



2020/0361(COD)

20.7.2021

AMENDMENTS

90 - 269

Draft opinion
Geoffroy Didier
(PE694.960v01-00)

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

Proposal for a regulation
(COM(2020)0825 – C9-0418/2020 – 2020/0361(COD))

Amendment 90
Daniel Buda

Proposal for a regulation
Recital 1

Text proposed by the Commission

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

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

Amendment

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

Or. ro

Amendment 91
Antonius Manders

Proposal for a regulation

Recital 1

Text proposed by the Commission

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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 and challenges, both for individual users ***in the form of financial fraud and scams on social networks***, and for society as a whole.

Or. nl

Justification

The digital single market hinges on consumer confidence. Online financial fraud, via WhatsApp for example, is significantly undermining this confidence. One way to restore it is to ensure that online payments can be undone within a certain period of time, as is the case with credit cards for example, and to identify the fraudsters.

Amendment 92

Daniel Buda

Proposal for a regulation

Recital 2

Text proposed by the Commission

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

Amendment

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

Or. ro

Amendment 93

Emmanuel Maurel

Proposal for a regulation

Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) whereas there exists a multilateral agreement entitled 'Information and

Amendment 94
Emmanuel Maurel

Proposal for a regulation
Recital 2 b (new)

Text proposed by the Commission

Amendment

(2b) whereas multilateral agreements can provide common solutions for issues covered by this Regulation. Encourages regulation of the public information and communication area by establishing democratic guarantees for the digital space which are based on the liability of platforms and guarantees of the reliability of the information.

Amendment 95
Emmanuel Maurel

Proposal for a regulation
Recital 3

Text proposed by the Commission

Amendment

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

(3) Responsible and diligent behaviour by providers of intermediary services is essential for a safe, predictable and trusted online environment and for allowing Union citizens and other persons to exercise their fundamental rights guaranteed in the Charter of Fundamental Rights of the European Union ('Charter'). ***The fundamental rights shall include the right to freedom of expression and information, the right to respect for private and family life, the right to the protection of personal data, the right to non-discrimination, the***

right to human dignity, children's rights, the right to protection of intellectual property, and the right to non-discrimination for persons affected by illegal content.

Or. fr

Amendment 96

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti, Christel Schaldemose, Brando Benifei

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 guaranteed in the Charter of Fundamental Rights of the European Union ('Charter'), in particular the freedom of expression and information, the freedom to conduct a business, **privacy and personal data protection**, the right to non-discrimination **and access to justice**.

Or. en

Amendment 97

Daniel Buda

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

Amendment

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

guaranteed in the Charter of Fundamental Rights of the European Union ('Charter'), in particular the freedom of expression and information and the freedom to conduct a business, and the right to non-discrimination, **and for ensuring that these rights are fully upheld.**

Or. ro

Amendment 98 **Emmanuel Maurel**

Proposal for a regulation **Recital 4**

Text proposed by the Commission

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

Amendment

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

Or. fr

Amendment 99 **Brando Benifei**

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.

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Or. en

Amendment 100

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4 a) 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 101

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Recital 5 a (new)

Text proposed by the Commission

Amendment

(5 a) Given the cross-border nature of the services at stake, EU 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 102

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Recital 5 b (new)

Text proposed by the Commission

Amendment

(5 b) 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

Amendment 103

Emmanuel Maurel

Proposal for a regulation

Recital 8

Text proposed by the Commission

Amendment

(8) Such a substantial connection to the Union should be considered to exist where

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

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 17(1)(c) of Regulation (EU) **No 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 **L 351**, 20.12.2012, p. **I**).

Or. fr

Amendment 104

Axel Voss, Esteban González Pons, Luisa Regimenti, Monika Hohlmeier, Rainer Wieland, Daniel Caspary, Javier Zarzalejos, Sven Schulze, Christian Doleschal

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

Amendment

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

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

Or. en

Amendment 105

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

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

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, ***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

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 106 **Angelika Niebler**

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

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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

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

Or. en

Amendment 107 **Stéphane Séjourné**

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. ***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

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 108 **Geoffroy Didier**

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.

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This Regulation ***should not affect Member***

States' freedom to regulate issues on which those other acts leave Member States the possibility of adopting certain, measures at national level.

In the event of a conflict between Directive 2010/13/EU as amended and this Regulation, Directive 2010/13/EU as well as the national measures taken in accordance with that Directive should prevail.

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 109 **Emmanuel Maurel**

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

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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.***

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 not prejudice the freedom of the Member States to regulate 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. fr

Amendment 110
Emmanuel Maurel

Proposal for a regulation
Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) This Regulation should have no impact on Member States' jurisdiction in the area of culture, nor should it prejudice national measures to guarantee and promote freedom of expression and

Amendment 111
Emmanuel Maurel

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 Council³¹, Directive 2002/58/EC of the European Parliament and of the Council³² and Regulation [...] on temporary derogation from certain provisions of Directive 2002/58/EC³³ as well as Union law on consumer protection, in particular Directive 2005/29/EC of the European Parliament and of the Council³⁴, Directive 2011/83/EU of the European Parliament and of the Council³⁵ and Directive 93/13/EEC of the European Parliament and of the Council³⁶, as amended by Directive (EU) 2019/2161 of the European Parliament and of the Council³⁷, and on the protection of personal data, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council.³⁸ The protection of individuals with regard to the processing of personal data is solely governed by the rules of Union law on that subject, in particular Regulation (EU) 2016/679 and Directive 2002/58/EC. This Regulation is also without prejudice to the rules of Union law on working conditions.

Amendment

(10) For reasons of clarity, it should also be specified that this Regulation is without prejudice to Regulation (EU) 2019/1148 of the European Parliament and of the Council³⁰ and Regulation (EU) 2019/1150 of the European Parliament and of the Council³¹, 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 ***line with the quality criteria set out in Directive 2013/11/EU of the European Parliament and of the Council^{33 a} which deals with alternative dispute resolution for consumer disputes***, 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 Council³⁸. 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 ***and national rules*** on working

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

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.

³³ *a Directive 2013/11/EU on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/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 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. fr

Amendment 112

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti, Christel Schaldemose

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

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 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

Directive 2005/29/EC of the European Parliament and of the Council³⁴, Directive 2011/83/EU of the European Parliament and of the Council³⁵ and Directive 93/13/EEC of the European Parliament and of the Council³⁶, as amended by Directive (EU) 2019/2161 of the European Parliament and of the Council³⁷, **Directive 2013/11/EC of the European Parliament and of the Council, Directive 2006/123/EC of the European Parliament and of the Council**, 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 113
Patrick Breyer

Proposal for a regulation

Recital 11

Text proposed by the Commission

Amendment

(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.

deleted

Or. en

Justification

In line with LIBE opinion. The e-commerce directive has never been „without prejudice“ to copyright law.

Amendment 114 Stéphane Séjourné

Proposal for a regulation Recital 11

Text proposed by the Commission

Amendment

(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.

(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 115

Axel Voss, Andrzej Halicki, Michael Gahler, Sabine Verheyen, Esteban González Pons, Luisa Regimenti, Monika Hohlmeier, Rainer Wieland, Daniel Caspary, Javier Zarzalejos, Sven Schulze, Christian Doleschal, Daniel Buda

Proposal for a regulation Recital 11

Text proposed by the Commission

Amendment

(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.

(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 **and are *lex specialis*, prevailing over this Regulation.**

Or. en

Amendment 116
Angelika Niebler

Proposal for a regulation
Recital 11 a (new)

Text proposed by the Commission

Amendment

(11 a) Member States have the competence to safeguard media pluralism through the adoption of national legislation. Because of the convergence of media, legislation that ensures and fosters media pluralism is also necessary in the online environment. The right of the Member States to adopt legislation on media plurality especially includes substantive rules, rules of procedure and enforcement rules, including the regulatory structure.

Or. en

Amendment 117
Karen Melchior, Stéphane Séjourné

Proposal for a regulation
Recital 12

Text proposed by the Commission

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***

(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

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.

cover information relating to illegal content, products, services and activities *where such information is itself illegal*. 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 *including the Charter of Fundamental Rights of the European Union* and what the precise nature or subject matter is of the law in question.

Or. en

Amendment 118 **Patrick Breyer**

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

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* information relating to illegal content, products, services and activities *where such information is itself illegal*. In

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.

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 *refers in an illegal manner* 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

Subject to discussion on JURI competence. In order to protect freedom of expression it is necessary to clarify the notion of illegality "by ... reference to an activity, including the sale of products or provision of services" in Article 2 (g). Not any reference to illegal activity is unlawful (e.g. for the purpose of media coverage or academic discussion on the illegal sale of products) but only where legislation prohibits such reference (e.g. consumer or competition law outlawing the offering for sale of unsafe products).

Amendment 119 **Kosma Zlotowski**

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 120 **Antonius Manders**

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

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.

child sexual abuse, unlawful non-consensual sharing of private images, **anonymous** online **bullying and** stalking, **online financial fraud**, 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 121

Daniel Buda

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

Amendment

(12) In order to achieve the objective of ensuring a safe, **accessible**, predictable and trusted online environment, for the purpose of this Regulation the concept of “illegal content” should 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, **hazardous** 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

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.

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. ro

Amendment 122

Alessandra Basso, Gunnar Beck, Gilles Lebreton

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 ***the criminal, administrative or civil legal framework of a Member State*** and what the precise nature or subject matter is of the law in question.

Or. en

Amendment 123

Axel Voss, Andrzej Halicki, Esteban González Pons, Luisa Regimenti, Monika Hohlmeier, Rainer Wieland, Daniel Caspary, Javier Zarzalejos, Sven Schulze, Christian Doleschal

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, *dangerous* 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 124

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti, Christel Schaldemose

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 ***and cover*** illegal content, products, services and activities. In particular, that concept should be understood to refer to information, irrespective of its form, that under the applicable law is either itself illegal, such as illegal hate speech or terrorist content and unlawful discriminatory content, or that ***is not in compliance with Union law since it refers*** to activities that are illegal, such as the sharing of images depicting child sexual abuse, unlawful non-consensual sharing of private images, online stalking, the sale of non-compliant 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 125
Emmanuel Maurel

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

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. That concept should be understood to refer to information, irrespective of its form, that under the applicable law is either itself

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.***

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, ***the provision of illegal services such as hosting services on short-term accommodation rental platforms which do not conform to Union or national law***, or activities involving infringements of consumer protection law, ***where the illegality of the information or activity results from Union law or from national law that is consistent with Union law and the Charter.***

Or. fr

Amendment 126

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Recital 12 a (new)

Text proposed by the Commission

Amendment

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

Amendment 127
Kosma Zlotowski

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

Amendment

(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. ***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 128
Brando Benifei

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

Amendment

(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. ***Similarly, a communication channel in an online game could also***

constitute such a feature.

Or. en

Amendment 129

Stéphane Séjourné, Adrián Vázquez Lázara

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

Amendment

(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 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 130
Emmanuel Maurel

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

Amendment

(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 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.

Amendment 131

Axel Voss, Esteban González Pons, Luisa Regimenti, Monika Hohlmeier, Rainer Wieland, Daniel Caspary, Javier Zarzalejos, Sven Schulze, Christian Doleschal

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

Amendment

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

Amendment 132

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Recital 13 a (new)

Text proposed by the Commission

Amendment

(13 a) Additionally in order to avoid imposing obligations simultaneously on two providers for the same content, a hosting services should be defined as 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 133

Stéphane Séjourné

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 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

(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. ***Accordingly, where access to information requires registration or admission to a user group, such information should only be***

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.

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

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 134
Kosma Zlotowski

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. ***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 135 **Emmanuel Maurel**

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

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. ***As a result, where access to information requires registration or admittance to a group of users, that information should be considered to have been disseminated to the public only where users seeking to access the information are automatically registered or admitted without a human decision on who should be granted access.*** 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.

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. fr

Amendment 136 **Patrick Breyer**

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

Amendment

(14) The concept of ‘dissemination to the public’, as used in this Regulation, should entail the making available of information to a potentially unlimited number of persons, that is, making the information easily accessible to users in general without further action by the recipient of the service providing the information being required, irrespective of whether those persons actually access the information in question. *Accordingly, where access to information requires registration or admittance to a group of users, that information should be considered to have been disseminated to the public only where users seeking to access the information are automatically registered or admitted without a human decision or selection on whom to grant access.* Interpersonal communication services, as defined in Directive (EU)

Directive (EU) 2018/172 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) 2018/172 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

2018/172 of the European Parliament and of the Council,³⁹ such as emails or private messaging services, ***are not considered to have been disseminated to the public.*** Information should be considered disseminated to the public within the meaning of this Regulation only where that occurs upon the direct request by the recipient of the service that provided the information.

³⁹ Directive (EU) 2018/172 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

Justification

Subject to discussion on JURI competences. The language on closed user groups needs aligning with the Regulation on Terrorist Content Online (recital 14) where the legislator decided on different language from the one originally proposed by the Commission. On the other hand, the language in that Regulation on communications services needs modifying in the present context. While the Regulation on Terrorist Content Online only applies to information that is disseminated to the public, this is not the case with the Digital Services Act. Interpersonal communication services such as Whatsapp are an area where the applicability of the liability exceptions becomes relevant. Recital 10 of the EECC acknowledges that certain services may fall both under the Electronic Communications Code (EECC) and be information society services. Thus, it is possible that certain services are regulated under the EECC and that liability exemptions apply under the DSA.

Amendment 137

Patrick Breyer

Proposal for a regulation

Recital 15 a (new)

Text proposed by the Commission

Amendment

(15 a) The online activities of a person allow for deep insights into their personality as well as their past and future behaviour, making it possible to manipulate them. The high sensitivity of such information and its potential for

abuse requires special protection. In line with the principle of data minimisation and in order to prevent unauthorised disclosure, identity theft and other forms of abuse of personal data, recipients should have the right to use and pay for information society services anonymously wherever technically possible. Anonymous payment can take place for example by paying in cash, by using cash-paid vouchers or prepaid payment instruments. The general and indiscriminate collection of personal data concerning every use of a digital service interferes disproportionately with the right to privacy. Users should therefore have a right not to be subject to pervasive tracking when using information society services. To this end, the processing of personal data concerning the use of services should be limited to the extent strictly necessary to provide the service and to bill the users. Processing personal data for displaying advertisements is not strictly necessary. Following the jurisprudence on communications meta-data providers should not be required to indiscriminately retain personal data concerning the use of the service by all recipients. Applying effective end-to-end encryption to data is essential for trust in and security on the Internet, and effectively prevents unauthorised third party access. The fact that encryption technology is abused by some for illegal purposes does not justify generally weakening effective end-to-end encryption.

Or. en

Justification

Subject to discussion on JURI competences. Recital to explain Article 2a on Digital Privacy.

Amendment 138
Emmanuel Maurel

Proposal for a regulation
Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) The online activities of a person allow for deep insights into their personality as well as their past and future behaviour, making it possible to manipulate them. The high sensitivity of such information and its potential for abuse requires special protection. The general and indiscriminate collection of personal data concerning every use of a digital service interferes disproportionately with the right to privacy. Users should therefore have a right not to be subject to pervasive tracking when using information society services. To this end, the processing of personal data concerning the use of services should be limited to the extent strictly necessary to provide the service and to bill the users. Processing personal data for displaying advertisements must be prohibited. Following the jurisprudence on communications, meta-data providers should not be required to indiscriminately retain personal data concerning the use of the service by all recipients. Applying effective end-to-end encryption to data is essential for trust in and security on the internet and effectively prevents unauthorised third-party access. The fact that encryption technology is abused by some for illegal purposes does not justify generally weakening effective end-to-end encryption.

Or. fr

Amendment 139
Kosma Złotowski

Proposal for a regulation
Recital 16

Text proposed by the Commission

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

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, ***as well as technological and market developments.***

Or. en

Amendment 140

Daniel Buda

Proposal for a regulation

Recital 16

Text proposed by the Commission

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

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

Amendment 141

Axel Voss, Andrzej Halicki, Michael Gahler, Sabine Verheyen, Esteban González Pons, Luisa Regimenti, Monika Hohlmeier, Rainer Wieland, Daniel Caspary, Javier Zarzalejos, Sven Schulze, Christian Doleschal, Daniel Buda

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. ***A provider of intermediary services plays an active role when assistance is given to the recipient of the service, notably for the optimizing and the promotion of the content offered.*** 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 142

Emmanuel Maurel

Proposal for a regulation**Recital 18***Text proposed by the Commission*

(18) The exemptions from liability

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. 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.

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 **or to optimise the way it is presented or to prioritise it, whether or not this is done in an automated way**. 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. fr

Amendment 143 **Patrick Breyer**

Proposal for a regulation **Recital 18**

Text proposed by the Commission

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

Amendment

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

Justification

According to JURI opinion PE652.326v02, par. 9, the legal regime for digital providers liability should not depend on uncertain notions such as the 'active' or 'passive' role of providers. Case-law to this effect has resulted in legal uncertainty, including due to conflicting decisions by different levels of courts as to the 'active' or 'passive' role of the same type of service (see also Impact Assessment, p. 105). The safe harbour provisions shall apply where providers have neither knowledge nor control. No additional criteria shall be introduced in recitals or case-law.

Amendment 144

Axel Voss, Esteban González Pons, Luisa Regimenti, Monika Hohlmeier, Rainer Wieland, Daniel Caspary, Javier Zarzalejos, Sven Schulze, Christian Doleschal, Daniel Buda, Pascal Arimont

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) *The provider should not be able to benefit from exemptions from liability provided for in this Regulation where the main purpose is to engage in or facilitate illegal activities or where* a provider of intermediary *service* deliberately collaborates with a recipient of the services in order to undertake illegal activities *and* does not provide its service neutrally.

Or. en

Amendment 145

Emmanuel Maurel

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

Amendment

(20) A provider of intermediary services, *the main purpose of which is to conduct or facilitate* illegal activities, should not be able to benefit from the exemptions from liability provided for in

therefore not be able to benefit from the exemptions from liability provided for in this Regulation.

this Regulation.

Or. fr

Amendment 146
Kosma Złotowski

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 147
Kosma Złotowski

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

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

alter the integrity of the information transmitted.

manipulations do not alter the integrity of the information transmitted.

Or. en

Amendment 148
Emmanuel Maurel

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 all relevant rights, including freedom of expression, the right to intellectual property and the freedom to pursue a commercial activity.

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. fr

Amendment 149

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti, Christel Schaldemose, Brando Benifei

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 *Charter of Fundamental Rights of the European Union, including 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 150

Patrick Breyer

Proposal for a regulation

Recital 22

Text proposed by the Commission

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.

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

Or. en

Justification

Subject to discussion on JURI competences. "Actual knowledge" needs to be defined in line with the relevant case-law as meaning knowledge about illegality of information and not just its existence (CJEU, Judgement of 23 March 2010, C-236/08 to C-238/08, Google France and Google v. Vuitton, ECLI:EU:C:2010:159, par. 109). This clarification avoids providers removing legal content in order to escape liability risks.

Amendment 151 **Antonius Manders**

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

Amendment

(23) In order to ensure the effective protection of consumers when engaging in intermediated commercial transactions online, ***including online financial transactions***, 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

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.

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

Or. nl

Amendment 152 **Emmanuel Maurel**

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

Amendment

(23) In order to ensure the effective protection of consumers when engaging in intermediated commercial transactions online, providers of hosting services, online platforms ***and other providers of services such as marketplaces*** that allow consumers to conclude distance contracts with traders, should not be able to benefit from the exemption from liability for hosting service providers established in this Regulation, in so far as those online platforms present the relevant information relating to the transactions at issue 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

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.

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. fr

Amendment 153

Axel Voss, Esteban González Pons, Luisa Regimenti, Monika Hohlmeier, Rainer Wieland, Daniel Caspary, Javier Zarzalejos, Sven Schulze, Christian Doleschal

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 ***on the platforms***, 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.

Or. en

Amendment 154
Emmanuel Maurel

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. fr

Amendment 155
Patrick Breyer

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 156
Stéphane Séjourné

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 157

Daniel Buda

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

Amendment

(25) In order to create legal certainty, ***ensuring that the regulatory framework provisions are applied in a proportional***

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.***

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

Or. ro

Amendment 158

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti, Christel Schaldemose, Brando Benifei

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

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.

this Regulation, provided those activities are carried out in good faith and in a diligent manner **and accompanied by additional safeguards**. In addition, it is appropriate to clarify that the mere fact that those providers take measures, in good faith, to comply with the requirements of Union 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 159

Alessandra Basso, Gunnar Beck, Gilles Lebreton

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

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.

national and 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 160 **Emmanuel Maurel**

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,***

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. ***In many cases, providers of intermediary services are best placed to solve the problem of illegal content and activities by removing or blocking access to such content, particularly at the request of third parties affected by the illegal content transmitted or stored online.***

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.

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.

Parties with the technical and operational capacity to take action against illegal content must therefore ensure that third parties can identify them easily and contact them in order to combat illegal content.

Or. fr

Amendment 161
Kosma Złotowski

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 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.

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 ***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 162
Brando Benifei

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 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

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 **or 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.

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

Amendment 163
Kosma Złotowski

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

Amendment

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

liability, to the extent that they qualify as ‘mere conduit’, ‘caching’ or hosting service.

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 164
Emmanuel Maurel

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 ***or with regard to content which is identical or equivalent to content which has previously been withdrawn because it was illegal;*** 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 its reappearance.***

This Regulation is without prejudice to the Member States requiring providers of services which host the information provided to apply the obligations set out in national law, in order to prevent illegal activity.

Or. fr

Amendment 165
Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

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, **where set down in Union acts** and, in particular, does not affect orders by national authorities in accordance with national legislation **that implements European acts**, in accordance with the conditions established in this Regulation **and other European 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 166
Stéphane Séjourné

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

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.

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 167
Kosma Złotowski

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 168
Tiemo Wölken, Evelyne Gebhardt, Franco Roberti, Christel Schaldemose, Brando Benifei

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 ***or as an obligation to use automated content-filtering tools.***

Or. en

Amendment 169

Alessandra Basso, Gunnar Beck, Gilles Lebreton

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 ***that do not qualify as very large online platform*** 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 ***and*** 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 170
Patrick Breyer

Proposal for a regulation
Recital 28 a (new)

Text proposed by the Commission

Amendment

(28 a) Providers of intermediary services should not be obliged to use automated tools for content moderation because such tools are incapable of effectively understanding the subtlety of context and meaning in human communication, which is necessary to determine whether assessed content violates the law or terms of service. Human review of automated reports by service providers or their contractors does not fully solve this problem, especially if it is outsourced to staff of private enterprises who lack sufficient independence, qualification and accountability.

Or. en

Justification

Subject to discussion on JURI competences. Implements resolution 2020/2019(INL).

Amendment 171
Patrick Breyer

Proposal for a regulation
Recital 29

Text proposed by the Commission

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

(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.

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.***

Or. en

Amendment 172

Stéphane Séjourné, Adrián Vázquez Lázara

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

Amendment

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

to set certain conditions that those orders should meet and certain complementary requirements relating to the processing of those orders.

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 173

Daniel Buda

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

Or. ro

Amendment 174

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

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.

Or. en

Amendment 175
Stéphane Séjourné

Proposal for a regulation
Recital 30

Text proposed by the Commission

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

Amendment

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

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.

facts or circumstances indicating illegal activity laid down in this Regulation. ***The competent authorities of Member States should be able to object to the Board orders to act against illegal content, that they consider are in breach of 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 pursuant 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 176
Patrick Breyer

Proposal for a regulation
Recital 30 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Justification

Subject to discussion of JURI competences. See justification for amendments to Article 8 for details.

Amendment 177

Patrick Breyer

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

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.

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 origin, 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 178

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti

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

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.

concerned, the authority should assess whether the information at issue is likely to constitute illegal content in other Member States concerned and, where relevant, take account of the relevant rules of Union law or international law and the interests of international comity. ***In this context and to maintain proportionality, orders addressed to a provider that has its main establishment or legal representation in another Member State or outside the Union should be limited to the Member State issuing the order, unless the legal basis for the order is directly applicable Union law.***

Or. en

Amendment 179
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 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

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 ***manifestly*** illegal content in ***the majority***

account of the relevant rules of Union law or international law and the interests of international comity.

*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 180 **Stéphane Séjourné**

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 **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 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 181

Axel Voss, Michael Gahler, Sabine Verheyen, Esteban González Pons, Luisa Regimenti, Monika Hohlmeier, Rainer Wieland, Daniel Caspary, Javier Zarzalejos, Sven Schulze, Christian Doleschal, Daniel Buda, Pascal Arimont

Proposal for a regulation

Recital 32

Text proposed by the Commission

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

Amendment

(32) The orders to provide information regulated by this Regulation concern the production of specific information about individual recipients of the intermediary service concerned who are identified in those orders for the purposes of determining compliance by the recipients of the services with applicable Union or national rules. ***This information, which should include the relevant email addresses, telephone numbers, IP addresses and other contact details necessary to ensure such compliance, should be available in respect of all types orders.*** 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 182

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

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.

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 *to provide information* 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 2000/31/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.*

Or. en

Amendment 183
Stéphane Séjourné

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

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.

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

Or. en

Amendment 184

Daniel Buda

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

Amendment

(34) In order to achieve the objectives of this Regulation, and in particular to improve the functioning of the internal market and ensure *an accessible*, safe and transparent online environment, it is necessary to establish a clear, *predictable* and balanced set of harmonised due diligence obligations for providers of intermediary services. Those obligations should aim in particular to guarantee different public policy objectives such as the safety and trust of the recipients of the

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.

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, ***ensuring the right balance between support for innovation on the one hand and protection for consumers and users on the other.***

Or. ro

Amendment 185

Karen Melchior, Stéphane Séjourné, Hilde Vautmans, Ivars Ijabs, Samira Rafaela, Michal Šimečka

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 aim in particular to guarantee different public policy objectives such as the safety and trust of the recipients of the service, including minors, ***women*** and vulnerable users, ***such as those with protected characteristics under Article 21 of the Charter***, protect the relevant fundamental rights enshrined in the Charter, to ensure meaningful accountability of those providers and to empower recipients and other affected parties, whilst facilitating the necessary oversight by competent authorities.

Or. en

Amendment 186
Karen Melchior

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) *Similarly, in order to make sure that the obligations are only applied to those providers of intermediary services where the benefit would outweigh the burden on the provider, the Commission should be empowered to issue a waiver to the requirements of chapter III, in whole or in parts, to those providers of intermediary services that are non-for-profit or equivalent and serve a manifestly positive role in the public interest, or are SMEs without any systemic risk related to illegal content. The Providers shall 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 waivers issued and their conditions containing a description on why the provider is justified a waiver.*

Or. en

Amendment 187
Emmanuel Maurel

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

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. 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.

services, as well as additional obligations for providers of hosting services and, more specifically, 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. fr

Amendment 188

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti, Christel Schaldemose, Brando Benifei

Proposal for a regulation

Recital 36

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 189

Alessandra Basso, Gunnar Beck, Gilles Lebreton

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 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 190

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti, Christel Schaldemose, Brando Benifei

Proposal for a regulation

Recital 38

Text proposed by the Commission

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

Amendment

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

particular, it is important to ensure that terms and conditions are fair, non-discriminatory and transparent, and are drafted in a clear and unambiguous language in line with applicable Union law. The terms and conditions should include information on any policies, procedures, measures and tools used for the purpose of content moderation, including algorithmic decision-making, human review, the legal consequences to be faced by the users for knowingly storing or uploading illegal content as well as on the right to terminate the use of the service. Providers of intermediary services should also provide recipients of services with a concise and easily readable summary of the main elements of the terms and conditions, including the remedies available.

Or. en

Amendment 191

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

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 192
Daniel Buda

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 ***uniform and proportional*** 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.

Or. ro

Amendment 193
Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation
Recital 38 a (new)

Text proposed by the Commission

Amendment

(38 a) While an additional requirement should apply to very large online platforms, all providers should do a general self-assessment of potential risks 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 194

Karen Melchior, Stéphane Séjourné

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- 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 195

Emmanuel Maurel

Proposal for a regulation

Recital 39

Text proposed by the Commission

(39) To ensure an adequate level of

Amendment

(39) To ensure an adequate level of

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

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. *All decisions, rules and penalties concerning content moderation must be clear, precise and predictable for 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. fr

Amendment 196

Axel Voss, Esteban González Pons, Luisa Regimenti, Monika Hohlmeier, Rainer Wieland, Daniel Caspary, Javier Zarzalejos, Sven Schulze, Christian Doleschal, Daniel Buda

Proposal for a regulation Recital 40

Text proposed by the Commission

Amendment

(40) Providers of hosting services play a particularly important role in tackling illegal content online, as they store information provided by and at the request of the recipients of the service and typically give other recipients access thereto, sometimes on a large scale. It is important that all providers of hosting services, regardless of their size, put in place user-friendly notice and action mechanisms that facilitate the notification of specific items of information that the notifying party considers to be illegal content to the provider of hosting services

deleted

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.

Or. en

Amendment 197

Stéphane Séjourné, Adrián Vázquez Lázara

Proposal for a regulation

Recital 40

Text proposed by the Commission

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

Amendment

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

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.

Furthermore, the notice and action mechanism should be complemented by 'stay down' provisions whereby providers of hosting services should demonstrate their best efforts in order to prevent from reappearing content which is identical to another piece of content that has already been identified and removed by them as illegal. The application of this requirement should not lead to any general monitoring obligation.

Or. en

Amendment 198 Kosma Złotowski

Proposal for a regulation Recital 40

Text proposed by the Commission

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

Amendment

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

('action'). ***Nonetheless, the provider should have the possibility to reject a given notice if there is another entity with more granular control over the alleged content or the provider has no technical capability to act on a specific content. Therefore, the blocking orders should be considered as a last resort measure and applied only when all other options are exhausted.*** 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.

Or. en

Amendment 199
Raffaele Stancanelli

Proposal for a regulation
Recital 40

Text proposed by the Commission

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

Amendment

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

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. ***It may also be possible for online platforms to prevent a content that has already been identified as illegal and that has been removed on the basis of a prior notice, from reappearing.*** 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

Or. en

Justification

Once the platform knows that the particular content is illegal, there should be no reason not to remove it permanently.

Amendment 200 **Emmanuel Maurel**

Proposal for a regulation **Recital 40**

Text proposed by the Commission

(40) Providers of hosting services play a particularly important role in tackling illegal content online, as they store information provided by and at the request of the recipients of the service and typically give other recipients access thereto, sometimes on a large scale. It is important that all providers of hosting services, regardless of their size, put in place user-friendly notice and action mechanisms that facilitate the notification of specific items of information that the notifying party considers to be illegal content to the provider of hosting services concerned ('notice'), pursuant to which that

Amendment

(40) Providers of hosting services play a particularly important role in tackling illegal content online, as they store information provided by and at the request of the recipients of the service and typically give other recipients access thereto, sometimes on a large scale. It is important that all providers of hosting services, regardless of their size, put in place user-friendly notice and action mechanisms that facilitate the notification of specific items of information that the notifying party considers to be illegal content to the provider of hosting services concerned ('notice'), pursuant to which that

provider can decide whether or not it agrees with that assessment and 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.

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. ***Online platforms must prevent the reappearance of content already identified as illegal and which was withdrawn on the basis of a prior opinion.*** 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.

Or. fr

Amendment 201

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti, Christel Schaldemose, Brando Benifei

Proposal for a regulation Recital 40

Text proposed by the Commission

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

Amendment

(40) Providers of hosting services play a particularly important role in tackling illegal content online, as they store information provided by and at the request of the recipients of the service and typically give other recipients access thereto, sometimes on a large scale. It is important that all providers of hosting services, regardless of their size, put in place ***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

('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.

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.

Or. en

Amendment 202

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Recital 40 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 203

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Recital 40 b (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 204

Axel Voss, Esteban González Pons, Luisa Regimenti, Monika Hohlmeier, Rainer Wieland, Daniel Caspary, Javier Zarzalejos, Sven Schulze, Christian Doleschal

Proposal for a regulation

Recital 41

Text proposed by the Commission

Amendment

(41) The rules on such notice and action mechanisms should be harmonised at Union level, so as to provide for the timely, diligent and objective processing of notices on the basis of rules that are uniform, transparent and clear and that provide for robust safeguards to protect the right and legitimate interests of all affected parties, in particular their fundamental rights guaranteed by the Charter, irrespective of the Member State in which those parties are established or reside and of the field of law at issue. The fundamental rights include, as the case may be, the right to freedom of expression and information, the right to respect for private and family life, the right to protection of personal data, the right to

deleted

non-discrimination and the right to an effective remedy of the recipients of the service; the freedom to conduct a business, including the freedom of contract, of service providers; as well as the right to human dignity, the rights of the child, the right to protection of property, including intellectual property, and the right to non-discrimination of parties affected by illegal content.

Or. en

Amendment 205

Karen Melchior, Stéphane Séjourné, Hilde Vautmans, Ivars Ijabs, Samira Rafaela, Michal Šimečka

Proposal for a regulation

Recital 41

Text proposed by the Commission

(41) The rules on such notice and action mechanisms should be harmonised at Union level, so as to provide for the timely, diligent and objective processing of notices on the basis of rules that are uniform, transparent and clear and that provide for robust safeguards to protect the right and legitimate interests of all affected parties, in particular their fundamental rights guaranteed by the Charter, irrespective of the Member State in which those parties are established or reside and of the field of law at issue. The fundamental rights include, as the case may be, the right to freedom of expression and information, the right to respect for private and family life, the right to protection of personal data, the right to non-discrimination and the right to an effective remedy of the recipients of the service; the freedom to conduct a business, including the freedom of contract, of service providers; as well as the right to human dignity, the rights of the child, the right to protection of property, including intellectual property, and the right to non-discrimination of parties affected by illegal

Amendment

(41) The rules on such notice and action mechanisms should be harmonised at Union level, so as to provide for the timely, diligent and objective processing of notices on the basis of rules that are uniform, transparent and clear and that provide for robust safeguards to protect the right and legitimate interests of all affected parties, in particular their fundamental rights guaranteed by the Charter, irrespective of the Member State in which those parties are established or reside and of the field of law at issue. The fundamental rights include, as the case may be, the right to freedom of expression and information, the right to respect for private and family life, the right to protection of personal data, the right to non-discrimination, ***the right to gender equality*** and the right to an effective remedy of the recipients of the service; the freedom to conduct a business, including the freedom of contract, of service providers; as well as the right to human dignity, the rights of the child, the right to protection of property, including intellectual property, and the right to non-

content.

discrimination of parties affected by illegal content.

Or. en

Amendment 206

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Recital 41 a (new)

Text proposed by the Commission

Amendment

(41 a) Where a hosting service provider decides to remove or disable information provided by a recipient of the service, either because it is illegal or is not allowed under its terms and conditions, it should do so in a timely manner, taking into account the potential harm of the infraction and the technical abilities of the provider. Information that could have a negative effect on minors, women and vulnerable users such as those with protected characteristics under Article 21 of the Charter should be seen as a matter requiring urgency

Or. en

Amendment 207

Emmanuel Maurel

Proposal for a regulation

Recital 42

Text proposed by the Commission

Amendment

(42) Where a hosting service provider decides to remove or disable information provided by a recipient of the service, for instance following receipt of a notice or acting on its own initiative, including through the use of automated means, that provider ***should*** inform the recipient of its decision, the reasons for its decision and

(42) Where a hosting service provider decides to remove, ***restrict*** or disable ***proposals by recommender systems*** of information provided by a recipient of the service, for instance following receipt of a notice or acting on its own initiative, including through the use of automated means, that provider ***must do all in its***

the available redress possibilities to contest the decision, in view of the negative consequences that such decisions may have for the recipient, including as regards the exercise of its fundamental right to freedom of expression. That obligation should apply irrespective of the reasons for the decision, in particular whether the action has been taken because the information notified is considered to be illegal content or incompatible with the applicable terms and conditions. Available recourses to challenge the decision of the hosting service provider should always include judicial redress.

power to prevent the reappearance of the notified illegal information. This must be done particularly in the case of providers hosting large amounts of illegal content. The provider shall inform the recipient of its decision, the reasons for its decision and the available redress possibilities to contest the decision, in view of the negative consequences that such decisions may have for the recipient, including as regards the exercise of its fundamental right to freedom of expression. That obligation should apply irrespective of the reasons for the decision, in particular whether the action has been taken because the information notified is considered to be illegal content or incompatible with the applicable terms and conditions. Available recourses to challenge the decision of the hosting service provider should always include judicial redress. ***Proposals by recommender systems can be restricted by means, for example, of shadow-banning content.***

Or. fr

Amendment 208
Karen Melchior, Liesje Schreinemacher

Proposal for a regulation
Recital 42

Text proposed by the Commission

(42) Where a hosting service provider decides to remove or disable information provided by a recipient of the service, for instance following receipt of a notice or acting on its own initiative, ***including through the use of automated means***, that provider should inform the recipient of its decision, the reasons for its decision and the available redress possibilities to contest the decision, in view of the negative consequences that such decisions may have for the recipient, including as regards the exercise of its fundamental right to

Amendment

(42) Where a hosting service provider decides to remove or disable information provided by a recipient of the service, for instance following receipt of a notice or acting on its own initiative, that provider should inform the recipient of its decision, the reasons for its decision and the available redress possibilities to contest the decision, in view of the negative consequences that such decisions may have for the recipient, including as regards the exercise of its fundamental right to freedom of expression. That obligation

freedom of expression. That obligation should apply irrespective of the reasons for the decision, in particular whether the action has been taken because the information notified is considered to be illegal content or incompatible with the applicable terms and conditions. Available recourses to challenge the decision of the hosting service provider should always include judicial redress.

should apply irrespective of the reasons for the decision, in particular whether the action has been taken because the information notified is considered to be illegal content or incompatible with the applicable terms and conditions. Available recourses to challenge the decision of the hosting service provider should always include judicial redress. ***Such a statement, however, should not be required if it relates to spam, manifestly illegal content, removal of content similar or identical to content already removed from the same recipient, who has already received a statement or where a provider of hosting service does not have the information necessary to inform the recipient by a durable medium.***

Or. en

Amendment 209 **Patrick Breyer**

Proposal for a regulation **Recital 42**

Text proposed by the Commission

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

Amendment

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

applicable terms and conditions. Available recourses to challenge the decision of the hosting service provider should always include judicial redress.

applicable terms and conditions. Available recourses to challenge the decision of the hosting service provider should always include judicial redress. ***The restriction of proposals by recommender systems can take place, for example, by practices of ‘shadow-banning’ content.***

Or. en

Amendment 210
Raffaele Stancanelli

Proposal for a regulation
Recital 42

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

With reference to the notice and action mechanism outlined in Article 14, we caution against the obligation to provide an exact URL for a notice to be valid, as this extremely burdensome requirement would severely affect the fight against illegal content online. In fact, URLs change constantly: broadcasters are unable to, and should not have to, continuously monitor the providers' services. The obligation to provide the exact URL of the illegal materials would lead to a never-ending whack-a-mole game with infringers and dispense platforms from the duties of care that are to be reasonably expected from a diligent economic operator. We are also concerned that no stay-down obligations are linked to the notice and action mechanism proposed. Directive 2000/31/EC already provides that the ban on general monitoring "does not concern monitoring obligations in a specific case" (Recital 47). This has been upheld by the European Court of Justice, which confirmed that stay-down obligations apply to both identical and equivalent content[1]. The DSA Proposal should be amended to reflect these clarifications. [1] Case C-18/18 Glawischnig Piesczek

Amendment 211

Stéphane Séjourné, Adrián Vázquez Lázara

Proposal for a regulation

Recital 42

Text proposed by the Commission

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

Amendment

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

judicial redress.

Or. en

Amendment 212

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti

Proposal for a regulation

Recital 42

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 213

Axel Voss, Michael Gahler, Sabine Verheyen, Esteban González Pons, Luisa Regimenti, Monika Hohlmeier, Rainer Wieland, Daniel Caspary, Javier Zarzalejos, Sven Schulze, Christian Doleschal

Proposal for a regulation

Recital 42

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 214

Patrick Breyer

Proposal for a regulation

Recital 42 a (new)

Text proposed by the Commission

Amendment

(42 a) When moderating content, mechanisms voluntarily employed by platforms should not lead to ex-ante control measures based on automated tools or upload-filtering of content. Automated tools are currently unable to differentiate illegal content from content that is legal in a given context and therefore routinely result in overblocking legal content. Human review of automated reports by service providers or their contractors does not fully solve this

problem, especially if it is outsourced to private staff that lack sufficient independence, qualification and accountability. Ex-ante control should be understood to mean making publishing subject to an automated decision. Filtering automated content submissions such as spam should be permitted. Where automated tools are otherwise used for content moderation the provider should ensure human review and the protection of legal content.

Or. en

Justification

Recital to explain the proposed Article 15a on Content Moderation.

Amendment 215
Karen Melchior

Proposal for a regulation
Recital 43

Text proposed by the Commission

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

Amendment

(43) To avoid disproportionate burdens, the additional obligations imposed on online platforms under this Regulation should not apply to micro or small enterprises as defined in Recommendation 2003/361/EC of the Commission,⁴¹ unless their reach and impact is such that they meet the criteria to qualify as very large online platforms under this Regulation. The consolidation rules laid down in that Recommendation help ensure that any circumvention of those additional obligations is prevented.

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

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

Or. en

Amendment 216

Alessandra Basso, Gunnar Beck, Gilles Lebreton

Proposal for a regulation

Recital 43

Text proposed by the Commission

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

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

Amendment

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

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

Or. en

Amendment 217
Emmanuel Maurel

Proposal for a regulation
Recital 43

Text proposed by the Commission

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

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

Amendment

(43) To avoid disproportionate burdens, the additional obligations imposed on online platforms under this Regulation should not apply to micro or small enterprises as defined in Recommendation 2003/361/EC of the Commission⁴¹, unless their reach and impact is such that they meet the criteria to qualify as very large online platforms under this Regulation. The consolidation rules laid down in that Recommendation help ensure that any circumvention of those additional obligations is prevented. The exemption of micro-, *small and medium-sized* enterprises from those additional obligations should not be understood as affecting their ability to set up, on a voluntary basis, a system that complies with one or more of those obligations.

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

Or. fr

Amendment 218
Axel Voss, Michael Gahler, Sabine Verheyen, Esteban González Pons, Luisa Regimenti, Monika Hohlmeier, Rainer Wieland, Daniel Caspary, Javier Zarzalejos, Sven Schulze, Christian Doleschal, Daniel Buda

Proposal for a regulation
Recital 43 a (new)

Text proposed by the Commission

Amendment

(43 a) Providers of hosting services play

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

Or. en

Amendment 219

Axel Voss, Michael Gahler, Sabine Verheyen, Esteban González Pons, Luisa Regimenti, Monika Hohlmeier, Rainer Wieland, Daniel Caspary, Javier Zarzalejos, Sven Schulze, Christian Doleschal, Daniel Buda

Proposal for a regulation Recital 43 b (new)

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 220

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Recital 44

Text proposed by the Commission

(44) Recipients of the service should be able to easily and effectively contest certain decisions of online platforms that negatively affect them. Therefore, online platforms should be required to provide for internal complaint-handling systems, which meet certain conditions aimed at ensuring that the systems are easily accessible and lead to swift and fair outcomes. In addition, provision should be made for the possibility of out-of-court *dispute* settlement of disputes, including those that could not be resolved in satisfactory manner through the internal

Amendment

(44) Recipients of the service should be able to easily and effectively contest certain decisions of online platforms that negatively affect them. Therefore, online platforms should be required to provide for internal complaint-handling systems, which meet certain conditions aimed at ensuring that the systems are easily accessible and lead to swift and fair outcomes. In addition, provision should be made for the possibility of *entering, in good faith, an* out-of-court settlement of disputes, including those that could not be resolved in satisfactory manner through the

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

internal complaint-handling systems, by certified bodies *located in either the Member State of the recipient or the provider and* that have the requisite independence, means and expertise to carry out their activities in a fair, swift and cost-effective manner. The possibilities to contest decisions of online platforms thus created should complement, yet leave unaffected in all respects, the possibility to seek judicial redress in accordance with the laws of the Member State concerned.

Or. en

Amendment 221

Tiemo Wölken, Evelyn Gebhardt, Franco Roberti, Christel Schaldemose, Brando Benifei

Proposal for a regulation

Recital 44

Text proposed by the Commission

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

Amendment

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

laws of the Member State concerned.

possibility to seek judicial redress in accordance with the laws of the Member State concerned.

Or. en

Amendment 222

Alessandra Basso, Gunnar Beck, Gilles Lebreton

Proposal for a regulation

Recital 46

Text proposed by the Commission

Amendment

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content, that they represent collective interests and that they work in a diligent and objective manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation ('Europol') or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, organisations of industry and of right-holders could be awarded trusted flagger

deleted

*status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council.*⁴³

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

Or. en

Amendment 223
Patrick Breyer

Proposal for a regulation
Recital 46

Text proposed by the Commission

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such trusted flagger status should only be

Amendment

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. ***Trusted flaggers should also have the***

awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content, that they represent collective interests and that they work in a diligent and objective manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation ('Europol') or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, organisations of industry and of right-holders could be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council.⁴³

⁴³ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA,

possibility to submit notices of incorrect removal, disabling access to or restricting proposals by recommender systems of content or of suspensions or terminations of accounts. Digital Service Coordinators may award the status of trusted flaggers to entities solely for this purpose. Such trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content, that they represent collective interests and that they work in a diligent and objective manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation ('Europol') or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, organisations of industry and of right-holders could be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council.⁴³

⁴³ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA,

2009/934/JHA, 2009/935/JHA,
2009/936/JHA and 2009/968/JHA, OJ L
135, 24.5.2016, p. 53

2009/934/JHA, 2009/935/JHA,
2009/936/JHA and 2009/968/JHA, OJ L
135, 24.5.2016, p. 53

Or. en

Justification

"Trusted de-flagging" as a means of addressing arbitrary or incorrect sanctions imposed against content or platform users is proposed in the Council of Europe's "Best practices towards effective legal and procedural frameworks for self-regulatory and co-regulatory mechanisms of content moderation" (paragraph 27) published in June 2021.

Amendment 224 **Raffaele Stancanelli**

Proposal for a regulation **Recital 46**

Text proposed by the Commission

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content, that they represent collective interests and that they work in a diligent and objective manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation ('Europol') or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for

Amendment

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content, ***have significant legitimate interests, have a proven record in flagging content with a high rate of accuracy and particular expertise and have demonstrated competence for the purposes of detecting, identifying and notifying illegal content*** that they represent collective interests and that they work in a diligent and objective manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law

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

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

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

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

Or. en

Justification

The status of trusted flaggers is a fundamental tool in fighting piracy.

Amendment 225

Karen Melchior, Liesje Schreinemacher

Proposal for a regulation

Recital 46

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such trusted flagger status should only be awarded to entities, and not *individuals*, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content, **that they represent collective interests** and that they work in a diligent and objective manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation (‘Europol’) or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, organisations of industry and of right-holders could be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council.⁴³

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such trusted flagger status should **normally** only be awarded to **non-governmental** entities, and not **natural persons**, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content and that they work in a diligent and objective manner. Such entities, **however**, can be public in nature **for actions not related to intellectual property rights**, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation (‘Europol’) or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, **non-governmental** organisations of industry and of right-holders could **also** be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the

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

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

Or. en

Amendment 226
Brando Benifei

Proposal for a regulation
Recital 46

Text proposed by the Commission

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content, that they represent collective interests and that they work in a diligent and objective manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation ('Europol') or they can be non-governmental organisations and semi-

Amendment

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content, that they represent collective interests ***or are individual rightholders*** and that they work in a diligent and objective manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation ('Europol') or they can be non-

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

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

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

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

Or. en

Amendment 227

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti

Proposal for a regulation

Recital 46

Text proposed by the Commission

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary

Amendment

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary

measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content, that they represent collective interests and that they work in a diligent and objective manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation ('Europol') or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, organisations of industry and of right-holders could be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council.⁴³

⁴³ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union

measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content *in a designated area of expertise*, that they represent collective, *non-commercial* interests and that they work in a diligent and objective manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation ('Europol') or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, organisations of industry and of right-holders could be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council.⁴³

⁴³ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union

Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA, OJ L 135, 24.5.2016, p. 53

Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA, OJ L 135, 24.5.2016, p. 53

Or. en

Amendment 228 **Emmanuel Maurel**

Proposal for a regulation **Recital 46**

Text proposed by the Commission

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content, **that they represent collective interests** and that they work in a diligent and objective manner. **Such entities can** be public **in nature**, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation ('Europol') **or** they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights,

Amendment

(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content and that they work in a diligent and objective manner. **They may** be public **bodies**, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation ('Europol'); they can **also** be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, organisations of industry, **legal persons**

organisations of industry **and of right-holders** could be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council.⁴³

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

and right-holder organisations could be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council⁴³.

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

Or. fr

Amendment 229

Patrick Breyer

Proposal for a regulation

Recital 47

Text proposed by the Commission

(47) The misuse of services of online platforms **by frequently providing manifestly illegal content or** by frequently submitting manifestly unfounded notices or complaints under the mechanisms and systems, respectively, established under this Regulation undermines trust and harms the rights and legitimate interests of the parties concerned. Therefore, there is a need to put in place appropriate and proportionate safeguards against such

Amendment

(47) The misuse of services of online platforms by frequently submitting manifestly unfounded notices or complaints under the mechanisms and systems, respectively, established under this Regulation undermines trust and harms the rights and legitimate interests of the parties concerned. Therefore, there is a need to put in place appropriate and proportionate safeguards against such misuse. Notices or complaints should be

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

considered manifestly unfounded where it is evident to a layperson, without any substantive analysis, that the content is illegal respectively that the notices or complaints are unfounded. Under certain conditions, online platforms should temporarily suspend their relevant activities in respect of the person engaged in abusive behaviour. For reasons of transparency, this possibility should be set out, clearly and in sufficiently detail, in the terms and conditions of the online platforms. Redress should always be open to the decisions taken in this regard by online platforms and they should be subject to oversight by the competent Digital Services Coordinator. The rules of this Regulation on misuse should not prevent online platforms from taking other measures to address misuse of their services, in accordance with the applicable Union and national law. Those rules are without prejudice to any possibility to hold the persons engaged in misuse liable, including for damages, provided for in Union or national law.

Or. en

Amendment 230
Emmanuel Maurel

Proposal for a regulation
Recital 47

Text proposed by the Commission

(47) The misuse of services of online platforms by ***frequently*** providing

Amendment

(47) The misuse of services of online platforms by ***repeatedly*** providing ***illegal***

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

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

Or. fr

Amendment 231

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Recital 47

Text proposed by the Commission

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

Amendment

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

without prejudice to any possibility to hold the persons engaged in misuse liable, including for damages, provided for in Union or national law.

national law. Those rules are without prejudice to any possibility to hold the persons engaged in misuse liable, including for damages, provided for in Union or national law.

Or. en

Amendment 232

Karen Melchior, Stéphane Séjourné, Liesje Schreinemacher

Proposal for a regulation

Recital 48

Text proposed by the Commission

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

Amendment

(48) An online platform may in some instances become aware, such as through a notice by a notifying party or through its own voluntary measures, of information relating to certain activity of a recipient of the service, such as the provision of certain types of illegal content, that reasonably justify, having regard to all relevant circumstances of which the online platform is aware, the suspicion that the recipient may have committed, may be committing or is likely to commit a serious criminal offence involving a ***an imminent*** threat to the life or safety of person, ***notably when it concerns vulnerable users***, such as offences specified in Directive 2011/93/EU of the European Parliament and of the Council⁴⁴. In such instances, the online platform should inform without delay the competent law enforcement authorities of such suspicion, providing ***upon request*** all relevant information available to it, including where relevant the content in question and an explanation of its suspicion ***and unless instructed otherwise, should remove or disable the content. Information obtained by a law enforcement or judicial authority of a Member State in accordance with this Article should not be used for any purpose other than those directly related to the individual serious criminal offence***

authorities.

notified. This Regulation does not provide the legal basis for profiling of recipients of the services with a view to the possible identification of criminal offences by online platforms. Online platforms should also respect other applicable rules of Union or national law for the protection of the rights and freedoms of individuals when informing law enforcement authorities.

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

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

Or. en

Amendment 233 Marion Walsmann

Proposal for a regulation Recital 48

Text proposed by the Commission

(48) An online platform may in some instances become aware, such as through a notice by a notifying party or through its own voluntary measures, of information relating to certain activity of a recipient of the service, such as the provision of certain types of illegal content, that reasonably justify, having regard to all relevant circumstances of which the online platform is aware, the suspicion that the recipient may have committed, may be committing or is likely to commit a ***serious*** criminal offence ***involving a threat to the life or safety of person, such as offences specified in Directive 2011/93/EU of the European Parliament and of the Council***⁴⁴. In such instances, the online platform should inform without delay the competent law enforcement authorities of

Amendment

(48) An online platform may in some instances become aware, such as through a notice by a notifying party or through its own voluntary measures, of information relating to certain activity of a recipient of the service, such as the provision of certain types of illegal content, that reasonably justify, having regard to all relevant circumstances of which the online platform is aware, the suspicion that the recipient may have committed, may be committing or is likely to commit a criminal offence. In such instances, the online platform should inform without delay the competent law enforcement authorities of such suspicion, providing all relevant information available to it, including where relevant the content in question and an explanation of its suspicion. This Regulation does not

such suspicion, providing all relevant information available to it, including where relevant the content in question and an explanation of its suspicion. This Regulation does not provide the legal basis for profiling of recipients of the services with a view to the possible identification of criminal offences by online platforms. Online platforms should also respect other applicable rules of Union or national law for the protection of the rights and freedoms of individuals when informing law enforcement authorities.

provide the legal basis for profiling of recipients of the services with a view to the possible identification of criminal offences by online platforms. Online platforms should also respect other applicable rules of Union or national law for the protection of the rights and freedoms of individuals when informing law enforcement authorities.

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

Or. en

Justification

Not only serious criminal offence, but also online fraud like selling unsafe and/or recalled or counterfeit products.

Amendment 234 **Patrick Breyer**

Proposal for a regulation **Recital 48**

Text proposed by the Commission

(48) An online platform may in some instances become aware, such as through a notice by a notifying party or through its own voluntary measures, of information relating to certain activity of a recipient of the service, such as the provision of certain types of illegal content, that reasonably justify, having regard to all relevant circumstances of which the online platform is aware, the suspicion that *the recipient*

Amendment

(48) An online platform may in some instances become aware, such as through a notice by a notifying party or through its own voluntary measures, of information relating to certain activity of a recipient of the service, such as the provision of certain types of illegal content, that reasonably justify, having regard to all relevant circumstances of which the online platform is aware, the suspicion that a serious

may have committed, may be committing or is likely to commit a serious criminal offence involving a threat to the life *or safety* of person, such as offences specified in Directive 2011/93/EU of the European Parliament and of the Council⁴⁴. In such instances, the online platform should inform without delay the competent law enforcement authorities of such suspicion, providing *all relevant information available to it, including where relevant the content in question and an explanation of its* suspicion. This Regulation does not provide the legal basis for profiling of recipients of the services with a view to the possible identification of criminal offences by online platforms. Online platforms should also respect other applicable rules of Union or national law for the protection of the rights and freedoms of individuals when informing law enforcement authorities.

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

criminal offence involving a threat to the life of person *is imminent*, such as offences specified in Directive 2011/93/EU of the European Parliament and of the Council⁴⁴. In such instances, the online platform should inform without delay the competent law enforcement authorities of such suspicion, providing *the information that has given rise to* suspicion. This Regulation does not provide the legal basis for profiling of recipients of the services with a view to the possible identification of criminal offences by online platforms. Online platforms should also respect other applicable rules of Union or national law for the protection of the rights and freedoms of individuals when informing law enforcement authorities.

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

Or. en

Amendment 235 **Stéphane Séjourné**

Proposal for a regulation **Recital 48**

Text proposed by the Commission

(48) An online platform may in some instances become aware, such as through a notice by a notifying party or through its own voluntary measures, of information relating to certain activity of a recipient of the service, such as the provision of certain

Amendment

(48) An online platform may in some instances become aware, such as through a notice by a notifying party or through its own voluntary measures, of information relating to certain activity of a recipient of the service, such as the provision of certain

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

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

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

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

Or. en

Amendment 236 **Stéphane Séjourné**

Proposal for a regulation **Recital 48 a (new)**

Text proposed by the Commission

Amendment

(48 a) Where an online platform becomes

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

Or. en

Amendment 237
Marion Walsmann

Proposal for a regulation
Recital 49

Text proposed by the Commission

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

Amendment

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

parties with a legitimate interest, including through the orders to provide information referred to in this Regulation.

through the orders to provide information referred to in this Regulation.

Or. en

Amendment 238
Stéphane Séjourné

Proposal for a regulation
Recital 49

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 239
Stéphane Séjourné

Proposal for a regulation
Recital 50

Text proposed by the Commission

(50) To ensure an efficient and adequate application of that obligation, without imposing any disproportionate burdens, the online **platforms** covered should **make reasonable efforts** to verify the reliability of the information provided by the traders concerned, in particular by using freely available official online databases and online interfaces, such as national trade registers and the VAT Information Exchange System⁴⁵, or by requesting the traders concerned to provide trustworthy supporting documents, such as copies of identity documents, certified bank statements, company certificates and trade register certificates. They may also use other sources, available for use at a distance, which offer a similar degree of reliability for the purpose of complying with this obligation. However, the online **platforms** covered should not be required to engage in excessive or costly online fact-finding exercises or to carry out verifications on the spot. Nor should such **online platforms**, which have **made the reasonable efforts** required by this Regulation, be understood as guaranteeing the reliability of the information towards consumer or other interested parties. **Such** online **platforms** should also design and organise their online interface in a way that enables traders to comply with their obligations under Union law, in particular the requirements set out in Articles 6 and 8 of Directive 2011/83/EU of the European Parliament and of the Council⁴⁶, Article 7 of Directive 2005/29/EC of the European Parliament and of the Council⁴⁷ and Article 3 of Directive 98/6/EC of the European Parliament and of the Council⁴⁸.

Amendment

(50) To ensure an efficient and adequate application of that obligation, without imposing any disproportionate burdens, the **providers of online marketplaces** covered should **take effective steps that would be reasonably taken to by a diligent operator in accordance with a high industry standard of professional diligence, to regularly verify the accuracy, currency and efforts** to verify the reliability of the information provided by the traders concerned, in particular by using freely available official online databases and online interfaces, such as national trade registers and the VAT Information Exchange System⁴⁵, or by requesting the traders concerned to provide trustworthy supporting documents, such as copies of identity documents, certified bank statements, company certificates and trade register certificates. They may also use other sources, available for use at a distance, which offer a similar degree of reliability for the purpose of complying with this obligation. However, the **providers of online marketplaces** covered should not be required to engage in excessive or costly online fact-finding exercises or to carry out verifications on the spot. Nor should such **providers**, which have **taken effective steps that would be reasonably taken to by a diligent operator in accordance with a high industry standard of professional diligence**, required by this Regulation, be understood as guaranteeing the reliability of the information towards consumer or other interested parties. **Providers of online marketplaces** should also design and organise their online interface in a **user-friendly** way that enables traders to comply with their obligations under Union law, in

particular the requirements set out in Articles 6 and 8 of Directive 2011/83/EU of the European Parliament and of the Council⁴⁶, Article 7 of Directive 2005/29/EC of the European Parliament and of the Council⁴⁷ and Article 3 of Directive 98/6/EC of the European Parliament and of the Council⁴⁸. ***The online interface should allow traders to provide the information referred to in Article 22a of this Regulation, the information referred to in Article 6 of Directive 2011/83/EU on Consumers Rights, information on sustainability of products, and information allowing for the unequivocal identification of the product or the service, including labelling requirements, in compliance with legislation on product safety and product compliance.***

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

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

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

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

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

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

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

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

Amendment 240**Karen Melchior, Stéphane Séjourné****Proposal for a regulation****Recital 50***Text proposed by the Commission*

(50) To ensure an efficient and adequate application of that obligation, without imposing any disproportionate burdens, the online platforms covered should make reasonable efforts to verify the reliability of the information provided by the traders concerned, in particular by using freely available official online databases and online interfaces, such as national trade registers and the VAT Information Exchange System⁴⁵, or by requesting the traders concerned to provide trustworthy supporting documents, such as copies of identity documents, certified bank statements, company certificates and trade register certificates. They may also use other sources, available for use at a distance, which offer a similar degree of reliability for the purpose of complying with this obligation. However, the online platforms covered should not be required to engage in excessive or costly online fact-finding exercises or to carry out verifications on the spot. Nor should such online platforms, which have made the reasonable efforts required by this Regulation, be understood as guaranteeing the reliability of the information towards consumer or other interested parties. Such online platforms should also design and organise their online interface in a way that enables traders to comply with their obligations under Union law, in particular the requirements set out in Articles 6 and 8 of Directive 2011/83/EU of the European Parliament and of the Council⁴⁶, Article 7

Amendment

(50) To ensure an efficient and adequate application of that obligation, without imposing any disproportionate burdens, the online platforms covered should make reasonable efforts to verify the reliability of the information provided by the traders concerned, in particular by using freely available official online databases and online interfaces, such as national trade registers and the VAT Information Exchange System⁴⁵, or by requesting the traders concerned to provide trustworthy supporting documents, such as copies of identity documents, certified bank statements, company certificates and trade register certificates. They may also use other sources, available for use at a distance, which offer a similar degree of reliability for the purpose of complying with this obligation. However, the online platforms covered should not be required to engage in excessive or costly online fact-finding exercises or to carry out verifications on the spot. Nor should such online platforms, which have made the reasonable efforts required by this Regulation, be understood as guaranteeing the reliability of the information towards consumer or other interested parties. Such online platforms should also design and organise their online interface in a **user-friendly** way that enables traders to comply with their obligations under Union law, in particular the requirements set out in Articles 6 and 8 of Directive 2011/83/EU of the European Parliament and of the

of Directive 2005/29/EC of the European Parliament and of the Council⁴⁷ and Article 3 of Directive 98/6/EC of the European Parliament and of the Council⁴⁸ .

Council⁴⁶ , Article 7 of Directive 2005/29/EC of the European Parliament and of the Council⁴⁷ and Article 3 of Directive 98/6/EC of the European Parliament and of the Council⁴⁸ . ***The online interface should allow traders to provide the information referred to in Article 22a of this Regulation, the information referred to in Article 6 of Directive 2011/83/EU on Consumers Rights, information on sustainability of products, and information allowing for the unequivocal identification of the product or the service, including labelling requirements, in compliance with legislation on product safety and product compliance.***

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

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

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

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

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

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

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

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

Amendment 241
Marion Walsmann

Proposal for a regulation
Recital 50

Text proposed by the Commission

(50) To ensure an efficient and adequate application of that obligation, without imposing any disproportionate burdens, the online **platforms** covered should make reasonable efforts to verify the reliability of the information provided by the traders concerned, in particular by using freely available official online databases and online interfaces, such as national trade registers and the VAT Information Exchange System⁴⁵, or by requesting the traders concerned to provide trustworthy supporting documents, such as copies of identity documents, certified bank statements, company certificates and trade register certificates. They may also use other sources, available for use at a distance, which offer a similar degree of reliability for the purpose of complying with this obligation. However, the online **platforms** covered should not be required to engage in excessive or costly online fact-finding exercises or to carry out verifications on the spot. Nor should such online **platforms**, which have made the reasonable efforts required by this Regulation, be understood as guaranteeing the reliability of the information towards consumer or other interested parties. Such online **platforms** should also design and organise their online interface in a way that enables traders to comply with their obligations under Union law, in particular the requirements set out in Articles 6 and 8 of Directive 2011/83/EU of the European Parliament and of the Council⁴⁶, Article 7 of Directive 2005/29/EC of the European Parliament and of the Council⁴⁷ and Article

Amendment

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

3 of Directive 98/6/EC of the European Parliament and of the Council⁴⁸ .

obligations under Union law, in particular the requirements set out in Articles 6 and 8 of Directive 2011/83/EU of the European Parliament and of the Council⁴⁶ , Article 7 of Directive 2005/29/EC of the European Parliament and of the Council⁴⁷ and Article 3 of Directive 98/6/EC of the European Parliament and of the Council⁴⁸ .

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

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

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

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

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

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

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

Or. en

Amendment 242

Karen Melchior, Stéphane Séjourné

Proposal for a regulation

Recital 50 a (new)

(50 a) Providers of online marketplaces should demonstrate their best efforts to prevent the dissemination by traders of illegal products and services. In compliance with the no general monitoring principle, providers should inform recipients when the service or product they have acquired through their services is illegal. Once notified of an illegal product or service as foreseen in Article 14, providers of online marketplaces should take effective and proportionate measures to prevent such products or services from reappearing on their online marketplace.

Or. en

Amendment 243
Kosma Złotowski

Proposal for a regulation
Recital 51

Text proposed by the Commission

(51) In view of the particular responsibilities and obligations of online platforms, they should be made subject to transparency reporting obligations, which apply in addition to the transparency reporting obligations applicable to all providers of intermediary services under this Regulation. For the purposes of determining whether online platforms may be very large online platforms that are subject to certain additional obligations under this Regulation, the transparency reporting obligations for online platforms should include certain obligations relating to the publication and communication of information on the average monthly active **recipients** of the service in the Union.

Amendment

(51) In view of the particular responsibilities and obligations of online platforms, they should be made subject to transparency reporting obligations, which apply in addition to the transparency reporting obligations applicable to all providers of intermediary services under this Regulation. For the purposes of determining whether online platforms may be very large online platforms that are subject to certain additional obligations under this Regulation, the transparency reporting obligations for online platforms should include certain obligations relating to the publication and communication of information on the average monthly active **end users** of the service in the Union.

Or. en

Amendment 244
Kosma Zlotowski

Proposal for a regulation
Recital 52

Text proposed by the Commission

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

Amendment

(52) Online advertisement plays an important role in the online environment, including in relation to the provision of the services of online platforms. However, online advertisement can contribute to significant risks, ranging from advertisement that is itself illegal content, to contributing to financial incentives for the publication or amplification of illegal or otherwise harmful content and activities online, or the discriminatory display of advertising with an impact on the equal treatment and opportunities of citizens. In addition to the requirements resulting from Article 6 of Directive 2000/31/EC, online platforms should therefore be required to ensure that the recipients of the service have certain individualised information necessary for them to understand when and on whose behalf the advertisement is displayed. In addition, recipients of the service should have information on the main parameters used for determining that specific advertising is to be displayed to them, providing meaningful explanations of the logic used to that end, including when this is based on profiling. ***The parameters shall include, if applicable, the optimisation goal selected by the advertiser, information on the use of custom lists, information on the use of lookalike audiences and in such case – relevant information on the seed audience and an explanation why the recipient of the advertisement has been determined to be part of the lookalike audience, meaningful information about the online platform’s algorithms or other tools used to optimise the delivery of the advertisement, including a specification of***

regarding the storage of information in terminal equipment and the access to information stored therein.

the optimisation goal and a meaningful explanation of reasons why the online platform has decided that the optimisation goal can be achieved by displaying the advertisement to this recipient. The requirements of this Regulation on the provision of information relating to advertisement is without prejudice to the application of the relevant provisions of Regulation (EU) 2016/679, in particular those regarding the right to object, automated individual decision-making, including profiling and specifically the need to obtain consent of the data subject prior to the processing of personal data for targeted advertising. Similarly, it is without prejudice to the provisions laid down in Directive 2002/58/EC in particular those regarding the storage of information in terminal equipment and the access to information stored therein.

Or. en

Amendment 245

Axel Voss, Esteban González Pons, Luisa Regimenti, Monika Hohlmeier, Rainer Wieland, Daniel Caspary, Javier Zarzalejos, Sven Schulze, Christian Doleschal

Proposal for a regulation

Recital 52

Text proposed by the Commission

(52) Online advertisement plays an important role in the online environment, including in relation to the provision of the services of online platforms. However, online advertisement can contribute to **significant** risks, ranging from advertisement that is itself illegal content, to contributing to financial incentives for the publication or amplification of illegal or otherwise harmful content and activities online, or the discriminatory display of advertising with an impact on the equal treatment and opportunities of citizens. ***In addition to*** the requirements resulting from Article 6 of Directive 2000/31/EC, online

Amendment

(52) Online advertisement plays an important role in the online environment, including in relation to the provision of the services of online platforms. ***Online advertising is a significant source of financing for many digital business models and an effective tool to reach new costumers, not least for small- and medium sized companies.*** However, ***there are some instances when*** online advertisement can contribute to risks, ranging from advertisement that is itself illegal content, to contributing to financial incentives for the publication or amplification of illegal or otherwise

platforms should *therefore* be required to ensure that the recipients of the service have certain individualised information necessary for them to understand when and on whose behalf the advertisement is displayed. *In addition, recipients of the service should have information on the main parameters used for determining that specific advertising is to be displayed to them, providing meaningful explanations of the logic used to that end, including when this is based on profiling. The requirements of this Regulation on the provision of information relating to advertisement is without prejudice to the application of the relevant provisions of Regulation (EU) 2016/679, in particular those regarding the right to object, automated individual decision-making, including profiling and specifically the need to obtain consent of the data subject prior to the processing of personal data for targeted advertising. Similarly, it is without prejudice to the provisions laid down in Directive 2002/58/EC in particular those regarding the storage of information in terminal equipment and the access to information stored therein.*

harmful content and activities online, or the discriminatory display of advertising with an impact on the equal treatment and opportunities of citizens. *Based on* the requirements resulting from Article 6 of Directive 2000/31/EC, online platforms should be required to ensure that the recipients of the service have certain individualised information necessary for them to understand when and on whose behalf the advertisement is displayed.

Or. en

Amendment 246

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti, Christel Schaldemose

Proposal for a regulation

Recital 52

Text proposed by the Commission

(52) Online advertisement plays an important role in the online environment, including in relation to the provision of the services of online platforms. However, online advertisement can contribute to significant risks, ranging from advertisement that is itself illegal content, to contributing to financial incentives for the publication or amplification of illegal

Amendment

(52) Online advertisement plays an important role in the online environment, including in relation to the provision of the services of online platforms. However, online advertisement can contribute to significant risks, ranging from advertisement that is itself illegal content, to contributing to financial incentives for the publication or amplification of illegal

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

or otherwise harmful content and activities online, or the discriminatory display of advertising with an impact on the equal treatment and opportunities of citizens. In addition to the requirements resulting from Article 6 of Directive 2000/31/EC, online platforms should therefore be required to ensure that the recipients of the service have certain individualised information necessary for them to understand when and on whose behalf the advertisement is displayed. In addition, recipients of the service should have information on the main parameters used for determining that specific advertising is to be displayed to them, providing meaningful explanations of the logic used to that end. *Given the significant risks that arise from targeted advertising, including the amplification of illegal or harmful content and other risks associated with the reliance on pervasive tracking and data mining, targeting of advertising based on personal data should be prohibited.* The requirements of this Regulation on the provision of information relating to advertisement is without prejudice to the application of the relevant provisions of Regulation (EU) 2016/679, in particular those regarding the right to object, automated individual decision-making, including profiling and specifically the need to obtain consent of the data subject. *In this context, it is important to highlight that consent to targeted advertising should not be considered as freely given, specific and thus valid if access to the service is made conditional on processing of personal data and profiling techniques outside of the control of the user. This Regulation* is without prejudice to the provisions laid down in Directive 2002/58/EC in particular those regarding the storage of information in terminal equipment and the access to information stored therein.

Or. en

Amendment 247

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Recital 52

Text proposed by the Commission

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

Amendment

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

information stored therein.

equipment and the access to information stored therein.

Or. en

Amendment 248
Stéphane Séjourné

Proposal for a regulation
Recital 53

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 249
Antonius Manders

Proposal for a regulation
Recital 53

Text proposed by the Commission

(53) Given the importance of very large online platforms, due to their reach, in particular as expressed in number of

Amendment

(53) Given the importance of very large online platforms, due to their reach, in particular as expressed in number of

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

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

Or. nl

Amendment 250
Kosma Zlotowski

Proposal for a regulation
Recital 53

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 251
Emmanuel Maurel

Proposal for a regulation
Recital 53

Text proposed by the Commission

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

Amendment

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

Or. fr

Amendment 252
Patrick Breyer

Proposal for a regulation
Recital 53

Text proposed by the Commission

(53) Given the importance of very large online platforms, due to their reach, in particular as expressed in number of recipients of the service, in facilitating public debate, economic transactions and the dissemination of information, opinions and ideas and in influencing how recipients obtain and communicate information online, it is necessary to impose specific obligations on those platforms, in addition to the obligations applicable to all online platforms. Those additional obligations on

Amendment

(53) Given the importance of very large online platforms, due to their reach, in particular as expressed in number of recipients of the service, in facilitating public debate, economic transactions and the dissemination of information, opinions and ideas and in influencing how recipients obtain and communicate information online, it is necessary to impose specific obligations on those platforms, in addition to the obligations applicable to all online platforms. Those additional obligations on

very large online platforms are necessary to address *those public policy concerns*, there being no alternative and less restrictive measures that would effectively achieve the same result.

very large online platforms are necessary to address *illegal content*, there being no alternative and less restrictive measures that would effectively achieve the same result.

Or. en

Amendment 253
Kosma Złotowski

Proposal for a regulation
Recital 54

Text proposed by the Commission

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

Amendment

(54) Very large online platforms may cause societal risks, different in scope and impact from those caused by smaller platforms. Once the number of recipients of a platform reaches a significant share of the Union population, the systemic risks the platform poses *may* have a disproportionately negative impact in the Union. Such significant reach should be considered to exist where the number of *active end users* exceeds an operational threshold set at 45 million, that is, a number equivalent to 10% of the Union population. The operational threshold should be kept up to date through amendments enacted by delegated acts, where necessary. *In the process of establishing the methodology to calculate the total number of active end users, the Commission should take due account of the different type of platforms and their operations, as well as the potential need for the end user to register, engage in transaction or content in order to be considered as an active end user.* Such very large online platforms should therefore bear the highest standard of due diligence obligations, proportionate to their societal impact and means.

Or. en

Amendment 254
Emmanuel Maurel

Proposal for a regulation
Recital 54

Text proposed by the Commission

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

Amendment

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

Or. fr

Amendment 255
Emmanuel Maurel

Proposal for a regulation
Recital 56

Text proposed by the Commission

(56) *Very* large online platforms are used in a way that strongly influences safety online, the shaping of public opinion and discourse, as well as on online trade. The way they design their services is generally optimised to benefit their often advertising-driven business models and can

Amendment

(56) Large online platforms are used in a way that strongly influences safety online, the shaping of public opinion and discourse, as well as on online trade. The way they design their services is generally optimised to benefit their often advertising-driven business models and can cause

cause societal concerns. In the absence of effective regulation and enforcement, they can set the rules of the game, without effectively identifying and mitigating the risks and the societal and economic harm they can cause. Under this Regulation, *very* large online platforms should therefore assess the systemic risks stemming from the functioning and use of their service, as well as by potential misuses by the recipients of the service, and take appropriate mitigating measures.

societal concerns. In the absence of effective regulation and enforcement, they can set the rules of the game, without effectively identifying and mitigating the risks and the societal and economic harm they can cause. Under this Regulation, large online platforms should therefore assess the systemic risks stemming from the functioning and use of their service, as well as by potential misuses by the recipients of the service, and take appropriate mitigating measures.

Or. fr

Amendment 256
Stéphane Séjourné

Proposal for a regulation
Recital 57

Text proposed by the Commission

(57) Three categories of systemic risks should be assessed in-depth. A first category concerns the risks associated with the misuse of their service through the dissemination of illegal content, such as the dissemination of child sexual abuse material or illegal hate speech, and the conduct of illegal activities, such as the sale of products or services prohibited by Union or national law, including counterfeit products. For example, and without prejudice to the personal responsibility of the recipient of the service of very large online platforms for possible illegality of his or her activity under the applicable law, such dissemination or activities may constitute a significant systematic risk where access to such content may be amplified through accounts with a particularly wide reach. A second category concerns the impact of the service on the exercise of fundamental rights, as protected by the Charter of Fundamental Rights, including the freedom of expression and information, the right to

Amendment

(57) Three categories of systemic risks should be assessed in-depth. A first category concerns the risks associated with the misuse of their service through the dissemination of illegal content, such as the dissemination of child sexual abuse material or illegal hate speech, and the conduct of illegal activities, such as the sale of products or services prohibited by Union or national law, including counterfeit products *or the display of copyright-infringing content*. For example, and without prejudice to the personal responsibility of the recipient of the service of very large online platforms for possible illegality of his or her activity under the applicable law, such dissemination or activities may constitute a significant systematic risk where access to such content may be amplified through accounts with a particularly wide reach. A second category concerns the impact of the service on the exercise of fundamental rights, as protected by the Charter of Fundamental Rights, including the freedom

private life, the right to non-discrimination and the rights of the child. Such risks may arise, for example, in relation to the design of the algorithmic systems used by the very large online platform or the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition. A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform's service, with a foreseeable impact on health, civic discourse, electoral processes, public security and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or incompatible with an online platform's terms and conditions.

of expression and information, the right to private life, the right to non-discrimination and the rights of the child. Such risks may arise, for example, in relation to the design of the algorithmic systems used by the very large online platform or the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition ***or the way platforms' terms and conditions including content moderation policies, are enforced, including through automatic means. With respect to this category of risks, a particular attention should be paid to the detrimental effect of intimidation of independent press and the harassment of journalists, in particular women who are more often victims of hateful speech and online threats. These should be considered systemic risk as referred to in Article 26 as they pose threat to democratic values, media freedom, freedom of expression and information, and should be subject to dedicated mitigating measures as referred to in Article 27, and priority notice through trusted flaggers as referred to in Article 19.*** A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform's service, with a foreseeable impact on health, ***fundamental rights***, civic discourse, electoral processes, public security and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or incompatible with an online platform's terms and conditions.

Or. en

Amendment 257
Emmanuel Maurel

Proposal for a regulation
Recital 57

Text proposed by the Commission

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

Amendment

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

risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or incompatible with an online platform's terms and conditions.

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

Or. fr

Amendment 258

Karen Melchior, Liesje Schreinemacher

Proposal for a regulation

Recital 57

Text proposed by the Commission

(57) Three categories of systemic risks should be assessed in-depth. A first category concerns the risks associated with the misuse of their service through the dissemination of illegal content, such as the dissemination of child sexual abuse material or illegal hate speech, and the conduct of illegal activities, such as the sale of products or services prohibited by Union or national law, including counterfeit products. For example, and without prejudice to the personal responsibility of the recipient of the service of very large online platforms for possible illegality of his or her activity under the applicable law, such dissemination or activities may constitute a significant systematic risk where access to such content may be amplified through accounts with a particularly wide reach. A second category concerns the impact of the service on the exercise of fundamental rights, as protected by the Charter of Fundamental Rights, including the freedom of

Amendment

(57) Three categories of systemic risks should be assessed in-depth. A first category concerns the risks associated with the misuse of their service through the dissemination of illegal content, such as the dissemination of child sexual abuse material or illegal hate speech, and the conduct of illegal activities, such as the sale of products or services prohibited by Union or national law, including counterfeit products. For example, and without prejudice to the personal responsibility of the recipient of the service of very large online platforms for possible illegality of his or her activity under the applicable law, such dissemination or activities may constitute a significant systematic risk where access to such content may be amplified through accounts with a particularly wide reach. A second category concerns the impact of the service on the exercise of fundamental rights, as protected by the Charter of Fundamental Rights, including the freedom of

expression and information, the right to private life, the right to non-discrimination and the rights of the child. Such risks may arise, for example, in relation to the design of the algorithmic systems used by the very large online platform or the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition. A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform's service, with a foreseeable impact on health, civic discourse, electoral processes, public security and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or incompatible with an online platform's terms and conditions.

expression and information, the right to private life, the right to non-discrimination, ***the right to gender equality*** and the rights of the child. Such risks may arise, for example, in relation to the design of the algorithmic systems used by the very large online platform or the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition ***or the misuse of the platforms' terms and conditions, including content moderation policies, when enforced, often through automatic means.*** A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform's service, with a foreseeable impact on health, ***fundamental rights***, civic discourse, electoral processes, public security and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or incompatible with an online platform's terms and conditions.

Or. en

Amendment 259

Patrick Breyer

Proposal for a regulation

Recital 57

Text proposed by the Commission

(57) Three categories of systemic risks should be assessed in-depth. A first category concerns the risks associated with the misuse of their service through the dissemination of illegal content, such as the dissemination of child sexual abuse

Amendment

(57) Three categories of systemic risks should be assessed in-depth. A first category concerns the risks associated with the misuse of their service through the dissemination of ***manifestly*** illegal content, such as the dissemination of child sexual

material or illegal hate speech, and the conduct of illegal activities, such as the sale of products or services prohibited by Union or national law, including counterfeit products. For example, and without prejudice to the personal responsibility of the recipient of the service of very large online platforms for possible illegality of his or her activity under the applicable law, such dissemination or activities may constitute a significant systematic risk where access to such content may be amplified through accounts with a particularly wide reach. A second category concerns the impact of the service on the exercise of fundamental rights, as protected by the Charter of Fundamental Rights, including the freedom of expression and information, the right to private life, the right to non-discrimination and the rights of the child. Such risks may arise, for example, in relation to the design of the algorithmic systems used by the very large online platform or the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition. A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform's service, with a foreseeable impact on health, civic discourse, electoral processes, public security and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the *creation of fake accounts*, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or incompatible with an online platform's terms and conditions.

abuse material or illegal hate speech, and the conduct of *manifestly* illegal activities, such as the sale of products or services prohibited by Union or national law, including counterfeit products. For example, and without prejudice to the personal responsibility of the recipient of the service of very large online platforms for possible illegality of his or her activity under the applicable law, such dissemination or activities may constitute a significant systematic risk where access to such content may be amplified through accounts with a particularly wide reach. A second category concerns the impact of the service on the exercise of fundamental rights, as protected by the Charter of Fundamental Rights, including the freedom of expression and information, the right to private life, the right to non-discrimination and the rights of the child. Such risks may arise, for example, in relation to the design of the algorithmic systems used by the very large online platform or the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition. A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform's service, with a foreseeable impact on health, civic discourse, electoral processes, public security and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is *manifestly* illegal content or incompatible with an online platform's terms and conditions.

Or. en

Amendment 260

Proposal for a regulation
Recital 58

Text proposed by the Commission

(58) Very large online platforms should deploy the necessary means to diligently mitigate the systemic risks identified in the risk assessment. Very large online platforms should under such mitigating measures consider, for example, enhancing or otherwise adapting the design and functioning of their content moderation, algorithmic recommender systems and online interfaces, so that they discourage and limit the dissemination of illegal content, adapting their decision-making processes, or adapting their terms and conditions. They may also include corrective measures, such as discontinuing advertising revenue for specific content, or other actions, such as improving the visibility of authoritative information sources. Very large online platforms may reinforce their internal processes or supervision of any of their activities, in particular as regards the detection of systemic risks. They may also initiate or increase cooperation with trusted flaggers, organise training sessions and exchanges with trusted flagger organisations, and cooperate with other service providers, including by initiating or joining existing codes of conduct or other self-regulatory measures. Any measures adopted should respect the due diligence requirements of this Regulation and be effective and appropriate for mitigating the specific risks identified, in the interest of safeguarding public order, protecting privacy and fighting fraudulent and deceptive commercial practices, and should be proportionate in light of the very large online platform's economic capacity and the need to avoid unnecessary restrictions on the use of their service, taking due account of potential negative effects on the fundamental rights of the recipients of the

Amendment

(58) Very large online platforms should deploy the necessary means to diligently mitigate the systemic risks identified in the risk assessment. Very large online platforms should under such mitigating measures consider, for example, enhancing or otherwise adapting the design and functioning of their content moderation, algorithmic recommender systems and online interfaces, so that they discourage and limit the dissemination of illegal content, ***prevent the manipulation and exploitation of the service, including by the amplification of content which is counter to their terms and conditions,*** adapting their decision-making processes, or adapting their terms and conditions ***and content moderation policies and how those policies are enforced, while being fully transparent to the users.*** They may also include corrective measures, such as discontinuing advertising revenue for specific content, or other actions, such as improving the visibility of authoritative information sources, ***including by displaying related public service advertisements instead of other commercial advertisements.*** Very large online platforms may reinforce their internal processes or supervision of any of their activities, in particular as regards the detection of systemic risks. They may also initiate or increase cooperation with trusted flaggers, organise training sessions and exchanges with trusted flagger organisations, and cooperate with other service providers, including by initiating or joining existing codes of conduct or other self-regulatory measures. Any measures adopted should respect the due diligence requirements of this Regulation and be effective and appropriate for mitigating the specific risks identified, in the interest of

service.

safeguarding public order, protecting privacy and fighting fraudulent and deceptive commercial practices, and should be proportionate in light of the very large online platform's economic capacity and the need to avoid unnecessary restrictions on the use of their service, taking due account of potential negative effects on the fundamental rights of the recipients of the service.

Or. en

Amendment 261

Stéphane Séjourné, Adrián Vázquez Lázara

Proposal for a regulation

Recital 58

Text proposed by the Commission

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

Amendment

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

including by initiating or joining existing codes of conduct or other self-regulatory measures. Any measures adopted should respect the due diligence requirements of this Regulation and be effective and appropriate for mitigating the specific risks identified, in the interest of safeguarding public order, protecting privacy and fighting fraudulent and deceptive commercial practices, and should be proportionate in light of the very large online platform's economic capacity and the need to avoid unnecessary restrictions on the use of their service, taking due account of potential negative effects on the fundamental rights of the recipients of the service.

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

Or. en

Amendment 262
Patrick Breyer

Proposal for a regulation
Recital 58

Text proposed by the Commission

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

Amendment

(58) Very large online platforms should deploy the necessary means to diligently mitigate the systemic risks identified in the risk assessment ***where mitigation is possible without adversely impacting fundamental rights***. Very large online platforms should under such mitigating measures consider, for example, enhancing or otherwise adapting the design and functioning of their content moderation, algorithmic recommender systems and online interfaces, so that they discourage and limit the dissemination of illegal content, adapting their decision-making processes, or adapting their terms and

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

conditions. They may also include corrective measures, such as discontinuing advertising revenue for specific content, or other actions, such as improving the visibility of authoritative information sources. Very large online platforms may reinforce their internal processes or supervision of any of their activities, in particular as regards the detection of systemic risks. They may also initiate or increase cooperation with trusted flaggers, organise training sessions and exchanges with trusted flagger organisations, and cooperate with other service providers, including by initiating or joining existing codes of conduct or other self-regulatory measures. ***The decision as to the choice of measures should remain with the platform.*** Any measures adopted should respect the due diligence requirements of this Regulation and be effective and appropriate for mitigating the specific risks identified, in the interest of safeguarding public order, protecting privacy and fighting fraudulent and deceptive commercial practices, and should be proportionate in light of the very large online platform's economic capacity and the need to avoid unnecessary restrictions on the use of their service, ***without adversely impacting*** the fundamental rights of the recipients of the service.

Or. en

Amendment 263

Alessandra Basso, Gunnar Beck, Gilles Lebreton

Proposal for a regulation

Recital 58

Text proposed by the Commission

(58) Very large online platforms should deploy the necessary means to diligently mitigate the systemic risks identified in the risk assessment. Very large online platforms should under such mitigating

Amendment

(58) Very large online platforms should deploy the necessary means to diligently mitigate the systemic risks identified in the risk assessment. Very large online platforms should under such mitigating

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

measures consider, for example, enhancing or otherwise adapting the design and functioning of their content moderation, algorithmic recommender systems and online interfaces, so that they discourage and limit the dissemination of illegal content, adapting their decision-making processes, or adapting their terms and conditions. They may also include corrective measures, such as discontinuing advertising revenue for specific content, or other actions, such as improving the visibility of authoritative information sources. Very large online platforms may reinforce their internal processes or supervision of any of their activities, in particular as regards the detection of systemic risks. They may also cooperate with other service providers, including by initiating or joining existing codes of conduct or other self-regulatory measures. Any measures adopted should respect the due diligence requirements of this Regulation and be effective and appropriate for mitigating the specific risks identified, in the interest of safeguarding public order, protecting privacy and fighting fraudulent and deceptive commercial practices, and should be proportionate in light of the very large online platform's economic capacity and the need to avoid unnecessary restrictions on the use of their service, taking due account of potential negative effects on the fundamental rights of the recipients of the service.

Or. en

Amendment 264
Emmanuel Maurel

Proposal for a regulation
Recital 58

(58) **Very** large online platforms should deploy the necessary means to diligently mitigate the systemic risks identified in the risk assessment. **Very large online platforms** should under such mitigating measures consider, for example, enhancing or otherwise adapting the design and functioning of their content moderation, algorithmic recommender systems and online interfaces, so that they discourage and limit the dissemination of illegal content, adapting their decision-making processes, or adapting their terms and conditions. They **may** also include corrective measures, such as discontinuing advertising revenue for specific content, **or other actions, such as** improving the visibility of authoritative information sources. **Very** large online platforms may reinforce their internal processes or supervision of any of their activities, in particular as regards the detection of systemic risks. They may also initiate or increase cooperation with trusted flaggers, organise training sessions and exchanges with trusted flagger organisations, and cooperate with other service providers, including by initiating or joining existing codes of conduct **or other self-regulatory measures**. Any measures adopted should respect the due diligence requirements of this Regulation and be effective and appropriate for mitigating the specific risks identified, in the interest of safeguarding public order, protecting privacy and fighting fraudulent and deceptive commercial practices, and should be proportionate in light of the very large online platform's economic capacity and the need to avoid unnecessary restrictions on the use of their service, taking due account of potential negative effects on the fundamental rights of the recipients of the service.

(58) Large online platforms should deploy the necessary means to diligently mitigate the systemic risks identified in the risk assessment. **They** should under such mitigating measures consider, for example, enhancing or otherwise adapting the design and functioning of their content moderation, algorithmic recommender systems and online interfaces, so that they discourage and limit the dissemination of illegal content, adapting their decision-making processes, or adapting their terms and conditions. They **should** also include corrective measures, such as discontinuing advertising revenue, **restricting or prohibiting advertising for specific content or content aimed at minors, or** improving the visibility of authoritative information sources. Large online platforms may reinforce their internal processes or supervision of any of their activities, in particular as regards the detection of systemic risks. They may also initiate or increase cooperation with trusted flaggers, organise training sessions and exchanges with trusted flagger organisations, and cooperate with other service providers, including by initiating or joining existing codes of conduct. Any measures adopted should respect the due diligence requirements of this Regulation and be effective and appropriate for mitigating the specific risks identified, in the interest of safeguarding public order, protecting privacy and fighting fraudulent and deceptive commercial practices, and should be proportionate in light of the very large online platform's economic capacity and the need to avoid unnecessary restrictions on the use of their service, taking due account of potential negative effects on the fundamental rights of the recipients of the service.

Or. fr

Amendment 265

Axel Voss, Andrzej Halicki, Esteban González Pons, Luisa Regimenti, Monika Hohlmeier, Rainer Wieland, Daniel Caspary, Javier Zarzalejos, Sven Schulze, Christian Doleschal, Pascal Arimont

Proposal for a regulation

Recital 58

Text proposed by the Commission

(58) Very large online platforms should deploy the necessary means to diligently mitigate the systemic risks identified in the risk assessment. Very large online platforms should under such mitigating measures consider, for example, enhancing or otherwise adapting the design and functioning of their content moderation, algorithmic recommender systems and online interfaces, so that they discourage and limit the dissemination of illegal content, adapting their decision-making processes, or adapting their terms and conditions. They may also include corrective measures, such as discontinuing advertising revenue for specific content, or other actions, such as improving the visibility of authoritative information sources. Very large online platforms may reinforce their internal processes or supervision of any of their activities, in particular as regards the detection of systemic risks. They may also initiate or increase cooperation with trusted flaggers, organise training sessions and exchanges with trusted flagger organisations, and cooperate with other service providers, including by initiating or joining existing codes of conduct or other self-regulatory measures. Any measures adopted should respect the due diligence requirements of this Regulation and be effective and appropriate for mitigating the specific risks identified, in the interest of safeguarding public order, protecting privacy and fighting fraudulent and deceptive commercial practices, and should be proportionate in light of the very large online platform's economic capacity and the need to avoid unnecessary restrictions

Amendment

(58) Very large online platforms should deploy the necessary **and proportionate** means to diligently mitigate the systemic risks identified in the risk assessment. Very large online platforms should under such mitigating measures consider, for example, enhancing or otherwise adapting the design and functioning of their content moderation, algorithmic recommender systems and online interfaces, so that they discourage and limit the dissemination of illegal content, adapting their decision-making processes, or adapting their terms and conditions. They may also include corrective measures, such as discontinuing advertising revenue for specific content, or other actions, such as improving the visibility of authoritative information sources. Very large online platforms may reinforce their internal processes or supervision of any of their activities, in particular as regards the detection of systemic risks. They may also initiate or increase cooperation with trusted flaggers, organise training sessions and exchanges with trusted flagger organisations, and cooperate with other service providers, including by initiating or joining existing codes of conduct or other self-regulatory measures. Any measures adopted should respect the due diligence requirements of this Regulation and be effective and appropriate for mitigating the specific risks identified, in the interest of safeguarding public order, protecting privacy and fighting fraudulent and deceptive commercial practices, and should be proportionate in light of the very large online platform's economic capacity and the need to avoid unnecessary restrictions

on the use of their service, taking due account of potential negative effects on the fundamental rights of the recipients of the service.

on the use of their service, taking due account of potential negative effects on the fundamental rights of the recipients of the service.

Or. en

Amendment 266
Kosma Zlotowski

Proposal for a regulation
Recital 58

Text proposed by the Commission

(58) Very large online platforms should deploy the necessary means to diligently mitigate the systemic risks identified in the risk assessment. Very large online platforms should under such mitigating measures consider, for example, enhancing or otherwise adapting the design and functioning of their content moderation, algorithmic recommender systems and online interfaces, so that they discourage and limit the dissemination of illegal content, adapting their decision-making processes, or adapting their terms and conditions. They may also include corrective measures, such as discontinuing advertising revenue for specific content, or other actions, such as improving the visibility of authoritative information sources. Very large online platforms *may* reinforce their internal processes or supervision of any of their activities, in particular as regards the detection of systemic risks. They *may* also initiate or increase cooperation with trusted flaggers, organise training sessions and exchanges with trusted flagger organisations, and cooperate with other service providers, including by initiating or joining existing codes of conduct or other self-regulatory measures. Any measures adopted should respect the due diligence requirements of this Regulation and be effective and appropriate for mitigating the specific risks

Amendment

(58) Very large online platforms should deploy the necessary means to diligently mitigate the systemic risks identified in the risk assessment. Very large online platforms should under such mitigating measures consider, for example, enhancing or otherwise adapting the design and functioning of their content moderation, algorithmic recommender systems and online interfaces, so that they discourage and limit the dissemination of illegal content, adapting their decision-making processes, or adapting their terms and conditions. They may also include corrective measures, such as discontinuing advertising revenue for specific content, or other actions, such as improving the visibility of authoritative information sources. Very large online platforms *should* reinforce their internal processes or supervision of any of their activities, in particular as regards the detection of systemic risks. They *should* also initiate or increase cooperation with trusted flaggers, organise training sessions and exchanges with trusted flagger organisations, and cooperate with other service providers, including by initiating or joining existing codes of conduct or other self-regulatory measures. Any measures adopted should respect the due diligence requirements of this Regulation and be effective and appropriate for mitigating the specific risks

identified, in the interest of safeguarding public order, protecting privacy and fighting fraudulent and deceptive commercial practices, and should be proportionate in light of the very large online platform's economic capacity and the need to avoid unnecessary restrictions on the use of their service, taking due account of potential negative effects on the fundamental rights of the recipients of the service.

identified, in the interest of safeguarding public order, protecting privacy and fighting fraudulent and deceptive commercial practices, and should be proportionate in light of the very large online platform's economic capacity and the need to avoid unnecessary restrictions on the use of their service, taking due account of potential negative effects on the fundamental rights of the recipients of the service.

Or. en

Amendment 267
Patrick Breyer

Proposal for a regulation
Recital 59

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 268
Emmanuel Maurel

Proposal for a regulation
Recital 59

Text proposed by the Commission

(59) **Very** large online platforms should, where appropriate, conduct their risk assessments and design their risk mitigation measures with the involvement

Amendment

(59) Large online platforms should, where appropriate, conduct their risk assessments and design their risk mitigation measures with the involvement

of representatives of the recipients of the service, representatives of groups potentially impacted by their services, independent experts and civil society organisations.

of representatives of the recipients of the service, representatives of groups potentially impacted by their services, independent experts and civil society organisations.

Or. fr

Amendment 269

Alessandra Basso, Gunnar Beck, Gilles Lebreton

Proposal for a regulation

Recital 59

Text proposed by the Commission

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

Amendment

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

Or. en