SMEs without any systemic risk related to illegal content. The providers should present justified reasons for why they should be issued a waiver. The Commission should examine such an application and has the authority to issue or revoke a waiver at any time. The Commission should maintain a public list of all waiver issued and their conditions containing a description on why the provider is justified a waiver.

Or. en

Amendment 355

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Morten Løkkegaard, Marco Zullo, Svenja Hahn, Karen Melchior, Sandro Gozi, Stéphanie Yon-Courtin, Liesje Schreinemacher

Proposal for a regulation

Recital 36

Text proposed by the Commission

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

Amendment

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

Amendment 356
Geert Bourgeois

Proposal for a regulation
Recital 36

Text proposed by the Commission

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

Amendment

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

Or. nl

Amendment 357

Alessandra Basso, Marco Campomenosi, Antonio Maria Rinaldi, Isabella Tovaglieri, Markus Buchheit, Jean-Lin Lacapelle, Virginie Joron
 on behalf of the ID Group

Proposal for a regulation
Recital 36

Text proposed by the Commission

(36) In order to facilitate smooth and efficient communications relating to matters covered by this Regulation, providers of intermediary services should be required to establish a single point of contact and to publish relevant information

Amendment

(36) In order to facilitate smooth and efficient communications relating to matters covered by this Regulation, providers of intermediary services should be required to establish a single point of contact and to publish relevant information

relating to their point of contact, including the languages to be used in such communications. The point of contact can also be used by **trusted flaggers and by** professional entities which are under a specific relationship with the provider of intermediary services. In contrast to the legal representative, the point of contact should serve operational purposes and should not necessarily have to have a physical location .

relating to their point of contact, including the languages to be used in such communications. The point of contact can also be used by professional entities which are under a specific relationship with the provider of intermediary services. In contrast to the legal representative, the point of contact should serve operational purposes and should not necessarily have to have a physical location .

Or. en

Amendment 358

Arba Kokalari, Andrey Kovatchev, Pablo Arias Echeverría, Andreas Schwab, Krzysztof Hetman, Anna-Michelle Asimakopoulou, Maria da Graça Carvalho, Tomislav Sokol, Axel Voss, Ivan Štefanec, Marion Walsmann, Andrea Caroppo, Barbara Thaler

Proposal for a regulation Recital 36 a (new)

Text proposed by the Commission

Amendment

(36a) Providers of intermediary services should also establish a single point of contact for recipients of services, allowing rapid, direct and efficient communication.

Or. en

Amendment 359

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Svenja Hahn, Karen Melchior, Sandro Gozi, Stéphanie Yon-Courtin

Proposal for a regulation Recital 37

Text proposed by the Commission

Amendment

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

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

representatives, so as to allow for the effective oversight and, where necessary, enforcement of this Regulation in relation to those providers. It should be possible for the legal representative to also function as point of contact, provided the relevant requirements of this Regulation are complied with.

representatives, so as to allow for the effective oversight and, where necessary, enforcement of this Regulation in relation to those providers. It should be possible for the legal representative to also function as point of contact, provided the relevant requirements of this Regulation are complied with. *Where providers of intermediary services that are established in a third country chooses not to do not, it becomes subject to the jurisdiction of all Member States, in accordance with Article 40(3).*

Or. en

Amendment 360

Christel Schaldemose, Andreas Schieder, Maria Grapini, Maria-Manuel Leitão-Marques, Clara Aguilera, Adriana Maldonado López, Sylvie Guillaume, Biljana Borzan, Evelyne Gebhardt, Brando Benifei, Monika Beňová, Marc Angel

Proposal for a regulation

Recital 37

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 361
Geert Bourgeois

Proposal for a regulation
Recital 37

Text proposed by the Commission

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

Amendment

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

Or. nl

Amendment 362

Arba Kokalari, Andrey Kovatchev, Pablo Arias Echeverría, Andreas Schwab, Anna-Michelle Asimakopoulou, Maria da Graça Carvalho, Axel Voss, Ivan Štefanec, Pilar del Castillo Vera, Barbara Thaler

Proposal for a regulation
Recital 38

Text proposed by the Commission

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

Amendment

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

Obligations related to terms and conditions should not oblige a provider of an intermediary service to disclose information that will lead to significant

vulnerabilities for the security of its service or the protection of confidential information, in particular trade secrets or intellectual property rights.

Or. en

Amendment 363

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Morten Løkkegaard, Svenja Hahn, Karen Melchior, Sandro Gozi, Stéphanie Yon-Courtin, Liesje Schreinemacher

Proposal for a regulation

Recital 38

Text proposed by the Commission

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

Amendment

(38) Whilst the freedom of contract of providers of intermediary services should in principle be respected, it is appropriate to set certain rules on the content, application and enforcement of the terms and conditions of those providers in the interests of transparency, the protection of recipients of the service and the avoidance of unfair or arbitrary outcomes. ***At the same time, recipients should enter into such agreements willingly without any misleading or coercive tactics and therefore a ban on dark patterns should be introduced.***

Or. en

Amendment 364

Alessandra Basso, Marco Campomenosi, Antonio Maria Rinaldi, Isabella Tovaglieri, Markus Buchheit, Jean-Lin Lacapelle, Virginie Joron
on behalf of the ID Group

Proposal for a regulation

Recital 38

Text proposed by the Commission

(38) Whilst the freedom of contract of providers of intermediary services should

Amendment

(38) Whilst the freedom of contract of providers of intermediary services should

in principle be respected, it is appropriate to set certain rules on the content, application and enforcement of the terms and conditions of those providers in the interests of transparency, the protection of recipients of the service and the avoidance of unfair or arbitrary outcomes.

in principle be respected, it is appropriate to set certain rules on the content, application and enforcement of the terms and conditions of those providers in the interests of transparency, the protection of recipients of the service and the avoidance of unfair or arbitrary outcomes. ***To this end, the use of algorithmic decision-making processes should be disclosed to users whenever they are employed.***

Or. en

Amendment 365
Geert Bourgeois

Proposal for a regulation
Recital 38

Text proposed by the Commission

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

Amendment

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

Or. nl

Amendment 366
Alexandra Geese, Rasmus Andresen, Kim Van Sparrentak
on behalf of the Greens/EFA Group

Proposal for a regulation
Recital 38

Text proposed by the Commission

(38) Whilst the freedom of contract of providers of intermediary services should

Amendment

(38) Whilst the freedom of contract of providers of intermediary services should

in principle be respected, it is appropriate to set certain rules on the content, application and enforcement of the terms and conditions of those providers in the interests of transparency, the protection of recipients of the service and the avoidance of unfair or arbitrary outcomes.

in principle be respected, it is appropriate to set certain rules on the content, application and enforcement of the terms and conditions of those providers in the interests of transparency, the protection of recipients of the service and the avoidance of *discriminatory*, unfair or arbitrary outcomes.

Or. en

Justification

Technical change, brought in line with the corresponding Article 12.

Amendment 367 **Geert Bourgeois**

Proposal for a regulation **Recital 38 a (new)**

Text proposed by the Commission

Amendment

(38a) Very large social online platforms play an essential role in the public debate. They can be considered the modern-day version of a postal service. Anyone who is barred from this handful of platforms is largely silenced. It is not appropriate that those platforms should be free to engage in censorship as they see fit, whether or not by means of automated systems, enabling them to steer the public debate (intentionally or unintentionally) in a particular direction. Moreover, practice has shown that content moderation by automated systems is context-insensitive and all too often removes humour, satire, irony, legitimate forms of protest, and political opinions. To ensure freedom of expression and of information, provision should be made for a derogation from freedom of contract for these providers of intermediary services. A universal service obligation should be imposed on very large social online platforms. Those platforms should allow anyone, in principle, to post and receive content on

their platforms. They should remove, on their own initiative, only manifestly illegal content related to serious crimes. Universal service should be provided without discrimination of any kind. Any universal service tariffs should be objective, transparent, non-discriminatory and fair.

Or. nl

Amendment 368

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Morten Løkkegaard, Svenja Hahn, Sandro Gozi, Stéphanie Yon-Courtin, Liesje Schreinemacher

Proposal for a regulation Recital 38 a (new)

Text proposed by the Commission

Amendment

(38a) While an additional requirement should apply to very large online platform, all providers should do a general self-assessment of potential risk related to their services, especially in relations with minors and should take voluntary mitigation measures where appropriate. In order to ensure that the provider undertakes these actions, Digital Services Coordinators may ask for proof.

Or. en

Amendment 369

Dita Charanzová, Andrus Ansip, Vlad-Marius Botoș, Claudia Gamon, Morten Løkkegaard, Svenja Hahn, Karen Melchior, Sandro Gozi, Stéphanie Yon-Courtin, Liesje Schreinemacher

Proposal for a regulation Recital 39

Text proposed by the Commission

Amendment

(39) To ensure an adequate level of transparency and accountability, providers

(39) To ensure an adequate level of transparency and accountability, providers

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

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

of intermediary services should annually report, in accordance with the harmonised requirements contained in this Regulation, on the content moderation they engage in, including the measures taken as a result of the application and enforcement of their terms and conditions. However, so as to avoid disproportionate burdens, those transparency reporting obligations should not apply to providers that are micro- or small enterprises as defined in Commission Recommendation 2003/361/EC⁴⁰ ***which do not also qualify as very large online platforms. In any public versions of such reports, providers of intermediary services should remove any information that may prejudice ongoing activities for the prevention, detection, or removal of illegal content or content counter to a hosting provider's terms and conditions.***

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

Or. en

Amendment 370

Alexandra Geese, Rasmus Andresen, Kim Van Sparrentak
on behalf of the Greens/EFA Group

Proposal for a regulation **Recital 39**

Text proposed by the Commission

(39) To ensure an adequate level of transparency and accountability, providers of intermediary services should annually report, in accordance with the harmonised requirements contained in this Regulation, on the content moderation they engage in, including the measures taken as a result of the application and enforcement of their terms and conditions. However, so as to

Amendment

(39) To ensure an adequate level of transparency and accountability, providers of intermediary services should annually report ***in a standardised and machine-readable format***, in accordance with the harmonised requirements contained in this Regulation, on the content moderation they engage in, including the measures taken as a result of the application and enforcement

avoid disproportionate burdens, those transparency reporting obligations should not apply to providers that are micro- **or small** enterprises as defined in Commission Recommendation 2003/361/EC.⁴⁰

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

of their terms and conditions. However, so as to avoid disproportionate burdens, those transparency reporting obligations should not apply to providers that are micro enterprises as defined in Commission Recommendation 2003/361/EC⁴⁰, **or as a not-for-profit service with fewer than 100.000 monthly active users.**

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

Or. en

Justification

Under the German NetzDG, transparency reports have proven to be close to meaningless as researchers are not able to compare and analyse them. Therefore, any transparency reporting obligations should be published in a format that is harmonised via a common standard and be machine-readable.

Amendment 371 **Jean-Lin Lacapelle, Virginie Joron**

Proposal for a regulation **Recital 39**

Text proposed by the Commission

(39) To ensure an adequate level of transparency and accountability, providers of intermediary services should annually report, in accordance with the harmonised requirements contained in this Regulation, on the content moderation they engage in, **including the measures taken as a result of the application and enforcement of their terms and conditions.** However, so as to avoid disproportionate burdens, those transparency reporting obligations should not apply to providers that are micro- or small enterprises as defined in Commission Recommendation 2003/361/EC⁴⁰.

Amendment

(39) To ensure an adequate level of transparency and accountability, providers of intermediary services should annually report, in accordance with the harmonised requirements contained in this Regulation, on the content moderation they engage in. However, so as to avoid disproportionate burdens, those transparency reporting obligations should not apply to providers that are micro- or small enterprises as defined in Commission Recommendation 2003/361/EC⁴⁰.

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

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

Or. fr

Amendment 372

Arba Kokalari, Pablo Arias Echeverría, Andreas Schwab, Anna-Michelle Asimakopoulou, Maria da Graça Carvalho, Tomislav Sokol, Axel Voss, Ivan Štefanec, Barbara Thaler

Proposal for a regulation

Recital 39

Text proposed by the Commission

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

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

Amendment

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

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

Or. en

Amendment 373

Alexandra Geese, Rasmus Andresen, Kim Van Sparrentak
on behalf of the Greens/EFA Group

Proposal for a regulation

Recital 39 a (new)

Text proposed by the Commission

Amendment

(39a) Recipients of the service should be empowered to make autonomous decisions inter alia regarding the acceptance of and changes to terms and conditions, advertising practices, privacy and other settings, recommender systems when interacting with intermediary services. However, dark patterns typically exploit cognitive biases and prompt online consumers to purchase goods and services that they do not want or to reveal personal information they would prefer not to disclose. Therefore, providers of intermediary services should be prohibited from deceiving or nudging recipients of the service and from subverting or impairing the autonomy, decision-making, or choice of the recipients of the service via the structure, design or functionalities of an online interface or a part thereof ('dark patterns'). This includes, but is not limited to, exploitative design choices to direct the recipient to actions that benefit the provider of intermediary services, but which may not be in the recipients' interests, presenting choices in a non-neutral manner, repetitively requesting or pressuring the recipient to make a decision or hiding or obscuring certain options.

Or. en

Amendment 374

Barbara Thaler, Arba Kokalari

Proposal for a regulation

Recital 39 a (new)

Text proposed by the Commission

Amendment

(39a) Within the scope of the Digital Services Act, it is of utmost importance to ensure the balance between tackling particular risks of illegal content and guarantee transparency for users, while not completely banning recommender-systems in online advertisement and protecting business secrets and intellectual property, because consumer protection also includes that the diversity of the supply is ensured.

Or. en

Amendment 375

Maria Grapini, Andreas Schieder, Marc Angel, Evelyne Gebhardt

Proposal for a regulation

Recital 39 a (new)

Text proposed by the Commission

Amendment

(39a) In order to effectively and meaningfully address the proliferation of illegal goods and services online, intermediary services should implement measures to prevent illicit content from reappearing after having been taken down. Such measures, undertaken horizontally by all intermediary services, will contribute to a safer online environment.

Or. en

Amendment 376

Arba Kokalari, Pablo Arias Echeverría, Andreas Schwab, Krzysztof Hetman, Anna-Michelle Asimakopoulou, Maria da Graça Carvalho, Tomislav Sokol, Axel Voss, Ivan Štefanec, Pilar del Castillo Vera, Barbara Thaler

Proposal for a regulation

Recital 40

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

(40) Providers of hosting services play a particularly important role in tackling illegal content online, as they store information provided by and at the request of the recipients of the service and typically give other recipients access thereto, sometimes on a large scale. It is important that all providers of hosting services, regardless of their size, put in place ***easily accessible, comprehensive and*** user-friendly notice and action mechanisms that facilitate the notification of specific items of information that the notifying party considers to be illegal content to the provider of hosting services concerned ('notice'), pursuant to which that provider can decide whether or not it agrees with that assessment and wishes to remove or disable access to that content ***following the applicable law*** ('action'). ***Such mechanisms should be clearly visible on the interface of the hosting service and easy to use.*** Provided the requirements on notices are met, it should be possible for individuals or entities to notify multiple specific items of allegedly illegal content through a single notice. The obligation to put in place notice and action mechanisms should apply, for instance, to file storage and sharing services, web hosting services, advertising servers and paste bins, in as far as they qualify as providers of hosting services covered by this Regulation. ***Providers of hosting services could, as a voluntary measure, conduct own-investigation measures to prevent content which has previously been identified as illegal from being disseminated again once removed. The obligations related to notice and action should by no means impose general monitoring obligations.***

Or. en

Justification

To clarify that the obligations related to notice and action should not impose general monitoring or any type of stay-down mechanism.