



2020/0361(COD)

19.7.2021

AMENDMENTS

270 - 540

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 270
Emmanuel Maurel

Proposal for a regulation
Recital 60

Text proposed by the Commission

(60) Given the need to ensure verification by independent experts, **very** large online platforms should be accountable, through independent auditing, for their compliance with the obligations laid down by this Regulation and, where relevant, any complementary commitments **undertaking** pursuant to codes of conduct and crises protocols. They should give the auditor access to all relevant data necessary to perform the audit properly. Auditors should also be able to make use of other sources of objective information, including studies by vetted **researchers**. Auditors should guarantee the confidentiality, security and integrity of the information, such as trade secrets, that they obtain when performing their tasks and have the necessary expertise in the area of risk management and technical competence to audit algorithms. Auditors should be independent, so as to be able to perform their tasks in an adequate and trustworthy manner. If their independence is not beyond doubt, they should resign or abstain from the audit engagement.

Amendment

(60) Given the need to ensure verification by independent experts, large online platforms should be accountable, through independent auditing, for their compliance with the obligations laid down by this Regulation and, where relevant, any complementary commitments **undertaken** pursuant to codes of conduct and crises protocols. They should give the auditor access to all relevant data necessary to perform the audit properly. Auditors should also be able to make use of other sources of objective information, including studies by **researchers** vetted **by the competent authorities. With the exception of the authorities or unless otherwise specified by the applicable law**, auditors should guarantee the confidentiality, security and integrity of the information, such as trade secrets, that they obtain when performing their tasks and have the necessary expertise in the area of risk management and technical competence to audit algorithms. **Very large online platforms should not, however, be able to use the confidentiality of trade secrets as reasons to refuse access to relevant information needed by auditors to perform their tasks.** Auditors should be independent, so as to be able to perform their tasks in an adequate and trustworthy manner. If their independence is not beyond doubt, they should resign or abstain from the audit engagement.

Or. fr

Amendment 271
Emmanuel Maurel

Proposal for a regulation

Recital 61

Text proposed by the Commission

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

Amendment

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

Or. fr

Amendment 272

Alessandra Basso, Gunnar Beck, Gilles Lebreton

Proposal for a regulation
Recital 61

Text proposed by the Commission

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

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Or. en

Amendment 273
Stéphane Séjourné

Proposal for a regulation

Recital 62

Text proposed by the Commission

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

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(62) A core part of a very large online platform's business is the manner in which information is prioritised and presented on its online interface to facilitate and optimise access to information for the recipients of the service. This is done, for example, by algorithmically suggesting, ranking and prioritising information, distinguishing through text or other visual representations, or otherwise curating information provided by recipients. Such recommender systems can have a significant impact on the ability of recipients to retrieve and interact with information online. They also play an important role in the amplification of certain messages, the viral dissemination of information and the stimulation of online behaviour. ***Moreover, these recommender systems can also impact media consumption and cultural practices of users, and may risk locking them into a bubble without providing them with the possibility to open up to different kind of content.*** Consequently, very large online platforms should ensure that recipients are appropriately informed, and can influence the information presented to them. They should clearly present the main parameters for such recommender systems in an easily comprehensible manner to ensure that the recipients understand how information is prioritised for them. They should also ensure that the recipients enjoy alternative options for the main parameters, including options that are not based on profiling of the recipient.

Or. en

Amendment 274

Tiemo Wölken, Evelyn Gebhardt, Franco Roberti, Christel Schaldemose

Proposal for a regulation

Recital 62

Text proposed by the Commission

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

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Or. en

Amendment 275

Patrick Breyer

Proposal for a regulation

Recital 62

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 276
Emmanuel Maurel

Proposal for a regulation
Recital 62

Text proposed by the Commission

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Or. fr

Amendment 277

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

Proposal for a regulation Recital 62

Text proposed by the Commission

(62) A core part of a very large online platform's business is the manner in which information is prioritised and presented on its online interface to facilitate and optimise access to information for the recipients of the service. This is done, for example, by algorithmically suggesting, ranking and prioritising information, distinguishing through text or other visual representations, or otherwise curating

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information provided by recipients. Such recommender systems can have **a significant** impact on the ability of recipients to retrieve and interact with information online. They also play an important role in the amplification of certain messages, the viral dissemination of information and the stimulation of online behaviour. Consequently, very large online platforms should ensure that recipients are appropriately informed, and can influence the information presented to them. They should clearly present the main parameters for such recommender systems in an easily comprehensible manner to ensure that the recipients understand how information is prioritised for them. They should also ensure that the recipients enjoy alternative options for the main parameters, including options that are not based on profiling of the recipient.

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Or. en

Amendment 278

Stéphane Séjourné, Adrián Vázquez Lázara

Proposal for a regulation

Recital 62 a (new)

Text proposed by the Commission

Amendment

(62 a) The practice of very large online platforms to associate advertisement with content uploaded by users could indirectly lead to the monetisation and promotion of illegal content, or content that is in breach of their terms and conditions and could risk to considerably damage the brand image of the buyers of advertising space. In order to prevent such practice, the very large online platforms should ensure, including through standard contractual guarantees to the buyers of advertising space, that the content to which they associate advertisements is legal, and compliant with their terms and conditions. Furthermore, the very large

online platforms should allow advertisers to have direct access to the results of audits carried out independently and evaluating the commitments and tools of platforms for protecting the brand image of the buyers of advertising space ('brand safety').

Or. en

Amendment 279

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

Proposal for a regulation

Recital 63

Text proposed by the Commission

(63) Advertising systems used by very large online platforms pose particular risks and require further public and regulatory supervision ***on account of their scale and ability to target and reach recipients of the service based on their behaviour within and outside that platform's online interface.*** Very large online platforms should ensure public access to repositories of advertisements displayed on their online interfaces to facilitate supervision and research into emerging risks brought about by the distribution of advertising online, for example in relation to illegal advertisements or manipulative techniques and disinformation with a real and foreseeable negative impact on public health, public security, civil discourse, political participation and equality. Repositories should include the content of advertisements and related data on the advertiser and the delivery of the advertisement, ***in particular where targeted advertising is concerned.***

Amendment

(63) Advertising systems used by very large online platforms ***could*** pose particular risks and require further public and regulatory supervision. Very large online platforms should ensure public access to repositories of advertisements displayed on their online interfaces to facilitate supervision and research into emerging risks brought about by the distribution of advertising online, for example in relation to illegal advertisements or manipulative techniques and disinformation with a real and foreseeable negative impact on public health, public security, civil discourse, political participation and equality. Repositories should include the content of advertisements and related data on the advertiser and the delivery of the advertisement.

Or. en

Amendment 280

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Recital 63

Text proposed by the Commission

(63) Advertising systems used by very large online platforms pose particular risks and require further public and regulatory supervision on account of their scale and ability to target and reach recipients of the service based on their behaviour within and outside that platform's online interface. Very large online platforms should ensure public access to repositories of advertisements displayed on their online interfaces to facilitate supervision and research into emerging risks brought about by the distribution of advertising online, for example in relation to illegal advertisements or manipulative techniques and disinformation with a real and foreseeable negative impact on public health, public security, civil discourse, political participation and equality. Repositories should include the content of advertisements and related data on the advertiser and the delivery of the advertisement, in particular where targeted advertising is concerned.

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Or. en

Amendment 281

Emmanuel Maurel

Proposal for a regulation

Recital 63

Text proposed by the Commission

(63) Advertising systems used by **very** large online platforms pose particular risks

Amendment

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and require further public and regulatory supervision on account of their scale and ability to target and reach recipients of the service based on their behaviour within and outside that platform's online interface.

Very large online platforms should ensure public access to repositories of advertisements displayed on their online interfaces to facilitate supervision and research into emerging risks brought about by the distribution of advertising online, for example in relation to illegal advertisements or manipulative techniques and disinformation with a real and foreseeable negative impact on public health, public security, civil discourse, political participation and equality. Repositories should include the content of advertisements and related data on the advertiser and the delivery of the advertisement, in particular where targeted advertising is concerned.

require further public and regulatory supervision on account of their scale and ability to target and reach recipients of the service based on their behaviour within and outside that platform's online interface.

Large online platforms should ensure public access to repositories of advertisements displayed on their online interfaces to facilitate supervision and research into emerging risks brought about by the distribution of advertising online, for example in relation to illegal advertisements or manipulative techniques and disinformation with a real and foreseeable negative impact on public health, public security, civil discourse, political participation and equality. Repositories should include the content of advertisements and related data on the advertiser and the delivery of the advertisement, in particular where targeted advertising is concerned.

Or. fr

Amendment 282

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

Proposal for a regulation

Recital 64

Text proposed by the Commission

(64) In order to appropriately supervise the compliance of very large online platforms with the obligations laid down by this Regulation, the Digital Services Coordinator of establishment or the Commission may require access to or reporting of specific data. Such a requirement may include, for example, the data necessary to assess the risks and possible harms brought about by the platform's systems, data on the accuracy, functioning and testing of algorithmic systems for content moderation, recommender systems or advertising

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systems, or data on processes and outputs of content moderation or of internal complaint-handling systems within the meaning of this Regulation. Investigations by researchers on the evolution and severity of online systemic risks are particularly important for bridging information asymmetries and establishing a resilient system of risk mitigation, informing online platforms, Digital Services Coordinators, other competent authorities, the Commission and the public. This Regulation therefore provides a framework for compelling access to data from very large online platforms to vetted researchers. ***All requirements for*** access to data under that framework should be proportionate and appropriately protect the rights and legitimate interests, including trade secrets and other confidential information, of the platform and any other parties concerned, including the recipients of the service.

systems, or data on processes and outputs of content moderation or of internal complaint-handling systems within the meaning of this Regulation. Investigations by researchers on the evolution and severity of online systemic risks are particularly important for bridging information asymmetries and establishing a resilient system of risk mitigation, informing online platforms, Digital Services Coordinators, other competent authorities, the Commission and the public. This Regulation therefore provides a framework for ***providing information or*** compelling access to data from very large online platforms to vetted researchers ***where relevant to a research project. All requests for providing information or*** access to data under that framework should be proportionate and appropriately protect the rights and legitimate interests, including trade secrets and other confidential information, of the platform and any other parties concerned, including the recipients of the service.

Or. en

Amendment 283

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Recital 64

Text proposed by the Commission

(64) In order to appropriately supervise the compliance of very large online platforms with the obligations laid down by this Regulation, the Digital Services Coordinator of establishment or the Commission may require access to or reporting of specific data. Such a requirement may include, for example, the data necessary to assess the risks and possible harms brought about by the platform's systems, data on the accuracy, functioning and testing of algorithmic

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Or. en

Amendment 284 Stéphane Séjourné

Proposal for a regulation Recital 64

Text proposed by the Commission

(64) In order to appropriately supervise the compliance of very large online platforms with the obligations laid down by this Regulation, the Digital Services Coordinator of establishment or the Commission may require access to or reporting of specific data. Such a requirement may include, for example, the data necessary to assess the risks and possible harms brought about by the platform's systems, data on the accuracy,

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functioning and testing of algorithmic systems for content moderation, recommender systems or advertising systems, or data on processes and outputs of content moderation or of internal complaint-handling systems within the meaning of this Regulation. Investigations by researchers on the evolution and severity of online systemic risks are particularly important for bridging information asymmetries and establishing a resilient system of risk mitigation, informing online platforms, Digital Services Coordinators, other competent authorities, the Commission and the public. This Regulation therefore provides a framework for compelling access to data from very large online platforms to vetted researchers. All requirements for access to data under that framework should be proportionate and appropriately protect the rights and legitimate interests, including trade secrets and other confidential information, of the platform and any other parties concerned, including the recipients of the service.

content brought about by the platform's systems, data on the accuracy, functioning and testing of algorithmic systems for content moderation, recommender systems or advertising systems, or data on processes and outputs of content moderation or of internal complaint-handling systems within the meaning of this Regulation. Investigations by researchers on the evolution and severity of online systemic risks are particularly important for bridging information asymmetries and establishing a resilient system of risk mitigation, informing online platforms, Digital Services Coordinators, other competent authorities, the Commission and the public. This Regulation therefore provides a framework for compelling access to data from very large online platforms to vetted researchers. All requirements for access to data under that framework should be proportionate and appropriately protect the rights and legitimate interests, including trade secrets and other confidential information, of the platform and any other parties concerned, including the recipients of the service.

Or. en

Amendment 285

Emmanuel Maurel

Proposal for a regulation

Recital 64

Text proposed by the Commission

(64) In order to appropriately supervise the compliance of **very** large online platforms with the obligations laid down by this Regulation, the Digital Services Coordinator of establishment or the Commission may require access to or reporting of specific data. Such a requirement may include, for example, the data necessary to assess the risks and

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

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Amendment 286

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

of illegal content using the platform's systems, data on the accuracy, functioning and testing of algorithmic systems for content moderation, recommender systems or advertising systems, or data on processes and outputs of content moderation or of internal complaint-handling systems within the meaning of this Regulation. Investigations by researchers on the evolution and severity of online systemic risks are particularly important for bridging information asymmetries and establishing a resilient system of risk mitigation, informing online platforms, Digital Services Coordinators, other competent authorities, the Commission and the public. This Regulation therefore provides a framework for compelling access to data from very large online platforms to vetted researchers. All requirements for access to data under that framework should be proportionate and appropriately protect the rights and legitimate interests, including trade secrets and other confidential information, of the platform and any other parties concerned, including the recipients of the service.

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Recital 64

Text proposed by the Commission

(64) In order to appropriately supervise the compliance of very large online platforms with the obligations laid down by this Regulation, *the* Digital Services Coordinator *of establishment* or the Commission may require access to or reporting of specific data. Such a requirement may include, for example, the data necessary to assess the risks and

Amendment

(64) In order to appropriately supervise the compliance of very large online platforms with the obligations laid down by this Regulation, *a* Digital Services Coordinator or the Commission may require access to or reporting of specific data. Such a requirement may include, for example, the data necessary to assess the risks and possible harms brought about by

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

the platform's systems, data on the accuracy, functioning and testing of algorithmic systems for content moderation, recommender systems or advertising systems, or data on processes and outputs of content moderation or of internal complaint-handling systems within the meaning of this Regulation. Investigations by researchers on the evolution and severity of online systemic risks are particularly important for bridging information asymmetries and establishing a resilient system of risk mitigation, informing online platforms, Digital Services Coordinators, other competent authorities, the Commission and the public. This Regulation therefore provides a framework for compelling access to data from very large online platforms to vetted researchers. All requirements for access to data under that framework should be proportionate and appropriately protect the rights and legitimate interests, including trade secrets and other confidential information, of the platform and any other parties concerned, including the recipients of the service.

Or. en

Amendment 288

Emmanuel Maurel

Proposal for a regulation

Recital 65

Text proposed by the Commission

(65) Given the complexity of the functioning of the systems deployed and the systemic risks they present to society, very large online platforms should appoint compliance officers, which should have the necessary qualifications to operationalise measures and monitor the compliance with this Regulation within the platform's organisation. *Very* large online platforms

Amendment

(65) Given the complexity of the functioning of the systems deployed and the systemic risks they present to society, very large online platforms should appoint compliance officers, which should have the necessary qualifications to operationalise measures and monitor the compliance with this Regulation within the platform's organisation. Large online platforms

should ensure that the compliance officer is involved, properly and in a timely manner, in all issues which relate to this Regulation. In view of the additional risks relating to their activities and their additional obligations under this Regulation, the other transparency requirements set out in this Regulation should be complemented by additional transparency requirements applicable specifically to very large online platforms, notably to report on the risk assessments performed and subsequent measures adopted as provided by this Regulation.

should ensure that the compliance officer is involved, properly and in a timely manner, in all issues which relate to this Regulation. In view of the additional risks relating to their activities and their additional obligations under this Regulation, the other transparency requirements set out in this Regulation should be complemented by additional transparency requirements applicable specifically to very large online platforms, notably to report on the risk assessments performed and subsequent measures adopted as provided by this Regulation.

Or. fr

Amendment 289
Patrick Breyer

Proposal for a regulation
Recital 65 a (new)

Text proposed by the Commission

Amendment

(65 a) Minimum interoperability requirements for very large online platforms can create new opportunities for the development of innovative services, overcome the lock-in effect of closed platforms and ensure competition and user choice. These requirements should allow for cross-platform interaction by recipients. Very large online platforms should provide an application programming interface through which third-party platforms and their recipients can interoperate with the main functionalities and recipients of the platform. Among the main functionalities can be the ability to receive information from certain accounts, to share provided content and react to it. The interoperability requirements do not prevent platforms from offering additional and new functions to their recipients.

Justification

Recital to explain Article 33a on Interoperability as proposed in the Draft Opinion.

Amendment 290

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

Proposal for a regulation**Recital 65 a (new)**

Text proposed by the Commission

Amendment

(65 a) Recipients of a service are often locked in to existing platforms due to network effects, which significantly limits user choice. In order to facilitate free choice of recipients between different services, it is therefore important to consider interoperability for industry-standard features of very large online platforms, such as core messaging functionality or image-sharing services. Such interoperability would empower recipients to choose a service based on its functionality and features such as security, privacy, and data processing standards, rather than its existing user base.

Or. en

Amendment 291

Emmanuel Maurel

Proposal for a regulation**Recital 66**

Text proposed by the Commission

Amendment

(66) To facilitate the effective and consistent application of the obligations in this Regulation that may require implementation through technological means, it is important to promote **voluntary**

(66) To facilitate the effective and consistent application of the obligations in this Regulation that may require implementation through technological means, it is important to promote standards

industry standards covering certain technical procedures, *where the industry can help develop standardised means* to comply with this Regulation, such as allowing the submission of notices, including through application programming interfaces, or about the interoperability of advertisement repositories. Such standards could in particular be useful for relatively small providers of intermediary services. The standards could distinguish between different types of illegal content or different types of intermediary services, as appropriate.

covering certain technical procedures to comply with this Regulation, such as allowing the submission of notices, including through application programming interfaces, or about the interoperability of advertisement repositories. Such standards could in particular be useful for relatively small providers of intermediary services. The standards could distinguish between different types of illegal content or different types of intermediary services, as appropriate.

Or. fr

Amendment 292

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti, Christel Schaldemose

Proposal for a regulation

Recital 66

Text proposed by the Commission

(66) To facilitate the effective and consistent application of the obligations in this Regulation that may require implementation through technological means, it is important to promote voluntary industry standards covering certain technical procedures, where the industry can help develop standardised means to comply with this Regulation, such as allowing the submission of notices, including through application programming interfaces, or about *the interoperability of advertisement repositories*. Such standards could in particular be useful for relatively small providers of intermediary services. The standards could distinguish between different types of illegal content or different types of intermediary services, as appropriate.

Amendment

(66) To facilitate the effective and consistent application of the obligations in this Regulation that may require implementation through technological means, it is important to promote voluntary industry standards covering certain technical procedures, where the industry can help develop standardised means to comply with this Regulation, such as allowing the submission of notices, including through application programming interfaces, or about interoperability. Such standards could in particular be useful for relatively small providers of intermediary services. The standards could distinguish between different types of illegal content or different types of intermediary services, as appropriate.

Or. en

Amendment 293
Emmanuel Maurel

Proposal for a regulation
Recital 67

Text proposed by the Commission

Amendment

(67) The Commission and the Board should encourage the drawing-up of codes of conduct to contribute to the application of this Regulation. While the implementation of codes of conduct should be measurable and subject to public oversight, this should not impair the voluntary nature of such codes and the freedom of interested parties to decide whether to participate. In certain circumstances, it is important that very large online platforms cooperate in the drawing-up and adhere to specific codes of conduct. Nothing in this Regulation prevents other service providers from adhering to the same standards of due diligence, adopting best practices and benefitting from the guidance provided by the Commission and the Board, by participating in the same codes of conduct.

deleted

Or. fr

Amendment 294
Alessandra Basso, Gunnar Beck, Gilles Lebreton

Proposal for a regulation
Recital 67

Text proposed by the Commission

Amendment

(67) The Commission and the Board should encourage the drawing-up of codes of conduct to contribute to the application of this Regulation. While the implementation of codes of conduct *should* be measurable and subject to public

(67) The Commission and the Board should encourage the drawing-up of codes of conduct to contribute to the application of this Regulation. While the implementation of codes of conduct *shall* be measurable and subject to public

oversight, this should not impair the voluntary nature of such codes and the freedom of interested parties to decide whether to participate. ***In certain circumstances, it is important that very large online platforms cooperate in the drawing-up and adhere to specific codes of conduct.*** Nothing in this Regulation prevents other service providers from adhering to the same standards of due diligence, adopting best practices and benefitting from the guidance provided by the Commission and the Board, by participating in the same codes of conduct.

oversight, this should not impair the voluntary nature of such codes and the freedom of interested parties to decide whether to participate. Nothing in this Regulation prevents other service providers from adhering to the same standards of due diligence, adopting best practices and benefitting from the guidance provided by the Commission and the Board, by participating in the same codes of conduct.

Or. en

Amendment 295 Stéphane Séjourné

Proposal for a regulation Recital 67

Text proposed by the Commission

(67) The Commission and the Board should encourage the drawing-up of codes of conduct to contribute to the application of this Regulation. While the implementation of codes of conduct should be measurable and subject to public oversight, this should not impair the voluntary nature of such codes and the freedom of interested parties to decide whether to participate. In certain circumstances, it is important that very large online platforms cooperate in the drawing-up and adhere to specific codes of conduct. Nothing in this Regulation prevents other service providers from adhering to the same standards of due diligence, adopting best practices and benefitting from the guidance provided by the Commission and the Board, by participating in the same codes of conduct.

Amendment

(67) The Commission and the Board should encourage the drawing-up of codes of conduct to contribute to the application of this Regulation, ***as well as the compliance of online platforms with the provisions of these codes.*** While the implementation of codes of conduct should be measurable and subject to public oversight, this should not impair the voluntary nature of such codes and the freedom of interested parties to decide whether to participate. In certain circumstances, it is important that very large online platforms cooperate in the drawing-up and adhere to specific codes of conduct. Nothing in this Regulation prevents other service providers from adhering to the same standards of due diligence, adopting best practices and benefitting from the guidance provided by the Commission and the Board, by participating in the same codes of conduct.

Amendment 296**Patrick Breyer****Proposal for a regulation****Recital 67***Text proposed by the Commission*

(67) The Commission and the Board ***should*** encourage the drawing-up of codes of conduct to contribute to the application of this Regulation. While the implementation of codes of conduct should be measurable and subject to public oversight, this should not impair the voluntary nature of such codes and the freedom of interested parties to decide whether to participate. In certain circumstances, it is important that very large online platforms cooperate in the drawing-up and adhere to specific codes of conduct. Nothing in this Regulation prevents other service providers from adhering to the same standards of due diligence, adopting best practices and benefitting from the guidance provided by the Commission and the Board, by participating in the same codes of conduct.

Amendment

(67) The Commission and the Board ***may*** encourage the drawing-up of codes of conduct to contribute to the application of this Regulation. While the implementation of codes of conduct should be measurable and subject to public oversight, this should not impair the voluntary nature of such codes and the freedom of interested parties to decide whether to participate. In certain circumstances, it is important that very large online platforms cooperate in the drawing-up and adhere to specific codes of conduct. Nothing in this Regulation prevents other service providers from adhering to the same standards of due diligence, adopting best practices and benefitting from the guidance provided by the Commission and the Board, by participating in the same codes of conduct.

Or. en

Amendment 297**Emmanuel Maurel****Proposal for a regulation****Recital 68***Text proposed by the Commission*

(68) ***It is appropriate that this Regulation identify certain areas of consideration for such codes of conduct. In particular, risk mitigation measures concerning specific types of illegal***

*Amendment****deleted***

content should be explored via self- and co-regulatory agreements. Another area for consideration is the possible negative impacts of systemic risks on society and democracy, such as disinformation or manipulative and abusive activities. This includes coordinated operations aimed at amplifying information, including disinformation, such as the use of bots or fake accounts for the creation of fake or misleading information, sometimes with a purpose of obtaining economic gain, which are particularly harmful for vulnerable recipients of the service, such as children. In relation to such areas, adherence to and compliance with a given code of conduct by a very large online platform may be considered as an appropriate risk mitigating measure. The refusal without proper explanations by an online platform of the Commission's invitation to participate in the application of such a code of conduct could be taken into account, where relevant, when determining whether the online platform has infringed the obligations laid down by this Regulation.

Or. fr

Amendment 298

Patrick Breyer

Proposal for a regulation

Recital 68

Text proposed by the Commission

(68) It is appropriate that this Regulation identify certain areas of consideration for such codes of conduct. In particular, risk mitigation measures concerning specific types of illegal content ***should*** be explored via self- and co-regulatory agreements. Another area for consideration is the possible negative impacts of systemic risks on society and democracy, such as disinformation or manipulative and abusive

Amendment

(68) It is appropriate that this Regulation identify certain areas of consideration for such codes of conduct. In particular, risk mitigation measures concerning specific types of illegal content ***may*** be explored via self- and co-regulatory agreements. Another area for consideration is the possible negative impacts of systemic risks on society and democracy, such as disinformation or manipulative and abusive

activities. This includes coordinated operations aimed at amplifying information, including disinformation, such as the use of bots *or fake accounts* for the creation of fake or misleading information, sometimes with a purpose of obtaining economic gain, which are particularly harmful for vulnerable recipients of the service, such as children. ***In relation to such areas, adherence to and compliance with a given code of conduct by a very large online platform may be considered as an appropriate risk mitigating measure. The refusal without proper explanations by an online platform of the Commission's invitation to participate in the application of such a code of conduct could be taken into account, where relevant, when determining whether the online platform has infringed the obligations laid down by this Regulation.***

activities. This includes coordinated operations aimed at amplifying information, including disinformation, such as the use of bots for the creation of fake or misleading information, sometimes with a purpose of obtaining economic gain, which are particularly harmful for vulnerable recipients of the service, such as children.

Or. en

Amendment 299 Stéphane Séjourné

Proposal for a regulation Recital 68

Text proposed by the Commission

(68) It is appropriate that this Regulation identify certain areas of consideration for such codes of conduct. In particular, risk mitigation measures concerning specific types of illegal content should be explored via self- and co-regulatory agreements. Another area for consideration is the possible negative impacts of systemic risks on society and democracy, such as disinformation or manipulative and abusive activities. This includes coordinated operations aimed at amplifying information, including disinformation, such as the use of bots or fake accounts for the creation of fake or misleading information, sometimes with a purpose of obtaining

Amendment

(68) It is appropriate that this Regulation identify certain areas of consideration for such codes of conduct. In particular, risk mitigation measures concerning specific types of illegal content should be explored via self- and co-regulatory agreements. Another area for consideration is the possible negative impacts of systemic risks on society and democracy, such as disinformation, ***harmful content*** or manipulative and abusive activities. This includes coordinated operations aimed at amplifying information, including disinformation, such as the use of bots or fake accounts for the creation of fake or misleading information, sometimes with a

economic gain, which are particularly harmful for vulnerable recipients of the service, such as children. In relation to such areas, adherence to and compliance with a given code of conduct by a very large online platform may be considered as an appropriate risk mitigating measure. The refusal without proper explanations by an online platform of the Commission's invitation to participate in the application of such a code of conduct could be taken into account, where relevant, when determining whether the online platform has infringed the obligations laid down by this Regulation.

purpose of obtaining economic gain, which are particularly harmful for vulnerable recipients of the service, such as children. In relation to such areas, adherence to and compliance with a given code of conduct by a very large online platform may be considered as an appropriate risk mitigating measure. The refusal without proper explanations by an online platform of the Commission's invitation to participate in the application of such a code of conduct could be taken into account, where relevant, when determining whether the online platform has infringed the obligations laid down by this Regulation.

Or. en

Amendment 300
Emmanuel Maurel

Proposal for a regulation
Recital 69

Text proposed by the Commission

Amendment

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

deleted

Or. fr

Amendment 301
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 69

Text proposed by the Commission

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

Amendment

(69) The rules on codes of conduct under this Regulation could serve as a basis for already established self-regulatory efforts at Union level, including the Product Safety Pledge, the Memorandum of Understanding against counterfeit goods, the Code of Conduct against illegal hate speech.

Or. en

Amendment 302

Patrick Breyer

Proposal for a regulation

Recital 69

Text proposed by the Commission

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

Amendment

(69) The rules on codes of conduct under this Regulation could serve as a basis for already established self-regulatory efforts at Union level, including the Product Safety Pledge, the Memorandum of Understanding against counterfeit goods, the Code of Conduct against illegal hate speech as well as the Code of practice on disinformation.

Or. en

Amendment 303
Stéphane Séjourné

Proposal for a regulation
Recital 69

Text proposed by the Commission

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

Amendment

(69) The rules on codes of conduct under this Regulation could serve as a basis for already established self-regulatory efforts at Union level, including the Product Safety Pledge, the Memorandum of Understanding against counterfeit goods, the Code of Conduct against illegal hate speech as well as the Code of practice on disinformation. In particular for the latter, ***since*** the Commission ***has issued*** guidance for strengthening the Code of practice on disinformation as announced in the European Democracy Action Plan ***in May 2021***.

Or. en

Amendment 304
Emmanuel Maurel

Proposal for a regulation
Recital 70

Text proposed by the Commission

(70) The provision of online advertising generally involves several actors, including intermediary services that connect publishers of advertising with advertisers. Codes of conducts should support and complement the transparency obligations relating to advertisement for online platforms and very large online platforms set out in this Regulation in order to provide for flexible and effective mechanisms to facilitate and enhance the compliance with those obligations, notably as concerns the modalities of the transmission of the relevant information. The involvement of a wide range of

Amendment

deleted

stakeholders should ensure that those codes of conduct are widely supported, technically sound, effective and offer the highest levels of user-friendliness to ensure that the transparency obligations achieve their objectives.

Or. fr

Amendment 305

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 70

Text proposed by the Commission

(70) The provision of online advertising generally involves several actors, including intermediary services that connect publishers of advertising with advertisers. Codes of conducts should support and complement the transparency obligations relating to advertisement for online platforms and very large online platforms set out in this Regulation in order to provide for flexible and effective mechanisms to facilitate and enhance the compliance with those obligations, ***notably as concerns the modalities of the transmission of the relevant information.*** The involvement of a wide range of stakeholders should ensure that those codes of conduct are widely supported, technically sound, effective and offer the highest levels of user-friendliness to ensure that the transparency obligations achieve their objectives.

Amendment

(70) The provision of online advertising generally involves several actors, including intermediary services that connect publishers of advertising with advertisers. Codes of conducts should support and complement the transparency obligations relating to advertisement for online platforms and very large online platforms set out in this Regulation in order to provide for flexible and effective mechanisms to facilitate and enhance the compliance with those obligations, . The involvement of a wide range of stakeholders should ensure that those codes of conduct are widely supported, technically sound, effective and offer the highest levels of user-friendliness to ensure that the transparency obligations achieve their objectives.

Or. en

Amendment 306

Emmanuel Maurel

Proposal for a regulation
Recital 71

Text proposed by the Commission

Amendment

(71) In case of extraordinary circumstances affecting public security or public health, the Commission may initiate the drawing up of crisis protocols to coordinate a rapid, collective and cross-border response in the online environment. Extraordinary circumstances may entail any unforeseeable event, such as earthquakes, hurricanes, pandemics and other serious cross-border threats to public health, war and acts of terrorism, where, for example, online platforms may be misused for the rapid spread of illegal content or disinformation or where the need arises for rapid dissemination of reliable information. In light of the important role of very large online platforms in disseminating information in our societies and across borders, such platforms should be encouraged in drawing up and applying specific crisis protocols. Such crisis protocols should be activated only for a limited period of time and the measures adopted should also be limited to what is strictly necessary to address the extraordinary circumstance. Those measures should be consistent with this Regulation, and should not amount to a general obligation for the participating very large online platforms to monitor the information which they transmit or store, nor actively to seek facts or circumstances indicating illegal content.

deleted

Or. fr

Amendment 307
Alessandra Basso, Gunnar Beck, Gilles Lebreton

Proposal for a regulation
Recital 71

(71) In case of extraordinary circumstances affecting public security or public health, the Commission may initiate the drawing up of crisis protocols to coordinate a rapid, collective and cross-border response in the online environment. Extraordinary circumstances may entail any unforeseeable event, such as earthquakes, hurricanes, pandemics and other serious cross-border threats to public health, war and acts of terrorism, where, for example, online platforms may be misused for the rapid spread of illegal content or disinformation or where the need arises for rapid dissemination of reliable information. In light of the important role of very large online platforms in disseminating information in our societies and across borders, such platforms should be encouraged in drawing up and applying specific crisis protocols. Such crisis protocols should be activated only for a limited period of time and the measures adopted should also be limited to what is strictly necessary to address the extraordinary circumstance. Those measures should be consistent with this Regulation, ***and should not amount to a general obligation for the participating very large online platforms to monitor the information which they transmit or store, nor actively to seek facts or circumstances indicating illegal content.***

(71) In case of extraordinary circumstances affecting public security or public health, the Commission ***in cooperation with the Board*** may initiate the drawing up of crisis protocols to coordinate a rapid, collective and cross-border response in the online environment. Extraordinary circumstances may entail any unforeseeable event, such as earthquakes, hurricanes, pandemics and other serious cross-border threats to public health, war and acts of terrorism, where, for example, online platforms may be misused for the rapid spread of illegal content or disinformation or where the need arises for rapid dissemination of reliable information. In light of the important role of very large online platforms in disseminating information in our societies and across borders, such platforms should be encouraged in drawing up and applying specific crisis protocols. Such crisis protocols should be activated only for a limited period of time and the measures adopted should also be limited to what is strictly necessary to address the extraordinary circumstance. Those measures should be consistent with this Regulation.

Or. en

Amendment 308

Patrick Breyer

Proposal for a regulation

Recital 71

Text proposed by the Commission

Amendment

(71) In case of extraordinary circumstances affecting public security or

(71) In case of extraordinary circumstances affecting public security or

public health, the Commission may initiate the drawing up of crisis protocols to coordinate a rapid, collective and cross-border response in the online environment. Extraordinary circumstances may entail any unforeseeable event, such as earthquakes, hurricanes, pandemics and other serious cross-border threats to public health, war and acts of terrorism, where, for example, online platforms may be misused for the rapid spread of illegal content or disinformation or where the need arises for rapid dissemination of reliable information. In light of the important role of very large online platforms in disseminating information in our societies and across borders, such platforms **should** be encouraged in drawing up and applying specific crisis protocols. Such crisis protocols should be activated only for a limited period of time and the measures adopted should also be limited to what is strictly necessary to address the extraordinary circumstance. Those measures should be consistent with this Regulation, and should not amount to a general obligation for the participating very large online platforms to monitor the information which they transmit or store, nor actively to seek facts or circumstances indicating illegal content.

public health, the Commission may initiate the drawing up of crisis protocols to coordinate a rapid, collective and cross-border response in the online environment. Extraordinary circumstances may entail any unforeseeable event, such as earthquakes, hurricanes, pandemics and other serious cross-border threats to public health, war and acts of terrorism, where, for example, online platforms may be misused for the rapid spread of illegal content or disinformation or where the need arises for rapid dissemination of reliable information. In light of the important role of very large online platforms in disseminating information in our societies and across borders, such platforms **may** be encouraged in drawing up and applying specific crisis protocols. Such crisis protocols should be activated only for a limited period of time and the measures adopted should also be limited to what is strictly necessary to address the extraordinary circumstance. Those measures should be consistent with this Regulation, and should not amount to a general obligation for the participating very large online platforms to monitor the information which they transmit or store, nor actively to seek facts or circumstances indicating illegal content.

Or. en

Amendment 309

Patrick Breyer

Proposal for a regulation

Recital 71 a (new)

Text proposed by the Commission

Amendment

(71 a) "Soft law" instruments such as codes of conduct and crisis protocols may pose a risk to fundamental rights because, unlike legislation, they are not subject to democratic scrutiny and their compliance with fundamental rights is not subject to

judicial review. In order to enhance accountability, participation and transparency, procedural safeguards for drawing up codes of conduct and crisis protocols are needed.

Or. en

Amendment 310
Emmanuel Maurel

Proposal for a regulation
Recital 73

Text proposed by the Commission

(73) Given the cross-border nature of the services at stake and the horizontal range of obligations introduced by this Regulation, the authority appointed with the task of supervising the application and, where necessary, enforcing this Regulation should be identified as a Digital Services Coordinator in each Member State. Where more than one competent authority is appointed to apply and enforce this Regulation, only one authority in that Member State should be identified as a Digital Services Coordinator. The Digital Services Coordinator should act as the single contact point with regard to all matters related to the application of this Regulation for the Commission, the Board, the Digital Services Coordinators of other Member States, as well as for other competent authorities of the Member State in question. In particular, where several competent authorities are entrusted with tasks under this Regulation in a given Member State, the Digital Services Coordinator should coordinate and cooperate with those authorities in accordance with the national law setting their respective tasks, and should ensure effective involvement of all relevant authorities in the supervision and enforcement at Union level.

Amendment

(73) Given the cross-border nature of the services at stake and the horizontal range of obligations introduced by this Regulation, the authority appointed with the task of supervising the application and, where necessary, enforcing this Regulation should be identified as a Digital Services Coordinator in each Member State. Where more than one competent authority is appointed to apply and enforce this Regulation, only one authority in that Member State should be identified as a Digital Services Coordinator. The Digital Services Coordinator should act as the single contact point with regard to all matters related to the application of this Regulation for the Commission, the Board, the Digital Services Coordinators of other Member States, as well as for other competent authorities of the Member State in question. In particular, where several competent authorities are entrusted with tasks under this Regulation in a given Member State, the Digital Services Coordinator should coordinate and cooperate with those authorities in accordance with the national law setting their respective tasks, and should ensure effective involvement of all relevant authorities, ***particularly the independent national media regulation authorities***, in the supervision and enforcement at Union

level.

Or. fr

Amendment 311
Emmanuel Maurel

Proposal for a regulation
Recital 74

Text proposed by the Commission

(74) The Digital Services Coordinator, as well as other competent authorities designated under this Regulation, play a crucial role in ensuring the effectiveness of the rights and obligations laid down in this Regulation and the achievement of its objectives. Accordingly, it is necessary to ensure that those authorities act in complete independence from private and public bodies, without the obligation or possibility to seek or receive instructions, including from the government, and without prejudice to the specific duties to cooperate with other competent authorities, the Digital Services Coordinators, the Board and the Commission. On the other hand, the independence of these authorities should not mean that they cannot be subject, in accordance with national constitutions and without endangering the achievement of the objectives of this Regulation, to national control or monitoring mechanisms regarding their financial expenditure or to judicial review, or that they should not have the possibility to consult other national authorities, including law enforcement *authorities* or crisis management *authorities*, where appropriate.

Amendment

(74) The Digital Services Coordinator, as well as other competent authorities designated under this Regulation, play a crucial role in ensuring the effectiveness of the rights and obligations laid down in this Regulation and the achievement of its objectives. Accordingly, it is necessary to ensure that those authorities act in complete independence from private and public bodies, without the obligation or possibility to seek or receive instructions, including from the government, and without prejudice to the specific duties to cooperate with other competent authorities, the Digital Services Coordinators, the Board and the Commission. On the other hand, the independence of these authorities should not mean that they cannot be subject, in accordance with national constitutions and without endangering the achievement of the objectives of this Regulation, to national control or monitoring mechanisms regarding their financial expenditure or to judicial review, or that they should not have the possibility to consult other national authorities, including *authorities responsible for consumer protection, market surveillance, data protection*, law enforcement or crisis management, where appropriate.

Or. fr

Amendment 312

Proposal for a regulation

Recital 76

Text proposed by the Commission

(76) In the absence of a general requirement for providers of intermediary services to ensure a physical presence within the territory of one of the Member States, there is a need to ensure clarity under which Member State's jurisdiction those providers fall for the purposes of enforcing the rules laid down in Chapters III and IV by the national competent authorities. ***A provider should be under the jurisdiction of the Member State where its main establishment is located, that is, where the provider has its head office or registered office within which the principal financial functions and operational control are exercised. In respect of providers that do not have an establishment in the Union but that offer services in the Union and therefore fall within the scope of this Regulation, the Member State where those providers appointed their legal representative should have jurisdiction, considering the function of legal representatives under this Regulation. In the interest of the effective application of this Regulation, all Member States should, however, have jurisdiction in respect of providers that failed to designate a legal representative, provided that the principle of ne bis in idem is respected. To that aim, each Member State that exercises jurisdiction in respect of such providers should, without undue delay, inform all other Member States of the measures they have taken in the exercise of that jurisdiction.***

Amendment

(76) In the absence of a general requirement for providers of intermediary services to ensure a physical presence within the territory of one of the Member States, there is a need to ensure clarity under which Member State's jurisdiction those providers fall for the purposes of enforcing the rules laid down in Chapters III and IV by the national competent authorities.

With the exception of complaints and legal actions involving consumers or launched by consumers or independent organisations representing consumers, or by companies or creators seeking respect for intellectual property, a provider should be under the jurisdiction of the

Member State where its main establishment is located, that is, where the provider has its head office in the Union within which the principal financial functions and operational control of compliance with this Regulation are exercised. The main establishment of a provider of intermediary services should be determined according to objective criteria and should involve real and effective management action to determine the main decisions governing the fight against illegal online content and activities and compliance with this Regulation in the Union. Authorities in the Member State(s) where consumers are affected shall be responsible for enforcing this Regulation. In the interest of the swift and effective application of this Regulation, all Member States should have jurisdiction in respect of providers with no establishment in the Union but which provide services in the Union and therefore fall within the scope of this Regulation, irrespective of the place where they designate or do not designate a legal representative, provided that the principle of ne bis in idem is respected. To that aim, each Member State that exercises jurisdiction in respect of such providers should, without undue delay, inform all other Member States of the measures they have taken in the exercise of that jurisdiction and should publish these measures.

Or. fr

Amendment 313
Kosma Zlotowski

Proposal for a regulation
Recital 76

Text proposed by the Commission

(76) In the absence of a general requirement for providers of intermediary

Amendment

(76) In the absence of a general requirement for providers of intermediary

services to ensure a physical presence within the territory of one of the Member States, there is a need to ensure clarity under which Member State's jurisdiction those providers fall for the purposes of enforcing the rules laid down in Chapters III and IV by the national competent authorities. A provider should be under the jurisdiction of the Member State where its main establishment is located, that is, where the provider has its head office or registered office within which the principal financial functions and operational control are exercised. In respect of providers that do not have an establishment in the Union but that offer services in the Union and therefore fall within the scope of this Regulation, the Member State where those providers appointed their legal representative should have jurisdiction, considering the function of legal representatives under this Regulation. In the interest of the effective application of this Regulation, all Member States should, however, have jurisdiction in respect of providers that failed to designate a legal representative, provided that the principle of ne bis in idem is respected. To that aim, each Member State that exercises jurisdiction in respect of such providers should, without undue delay, inform all other Member States of the measures they have taken in the exercise of that jurisdiction.

services to ensure a physical presence within the territory of one of the Member States, there is a need to ensure clarity under which Member State's jurisdiction those providers fall for the purposes of enforcing the rules laid down in Chapters III and IV by the national competent authorities. A provider should be under the jurisdiction of the Member State where its main establishment is located, that is, where the provider has its head office or registered office within which the principal financial functions and operational control are exercised. In respect of providers that do not have an establishment in the Union but that offer services in the Union and therefore fall within the scope of this Regulation, the Member State where those providers appointed their legal representative should have jurisdiction, considering the function of legal representatives under this Regulation. In the interest of the effective application of this Regulation, all Member States should, however, have jurisdiction in respect of providers that failed to designate a legal representative, provided that the principle of ne bis in idem is respected. To that aim, each Member State that exercises jurisdiction in respect of such providers should, without undue delay, inform all other Member States of the measures they have taken in the exercise of that jurisdiction. *In addition, in order to ensure effective protection of the rights of Union citizens that take into account diverse national laws and difference in socio-cultural context between countries, a Member State should exercise jurisdiction where it concerns online social networking services provided by very large online platforms which offer services to a significant number of recipients in a given Member State. Member States jurisdiction is particularly important in case of very large online platforms which are social networks because they play a central role in facilitating the public debate.*

Amendment 314**Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné****Proposal for a regulation****Recital 76***Text proposed by the Commission*

(76) In the absence of a general requirement for providers of intermediary services to ensure a physical presence within the territory of one of the Member States, there is a need to ensure clarity under which Member State's jurisdiction those providers fall for the purposes of enforcing the rules laid down in Chapters III and IV by the national competent authorities. A provider should be under the jurisdiction of the Member State where its main establishment is located, that is, where the provider has its head office or registered office within which the principal financial functions and operational control are exercised. In respect of providers that do not have an establishment in the Union but that offer services in the Union and therefore fall within the scope of this Regulation, the Member State where those providers appointed their legal representative should have jurisdiction, considering the function of legal representatives under this Regulation. In the interest of the effective application of this Regulation, all Member States should, however, have jurisdiction in respect of providers that failed to designate a legal representative, provided that the principle of ne bis in idem is respected. To that aim, each Member State that exercises jurisdiction in respect of such providers should, without undue delay, inform all other Member States of the measures they have taken in the exercise of that jurisdiction.

Amendment

(76) In the absence of a general requirement for providers of intermediary services to ensure a physical presence within the territory of one of the Member States, there is a need to ensure clarity under which Member State's jurisdiction those providers fall for the purposes of enforcing the rules laid down in Chapters III and IV **and Article 8 and 9** by the national competent authorities. A provider should be under the jurisdiction of the Member State where its main establishment is located, that is, where the provider has its head office or registered office within which the principal financial functions and operational control are exercised. In respect of providers that do not have an establishment in the Union but that offer services in the Union and therefore fall within the scope of this Regulation, the Member State where those providers appointed their legal representative should have jurisdiction, considering the function of legal representatives under this Regulation. In the interest of the effective application of this Regulation, all Member States should, however, have jurisdiction in respect of providers that failed to designate a legal representative, provided that the principle of ne bis in idem is respected. To that aim, each Member State that exercises jurisdiction in respect of such providers should, without undue delay, inform all other Member States of the measures they have taken in the exercise of that jurisdiction.

Amendment 315

Alessandra Basso, Gunnar Beck, Gilles Lebreton

Proposal for a regulation

Recital 76 a (new)

Text proposed by the Commission

Amendment

(76 a) With regard to very large online platforms that offer services in the Union and therefore fall within the scope of this Regulation, Member States where individuals or representative organisations received their services shall have jurisdiction, without prejudice to the relevant consumer protection jurisdiction under national and European law.

Or. en

Amendment 316

Stéphane Séjourné

Proposal for a regulation

Recital 77

Text proposed by the Commission

Amendment

(77) Member States should provide the Digital Services Coordinator, and any other competent authority designated under this Regulation, with sufficient powers and means to ensure effective investigation and enforcement. Digital Services Coordinators should in particular be able to search for and obtain information which is located in its territory, including in the context of joint investigations, with due regard to the fact that oversight and enforcement measures concerning a provider under the jurisdiction of another Member State should be adopted by the Digital Services Coordinator of that other Member State, where relevant in accordance with the

(77) Member States should provide the Digital Services Coordinator, and any other competent authority designated under this Regulation, with sufficient powers and means to ensure effective investigation and enforcement. Digital Services Coordinators should in particular be able to search for and obtain information which is located in its territory, including in the context of joint investigations, with due regard to the fact that oversight and enforcement measures concerning a provider under the jurisdiction of another Member State should be adopted by the Digital Services Coordinator of that other Member State, where relevant in accordance with the

procedures relating to cross-border cooperation.

procedures relating to cross-border cooperation. ***Member States should also consider specialised training, in cooperation with Union bodies, offices and agencies, for relevant national authorities, in particular administrative authorities, who are responsible for issuing orders to act against illegal content and provide information.***

Or. en

Amendment 317

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Recital 78

Text proposed by the Commission

(78) Member States should set out in their national law, in accordance with Union law and in particular this Regulation and the Charter, the detailed conditions and limits for the exercise of the investigatory and enforcement powers of their Digital Services Coordinators, and other competent authorities where relevant, under this Regulation.

Amendment

(78) Member States should set out in their national law, in accordance with Union law and in particular this Regulation and the Charter, the detailed conditions and limits for the exercise of the investigatory and enforcement powers of their Digital Services Coordinators, and other competent authorities where relevant, under this Regulation. ***In order to ensure coherence between the Member States, the Commission should adopt guidance on the procedures and rules related to the powers of Digital Services Coordinators.***

Or. en

Amendment 318

Alessandra Basso, Gunnar Beck, Gilles Lebreton

Proposal for a regulation

Recital 81

Text proposed by the Commission

(81) In order to ensure effective enforcement of this Regulation, individuals

Amendment

(81) In order to ensure effective enforcement of this Regulation, individuals

or representative organisations should be able to lodge any complaint related to compliance with this Regulation with the Digital Services Coordinator in the territory where they received the service, without prejudice to this Regulation's rules on jurisdiction. Complaints should provide a faithful overview of concerns related to a particular intermediary service provider's compliance and could also inform the Digital Services Coordinator of any more cross-cutting issues. The Digital Services Coordinator should involve other national competent authorities as well as the Digital Services Coordinator of another Member State, and in particular the one of the Member State where the provider of intermediary services concerned is established, if the issue requires cross-border cooperation.

or representative organisations should be able to lodge any complaint related to compliance with this Regulation with the Digital Services Coordinator in the territory where they received the service, without prejudice to this Regulation's rules on jurisdiction. Complaints should provide a faithful overview of concerns related to a particular intermediary service provider's compliance and could also inform the Digital Services Coordinator of any more cross-cutting issues. The Digital Services Coordinator should involve other national competent authorities as well as the Digital Services Coordinator of another Member State, and in particular the one of the Member State where the provider of intermediary services concerned is established, if the issue requires cross-border cooperation. ***Whether the relevant case involve a very large online platform, the national Digital Services Coordinator that received the complaint should be able to act and take the adequate measures under this Regulation.***

Or. en

Amendment 319

Karen Melchior

Proposal for a regulation

Recital 85

Text proposed by the Commission

(85) Where a Digital Services Coordinator requests another Digital Services Coordinator to take action, the requesting Digital Services Coordinator, or the Board in case it issued a recommendation to assess issues involving more than **three** Member States, should be able to refer the matter to the Commission in case of any disagreement as to the assessments or the measures taken or proposed or a failure to adopt any measures. The Commission, on the basis of

Amendment

(85) Where a Digital Services Coordinator requests another Digital Services Coordinator to take action, the requesting Digital Services Coordinator, or the Board in case it issued a recommendation to assess issues involving more than **four** Member States, should be able to refer the matter to the Commission in case of any disagreement as to the assessments or the measures taken or proposed or a failure to adopt any measures. ***If the Commission believes that***

the information made available by the concerned authorities, should accordingly be able to request the competent Digital Services Coordinator to re-assess the matter and take the necessary measures to ensure compliance within a defined time period. This possibility is without prejudice to the Commission's general duty to oversee the application of, and where necessary enforce, Union law under the control of the Court of Justice of the European Union in accordance with the Treaties. A failure by the Digital Services Coordinator of establishment to take any measures pursuant to such a request may also lead to the Commission's intervention under Section 3 of Chapter IV of this Regulation, where the suspected infringer is a very large online platform

the Digital Services Coordinator of establishment has not at least partially addressed the request or has not fully justified its decision to not address the request, the Commission, on the basis of the information made available by the concerned authorities, should accordingly be able to request the competent Digital Services Coordinator to re-assess the matter and take the necessary measures to ensure compliance within a defined time period. This possibility is without prejudice to the Commission's general duty to oversee the application of, and where necessary enforce, Union law under the control of the Court of Justice of the European Union in accordance with the Treaties. A failure by the Digital Services Coordinator of establishment to take any measures pursuant to such a request may also lead to the Commission's intervention under Section 3 of Chapter IV of this Regulation, where the suspected infringer is a very large online platform.

Or. en

Amendment 320

Alessandra Basso, Gunnar Beck, Gilles Lebreton

Proposal for a regulation

Recital 85

Text proposed by the Commission

(85) Where a Digital Services Coordinator requests another Digital Services Coordinator to take action, the requesting Digital Services Coordinator, or the Board in case it issued a recommendation to assess issues involving more than three Member States, should be able to refer the matter to the Commission in case of any disagreement as to the assessments or the measures taken or proposed or a failure to adopt any measures. The Commission, on the basis of the information made available by the

Amendment

(85) Where a Digital Services Coordinator requests another Digital Services Coordinator to take action, the requesting Digital Services Coordinator, or the Board in case it issued a recommendation to assess issues involving more than three Member States, should be able to refer the matter to the Commission in case of any disagreement as to the assessments or the measures taken or proposed or a failure to adopt any measures. The Commission, on the basis of the information made available by the

concerned authorities, should accordingly be able to request the competent Digital Services Coordinator to re-assess the matter and take the necessary measures to ensure compliance within a defined time period. This possibility is without prejudice to the Commission's general duty to oversee the application of, and where necessary enforce, Union law under the control of the Court of Justice of the European Union in accordance with the Treaties. A failure by the Digital Services Coordinator *of establishment* to take any measures pursuant to such a request may also lead to the Commission's intervention under Section 3 of Chapter IV of this Regulation, *where the suspected infringer is a very large online platform*

concerned authorities, should accordingly be able to request the competent Digital Services Coordinator to re-assess the matter and take the necessary measures to ensure compliance within a defined time period. This possibility is without prejudice to the Commission's general duty to oversee the application of, and where necessary enforce, Union law under the control of the Court of Justice of the European Union in accordance with the Treaties. A failure by the Digital Services Coordinator to take any measures pursuant to such a request may also lead to the Commission's intervention under Section 3 of Chapter IV of this Regulation.

Or. en

Amendment 321 **Emmanuel Maurel**

Proposal for a regulation **Recital 87**

Text proposed by the Commission

(87) In view of the particular challenges that may emerge in relation to assessing and ensuring a **very** large online platform's compliance, for instance relating to the scale or complexity of a suspected infringement or the need for particular expertise or capabilities at Union level, Digital Services Coordinators should have the possibility to request, ***on a voluntary basis***, the Commission to intervene and exercise its investigatory and enforcement powers under this Regulation.

Amendment

(87) In view of the particular challenges that may emerge in relation to assessing and ensuring a large online platform's compliance, for instance relating to the scale or complexity of a suspected infringement or the need for particular expertise or capabilities at Union level, Digital Services Coordinators should have the possibility to request the Commission to intervene and exercise its investigatory and enforcement powers under this Regulation.

Or. fr

Amendment 322 **Karen Melchior, Liesje Schreinemacher**

Proposal for a regulation
Recital 88

Text proposed by the Commission

(88) In order to ensure a consistent application of this Regulation, it is necessary to set up an independent advisory group at Union level, which should support the Commission and help coordinate the actions of Digital Services Coordinators. That European Board for Digital Services should consist of the Digital Services Coordinators, without prejudice to the possibility for Digital Services Coordinators to invite in its meetings or appoint ad hoc delegates from other competent authorities entrusted with specific tasks under this Regulation, where that is required pursuant to their national allocation of tasks and competences. In case of multiple participants from one Member State, the voting right should remain limited to ***one representative per Member State***.

Amendment

(88) In order to ensure a consistent application of this Regulation, it is necessary to set up an independent advisory group at Union level ***and with legal personality***, which should support the Commission and help coordinate the actions of Digital Services Coordinators. That European Board for Digital Services should consist of the Digital Services Coordinators, without prejudice to the possibility for Digital Services Coordinators to invite in its meetings or appoint ad hoc delegates from other competent authorities entrusted with specific tasks under this Regulation, where that is required pursuant to their national allocation of tasks and competences. In case of multiple participants from one Member State, the voting right should remain limited to ***the Member State's Digital Services Coordinator***.

Or. en

Amendment 323
Emmanuel Maurel

Proposal for a regulation
Recital 89

Text proposed by the Commission

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

Amendment

(89) The Board should contribute to achieving a common Union perspective on the consistent application of this Regulation and to cooperation among competent authorities, including by advising the Commission and the Digital Services Coordinators about appropriate investigation and enforcement measures, in particular vis à vis large online platforms. The Board should also contribute to the

contribute to the drafting of relevant templates and codes of conduct and analyse emerging general trends in the development of digital services in the Union.

drafting of relevant templates and codes of conduct and analyse emerging general trends in the development of digital services in the Union.

Or. fr

Amendment 324
Emmanuel Maurel

Proposal for a regulation
Recital 90

Text proposed by the Commission

(90) For that purpose, the Board should be able to adopt opinions, requests and recommendations addressed to Digital Services Coordinators or other competent national authorities. ***While not legally binding***, the decision to deviate therefrom should be properly explained and could be taken into account by the Commission in assessing the compliance of the Member State concerned with this Regulation.

Amendment

(90) For that purpose, the Board should be able to adopt opinions, requests and recommendations addressed to Digital Services Coordinators or other competent national authorities. The decision to deviate therefrom should be properly explained and could be taken into account by the Commission in assessing the compliance of the Member State concerned with this Regulation.

Or. fr

Amendment 325
Emmanuel Maurel

Proposal for a regulation
Recital 91

Text proposed by the Commission

(91) The Board should bring together the representatives of the Digital Services Coordinators and possible other competent authorities under the chairmanship of the Commission, with a view to ensuring an assessment of matters submitted to it in a fully European dimension. In view of possible cross-cutting elements that may be of relevance for other regulatory

Amendment

(91) The Board should bring together the representatives of the Digital Services Coordinators and possible other competent authorities under the chairmanship of the Commission, with a view to ensuring an assessment of matters submitted to it in a fully European dimension. In view of possible cross-cutting elements that may be of relevance for other regulatory

frameworks at Union level, the Board should be allowed to cooperate with other Union bodies, offices, agencies and advisory groups with responsibilities in fields such as equality, including equality between women and men, and non-discrimination, data protection, electronic communications, audiovisual services, detection and investigation of frauds against the EU budget as regards custom duties, or consumer protection, as necessary for the performance of its tasks.

frameworks at Union level, the Board should be allowed to cooperate with other Union bodies, offices, agencies and advisory groups with responsibilities in fields such as equality, including equality between women and men, and non-discrimination, data protection, ***respect for intellectual property***, electronic communications, audiovisual services, detection and investigation of frauds against the EU budget as regards custom duties, or consumer protection, as necessary for the performance of its tasks.

Or. fr

Amendment 326

Stéphane Séjourné, Adrián Vázquez Lázara

Proposal for a regulation

Recital 91

Text proposed by the Commission

(91) The Board should bring together the representatives of the Digital Services Coordinators and possible other competent authorities under the chairmanship of the Commission, with a view to ensuring an assessment of matters submitted to it in a fully European dimension. In view of possible cross-cutting elements that may be of relevance for other regulatory frameworks at Union level, the Board should be allowed to cooperate with other Union bodies, offices, agencies and advisory groups with responsibilities in fields such as equality, including equality between women and men, and non-discrimination, data protection, electronic communications, audiovisual services, detection and investigation of frauds against the EU budget as regards custom duties, or consumer protection, as necessary for the performance of its tasks.

Amendment

(91) The Board should bring together the representatives of the Digital Services Coordinators and possible other competent authorities under the chairmanship of the Commission, with a view to ensuring an assessment of matters submitted to it in a fully European dimension. In view of possible cross-cutting elements that may be of relevance for other regulatory frameworks at Union level, the Board should be allowed to cooperate with other Union bodies, offices, agencies and advisory groups with responsibilities in fields such as equality, including equality between women and men, and non-discrimination, data protection, electronic communications, audiovisual services, ***intellectual property***, detection and investigation of frauds against the EU budget as regards custom duties, or consumer protection, as necessary for the performance of its tasks.

Or. en

Amendment 327
Kosma Złotowski

Proposal for a regulation
Recital 91

Text proposed by the Commission

(91) The Board should bring together the representatives of the Digital Services Coordinators and possible other competent authorities under the chairmanship of the Commission, with a view to ensuring an assessment of matters submitted to it in a fully European dimension. In view of possible cross-cutting elements that may be of relevance for other regulatory frameworks at Union level, the Board should be allowed to cooperate with other Union bodies, offices, agencies and advisory groups with responsibilities in fields such as equality, including equality between women and men, and non-discrimination, data protection, electronic communications, audiovisual services, detection and investigation of frauds against the EU budget as regards custom duties, or consumer protection, as necessary for the performance of its tasks.

Amendment

(91) The Board should bring together the representatives of the Digital Services Coordinators and possible other competent authorities under the chairmanship of the Commission, with a view to ensuring an assessment of matters submitted to it in a fully European dimension. In view of possible cross-cutting elements that may be of relevance for other regulatory frameworks at Union level, the Board should be allowed to cooperate with other Union bodies, offices, agencies and advisory groups with responsibilities in fields such as equality, including equality between women and men, and non-discrimination, data protection, **competition**, electronic communications, audiovisual services, detection and investigation of frauds against the EU budget as regards custom duties, or consumer protection, as necessary for the performance of its tasks.

Or. en

Amendment 328
Emmanuel Maurel

Proposal for a regulation
Recital 92

Text proposed by the Commission

(92) The Commission, ***through the Chair***, should participate in the Board without voting rights. ***Through the Chair, the Commission should ensure that the agenda of the meetings is set in***

Amendment

(92) The Commission should participate in the Board without voting rights.

accordance with the requests of the members of the Board as laid down in the rules of procedure and in compliance with the duties of the Board laid down in this Regulation.

Or. fr

Amendment 329
Emmanuel Maurel

Proposal for a regulation
Recital 94

Text proposed by the Commission

(94) Given the importance of **very** large online platforms, in view of their reach and impact, their failure to comply with the specific obligations applicable to them may affect a substantial number of recipients of the services across different Member States and may cause large societal harms, while such failures may also be particularly complex to identify and address.

Amendment

(94) Given the importance of large online platforms, in view of their reach and impact, their failure to comply with the specific obligations applicable to them may affect a substantial number of recipients of the services across different Member States and may cause large societal harms, while such failures may also be particularly complex to identify and address.

Or. fr

Amendment 330
Alessandra Basso, Gunnar Beck, Gilles Lebreton

Proposal for a regulation
Recital 95

Text proposed by the Commission

(95) In order to address those public policy concerns it is therefore necessary to provide for a common system of enhanced supervision and enforcement at Union level. Once an infringement of one of the provisions that solely apply to very large online platforms has been identified, for instance pursuant to individual or joint investigations, auditing or complaints, the Digital Services Coordinator *of*

Amendment

(95) In order to address those public policy concerns it is therefore necessary to provide for a common system of enhanced supervision and enforcement at Union level. Once an infringement of one of the provisions that solely apply to very large online platforms has been identified, for instance pursuant to individual or joint investigations, auditing or complaints, the **interested** Digital Services Coordinator,

establishment, upon its own initiative or upon the Board's advice, should monitor any subsequent measure taken by the very large online platform concerned as set out in its action plan. That Digital Services Coordinator should be able to ask, where appropriate, for an additional, specific audit to be carried out, **on a voluntary basis**, to establish whether those measures are sufficient to address the infringement. At the end of that procedure, it should inform the Board, the Commission and the platform concerned of its views on whether or not that platform addressed the infringement, specifying in particular the relevant conduct and its assessment of any measures taken. The Digital Services **Coordinator** should perform **its** role under this common system in a timely manner and taking utmost account of any opinions and other advice of the Board.

upon its own initiative or upon the Board's advice, should monitor any subsequent measure taken by the very large online platform concerned as set out in its action plan. That Digital Services Coordinator should be able to ask, where appropriate, for an additional, specific audit to be carried out, to establish whether those measures are sufficient to address the infringement. At the end of that procedure, it should inform the Board, the Commission and the platform concerned of its views on whether or not that platform addressed the infringement, specifying in particular the relevant conduct and its assessment of any measures taken. The Digital Services **Coordinators** should perform **their** role under this common system in a timely manner and taking utmost account of any opinions and other advice of the Board.

Or. en

Amendment 331 **Emmanuel Maurel**

Proposal for a regulation **Recital 95**

Text proposed by the Commission

(95) In order to address those public policy concerns it is therefore necessary to provide for a common system of enhanced supervision and enforcement at Union level. Once an infringement of one of the provisions that solely apply to **very** large online platforms has been identified, for instance pursuant to individual or joint investigations, auditing or complaints, the Digital Services Coordinator of establishment, upon its own initiative or upon the Board's advice, should monitor any subsequent measure taken by the **very** large online platform concerned as set out in its action plan. That Digital Services Coordinator should be able to ask, where

Amendment

(95) In order to address those public policy concerns it is therefore necessary to provide for a common system of enhanced supervision and enforcement at Union level. Once an infringement of one of the provisions that solely apply to large online platforms has been identified, for instance pursuant to individual or joint investigations, auditing or complaints, the Digital Services Coordinator of establishment, upon its own initiative or upon the Board's advice, should monitor any subsequent measure taken by the large online platform concerned as set out in its action plan. That Digital Services Coordinator should be able to ask, where

appropriate, for an additional, specific audit to be carried out, on a voluntary basis, to establish whether those measures are sufficient to address the infringement. At the end of that procedure, it should inform the Board, the Commission and the platform concerned of its views on whether or not that platform addressed the infringement, specifying in particular the relevant conduct and its assessment of any measures taken. The Digital Services Coordinator should perform its role under this common system in a timely manner and taking utmost account of any opinions and other advice of the Board.

appropriate, for an additional, specific audit to be carried out, on a voluntary basis, to establish whether those measures are sufficient to address the infringement. At the end of that procedure, it should inform the Board, the Commission and the platform concerned of its views on whether or not that platform addressed the infringement, specifying in particular the relevant conduct and its assessment of any measures taken. The Digital Services Coordinator should perform its role under this common system in a timely manner and taking utmost account of any opinions and other advice of the Board.

Or. fr

Amendment 332

Alessandra Basso, Gunnar Beck, Gilles Lebreton

Proposal for a regulation

Recital 96

Text proposed by the Commission

(96) Where the infringement of the provision that solely applies to very large online platforms is not effectively addressed by that platform pursuant to the action plan, only the Commission may, on its own initiative or upon advice of the Board, decide to further investigate the infringement concerned and the measures that the platform has subsequently taken, **to the exclusion of the Digital Services Coordinator of establishment**. After having conducted the necessary investigations, the Commission should be able to issue decisions finding an infringement and imposing sanctions in respect of very large online platforms where that is justified. It should also have such a possibility to intervene in cross-border situations where the Digital Services **Coordinator of establishment** did not take any measures despite the Commission's request, or in situations

Amendment

(96) Where the infringement of the provision that solely applies to very large online platforms is not effectively addressed by that platform pursuant to the action plan, only the Commission may, on its own initiative or upon advice of the Board, decide to further investigate the infringement concerned and the measures that the platform has subsequently taken. After having conducted the necessary investigations, the Commission should be able to issue decisions finding an infringement and imposing sanctions in respect of very large online platforms where that is justified. It should also have such a possibility to intervene in cross-border situations where the **relevant** Digital Services **Coordinators** did not take any measures despite the Commission's request, or in situations where **a** Digital Services Coordinator requested for the Commission to intervene, in respect of an

where *the* Digital Services Coordinator *of establishment itself* requested for the Commission to intervene, in respect of an infringement of any other provision of this Regulation committed by a very large online platform.

infringement of any other provision of this Regulation committed by a very large online platform.

Or. en

Amendment 333
Emmanuel Maurel

Proposal for a regulation
Recital 96

Text proposed by the Commission

(96) Where the infringement of the provision that solely applies to **very** large online platforms is not effectively addressed by that platform pursuant to the action plan, only the Commission may, on its own initiative or upon advice of the Board, decide to further investigate the infringement concerned and the measures that the platform has subsequently taken, to the exclusion of the Digital Services Coordinator of establishment. After having conducted the necessary investigations, the Commission should be able to issue decisions finding an infringement and imposing sanctions in respect of **very** large online platforms where that is justified. It should also have such a possibility to intervene in cross-border situations where the Digital Services Coordinator of establishment did not take any measures despite the Commission's request, or in situations where the Digital Services Coordinator of establishment itself requested for the Commission to intervene, in respect of an infringement of any other provision of this Regulation committed by a **very** large online platform.

Amendment

(96) Where the infringement of the provision that solely applies to large online platforms is not effectively addressed by that platform pursuant to the action plan, only the Commission may, on its own initiative or upon advice of the Board, decide to further investigate the infringement concerned and the measures that the platform has subsequently taken, to the exclusion of the Digital Services Coordinator of establishment. After having conducted the necessary investigations, the Commission should be able to issue decisions finding an infringement and imposing sanctions in respect of large online platforms where that is justified. It should also have such a possibility to intervene in cross-border situations where the Digital Services Coordinator of establishment did not take any measures despite the Commission's request, or in situations where the Digital Services Coordinator of establishment itself requested for the Commission to intervene, in respect of an infringement of any other provision of this Regulation committed by a large online platform.

Or. fr

Amendment 334

Alessandra Basso, Gunnar Beck, Gilles Lebreton

Proposal for a regulation

Recital 97

Text proposed by the Commission

(97) The Commission should ***remain free to decide whether or not it wishes to*** intervene in any of the situations where it is empowered to do so under this Regulation. Once the Commission initiated the proceedings, the Digital Services Coordinators ***of establishment*** concerned should be precluded from exercising their investigatory and enforcement powers in respect of the relevant conduct of the very large online platform concerned, so as to avoid duplication, inconsistencies and risks from the viewpoint of the principle of ne bis in idem. However, in the interest of effectiveness, those Digital Services Coordinators should not be precluded from exercising their powers either to assist the Commission, at its request in the performance of its supervisory tasks, or in respect of other conduct, including conduct by the same very large online platform that is suspected to constitute a new infringement. Those Digital Services Coordinators, as well as the Board and other Digital Services Coordinators where relevant, should provide the Commission with all necessary information and assistance to allow it to perform its tasks effectively, whilst conversely the Commission should keep them informed on the exercise of its powers as appropriate. In that regard, the Commission should, where appropriate, take account of any relevant assessments carried out by the Board or by the Digital Services Coordinators concerned and of any relevant evidence and information gathered by them, without prejudice to the Commission's powers and responsibility to carry out additional investigations as necessary.

Amendment

(97) The Commission should intervene in any of the situations where it is empowered to do so under this Regulation. Once the Commission initiated the proceedings, the Digital Services Coordinators concerned should be precluded from exercising their investigatory and enforcement powers in respect of the relevant conduct of the very large online platform concerned, so as to avoid duplication, inconsistencies and risks from the viewpoint of the principle of ne bis in idem. However, in the interest of effectiveness, those Digital Services Coordinators should not be precluded from exercising their powers either to assist the Commission, at its request in the performance of its supervisory tasks, or in respect of other conduct, including conduct by the same very large online platform that is suspected to constitute a new infringement. Those Digital Services Coordinators, as well as the Board and other Digital Services Coordinators where relevant, should provide the Commission with all necessary information and assistance to allow it to perform its tasks effectively, whilst conversely the Commission should keep them informed on the exercise of its powers as appropriate. In that regard, the Commission should, where appropriate, take account of any relevant assessments carried out by the Board or by the Digital Services Coordinators concerned and of any relevant evidence and information gathered by them, without prejudice to the Commission's powers and responsibility to carry out additional investigations as necessary.

Amendment 335
Emmanuel Maurel

Proposal for a regulation
Recital 97

Text proposed by the Commission

(97) The Commission should remain free to decide whether or not it wishes to intervene in any of the situations where it is empowered to do so under this Regulation. Once the Commission initiated the proceedings, the Digital Services Coordinators of establishment concerned should be precluded from exercising their investigatory and enforcement powers in respect of the relevant conduct of the **very** large online platform concerned, so as to avoid duplication, inconsistencies and risks from the viewpoint of the principle of ne bis in idem. However, in the interest of effectiveness, those Digital Services Coordinators should not be precluded from exercising their powers either to assist the Commission, at its request in the performance of its supervisory tasks, or in respect of other conduct, including conduct by the same **very** large online platform that is suspected to constitute a new infringement. Those Digital Services Coordinators, as well as the Board and other Digital Services Coordinators where relevant, should provide the Commission with all necessary information and assistance to allow it to perform its tasks effectively, whilst conversely the Commission should keep them informed on the exercise of its powers as appropriate. In that regard, the Commission should, where appropriate, take account of any relevant assessments carried out by the Board or by the Digital Services Coordinators concerned and of any relevant evidence and information gathered by them, without prejudice to the

Amendment

(97) The Commission should remain free to decide whether or not it wishes to intervene in any of the situations where it is empowered to do so under this Regulation. Once the Commission initiated the proceedings, the Digital Services Coordinators of establishment concerned should be precluded from exercising their investigatory and enforcement powers in respect of the relevant conduct of the large online platform concerned, so as to avoid duplication, inconsistencies and risks from the viewpoint of the principle of ne bis in idem. However, in the interest of effectiveness, those Digital Services Coordinators should not be precluded from exercising their powers either to assist the Commission, at its request in the performance of its supervisory tasks, or in respect of other conduct, including conduct by the same large online platform that is suspected to constitute a new infringement. Those Digital Services Coordinators, as well as the Board and other Digital Services Coordinators where relevant, should provide the Commission with all necessary information and assistance to allow it to perform its tasks effectively, whilst conversely the Commission should keep them informed on the exercise of its powers as appropriate. In that regard, the Commission should, where appropriate, take account of any relevant assessments carried out by the Board or by the Digital Services Coordinators concerned and of any relevant evidence and information gathered by them, without prejudice to the Commission's powers and responsibility to

Commission's powers and responsibility to carry out additional investigations as necessary.

carry out additional investigations as necessary.

Or. fr

Amendment 336

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Recital 97 a (new)

Text proposed by the Commission

Amendment

(97 a) The Commission should ensure that it is independent and impartial in its decision making in regards to both Digital Services Coordinators and providers of services under this Regulation.

Or. en

Amendment 337

Karen Melchior, Stéphane Séjourné

Proposal for a regulation

Recital 98

Text proposed by the Commission

Amendment

(98) In view of both the particular challenges that may arise in seeking to ensure compliance by very large online platforms and the importance of doing so effectively, considering their size and impact and the harms that they may cause, the Commission should have strong investigative and enforcement powers to allow it to investigate, enforce and monitor certain of the rules laid down in this Regulation, in full respect of the principle of proportionality and the rights and interests of the affected parties.

(98) In view of both the particular challenges that may arise in seeking to ensure compliance by very large online platforms and the importance of doing so effectively, considering their size and impact and the harms that they may cause, the Commission should have strong investigative and enforcement powers to allow it to investigate, enforce and monitor certain of the rules laid down in this Regulation, in full respect of the principle of proportionality and the rights and interests of the affected parties, ***including the right to challenge any investigative requests before a judicial authority within the Member State of establishment.***

Amendment 338**Alessandra Basso, Gunnar Beck, Gilles Lebreton****Proposal for a regulation****Recital 98***Text proposed by the Commission*

(98) In view of both the particular challenges that may arise in seeking to ensure compliance by very large online platforms and the importance of doing so effectively, considering their size and impact and the harms that they may cause, the Commission should have **strong** investigative and enforcement powers to allow it to investigate, enforce and monitor certain of the rules laid down in this Regulation, in full respect of the principle of proportionality and the rights and interests of the affected parties.

Amendment

(98) In view of both the particular challenges that may arise in seeking to ensure compliance by very large online platforms and the importance of doing so effectively, considering their size and impact and the harms that they may cause, the Commission **and the Member States** should have **the necessary** investigative and enforcement powers to allow it to investigate, enforce and monitor certain of the rules laid down in this Regulation, in full respect of the principle of proportionality, **subsidiarity** and the rights and interests of the affected parties.

Or. en

Amendment 339**Emmanuel Maurel****Proposal for a regulation****Recital 98***Text proposed by the Commission*

(98) In view of both the particular challenges that may arise in seeking to ensure compliance by **very** large online platforms and the importance of doing so effectively, considering their size and impact and the harms that they may cause, the Commission should have strong investigative and enforcement powers to allow it to investigate, enforce and monitor certain of the rules laid down in this Regulation, in full respect of the principle

Amendment

(98) In view of both the particular challenges that may arise in seeking to ensure compliance by large online platforms and the importance of doing so effectively, considering their size and impact and the harms that they may cause, the Commission should have strong investigative and enforcement powers to allow it to investigate, enforce and monitor certain of the rules laid down in this Regulation, in full respect of the principle

of proportionality and the rights and interests of the affected parties.

of proportionality and the rights and interests of the affected parties.

Or. fr

Amendment 340

Alessandra Basso, Gunnar Beck, Gilles Lebreton

Proposal for a regulation

Recital 99

Text proposed by the Commission

(99) In particular, the Commission ***should have access to any relevant documents, data and information necessary*** to open and conduct investigations and to monitor the compliance with the relevant obligations laid down in this Regulation, ***irrespective of who possesses the documents, data or information in question, and regardless of their form or format, their storage medium, or the precise place where they are stored.*** The Commission should be able to directly require that the very large online platform concerned or relevant third parties, or than individuals, provide any relevant evidence, data and information. In addition, the Commission should be able to request any relevant information from any public authority, body or agency within the Member State, or from any natural person or legal person for the purpose of this Regulation. The Commission should be empowered to require access to, and explanations relating to, data-bases and algorithms of relevant persons, and to interview, with their consent, any persons who may be in possession of useful information and to record the statements made. The Commission should also be empowered to undertake such inspections as are necessary to enforce the relevant provisions of this Regulation. Those investigatory powers aim to complement the Commission's possibility to ask Digital Services Coordinators and other Member

Amendment

(99) In particular the Commission, ***when acting pursuant to the powers granted under this Regulation,*** to open and conduct investigations and to monitor the compliance with the relevant obligations laid down in this Regulation, should be able to directly require that the very large online platform concerned or relevant third parties, or than individuals, provide any relevant evidence, data and information. In addition, the Commission should be able to request any relevant information from any public authority, body or agency within the Member State, or from any natural person or legal person for the purpose of this Regulation. The Commission should be empowered to require access to, and explanations relating to, data-bases and algorithms of relevant persons, and to interview, with their consent, any persons who may be in possession of useful information and to record the statements made. The Commission should also be empowered to undertake such inspections as are necessary to enforce the relevant provisions of this Regulation. Those investigatory powers aim to complement the Commission's possibility to ask Digital Services Coordinators and other Member States' authorities for assistance, for instance by providing information or in the exercise of those powers

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Or. en

Amendment 341

Karen Melchior, Liesje Schreinemacher

Proposal for a regulation

Recital 99

Text proposed by the Commission

(99) In particular, the Commission should have access to any relevant documents, data and information necessary to open and conduct investigations and to monitor the compliance with the relevant obligations laid down in this Regulation, irrespective of who possesses the documents, data or information in question, and regardless of their form or format, their storage medium, or the precise place where they are stored. The Commission should be able to directly require that the very large online platform concerned or relevant third parties, or than individuals, provide any relevant evidence, data and information. In addition, the Commission should be able to request any relevant information from any public authority, body or agency within the Member State, or from any natural person or legal person for the purpose of this Regulation. The Commission should be empowered to require access to, and explanations relating to, data-bases and algorithms of relevant persons, and to interview, with their consent, any persons who may be in possession of useful information and to record the statements made. The Commission should also be empowered to undertake such inspections as are necessary to enforce the relevant provisions of this Regulation. Those investigatory powers aim to complement the Commission's possibility to ask Digital Services Coordinators and other Member

Amendment

(99) In particular, the Commission, ***where it can show grounds for believing that a very large online platform is not compliant with this Regulation***, should have access to any relevant documents, data and information necessary to open and conduct investigations and to monitor the compliance with the relevant obligations laid down in this Regulation, irrespective of who possesses the documents, data or information in question, and regardless of their form or format, their storage medium, or the precise place where they are stored. The Commission should be able to directly require that the very large online platform concerned or relevant third parties, or than individuals, provide any relevant evidence, data and information ***related to those concerns***. In addition, the Commission should be able to request any relevant information from any public authority, body or agency within the Member State, or from any natural person or legal person for the purpose of this Regulation. The Commission should be empowered to require access to, and explanations relating to, data-bases and algorithms of relevant persons, and to interview, with their consent, any persons who may be in possession of useful information and to record the statements made. The Commission should also be empowered to undertake such inspections as are necessary to enforce the relevant provisions of this

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Regulation. Those investigatory powers aim to complement the Commission's possibility to ask Digital Services Coordinators and other Member States' authorities for assistance, for instance by providing information or in the exercise of those powers.

Or. en

Amendment 342
Emmanuel Maurel

Proposal for a regulation
Recital 99

Text proposed by the Commission

(99) In particular, the Commission should have access to any relevant documents, data and information necessary to open and conduct investigations and to monitor the compliance with the relevant obligations laid down in this Regulation, irrespective of who possesses the documents, data or information in question, and regardless of their form or format, their storage medium, or the precise place where they are stored. The Commission should be able to directly require that the *very* large online platform concerned or relevant third parties, or than individuals, provide any relevant evidence, data and information. In addition, the Commission should be able to request any relevant information from any public authority, body or agency within the Member State, or from any natural person or legal person for the purpose of this Regulation. The Commission should be empowered to require access to, and explanations relating to, data-bases and algorithms of relevant persons, and to interview, with their consent, any persons who may be in possession of useful information and to record the statements made. The Commission should also be empowered to undertake such inspections as are necessary to enforce the relevant

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Or. fr

Amendment 343
Emmanuel Maurel

Proposal for a regulation
Recital 101

Text proposed by the Commission

(101) The **very** large online platforms concerned and other persons subject to the exercise of the Commission's powers whose interests may be affected by a decision should be given the opportunity of submitting their observations beforehand, and the decisions taken should be widely publicised. While ensuring the rights of defence of the parties concerned, in particular, the right of access to the file, it is essential that confidential information be protected. Furthermore, while respecting the confidentiality of the information, the Commission should ensure that any information relied on for the purpose of its decision is disclosed to an extent that allows the addressee of the decision to understand the facts and considerations that lead up to the decision.

Amendment

(101) The large online platforms concerned and other persons subject to the exercise of the Commission's powers whose interests may be affected by a decision should be given the opportunity of submitting their observations beforehand, and the decisions taken should be widely publicised. While ensuring the rights of defence of the parties concerned, in particular, the right of access to the file, it is essential that confidential information be protected. Furthermore, while respecting the confidentiality of the information, the Commission should ensure that any information relied on for the purpose of its decision is disclosed to an extent that allows the addressee of the decision to understand the facts and considerations that lead up to the decision.

Or. fr

Amendment 344
Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation
Recital 104

(104) In order to fulfil the objectives of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to supplement this Regulation. In particular, delegated acts should be adopted in respect of criteria for identification of very large online platforms and of technical specifications for access requests. It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(104) In order to fulfil the objectives of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to supplement this Regulation. In particular, delegated acts should be adopted in respect of criteria for identification of very large online platforms and of technical specifications for access requests. ***It is also equally important that, when standardisation bodies are unable to agree the standards needed to implement this Regulation fully, the Commission chooses to adopt delegated acts.*** It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

Or. en

Amendment 345
Emmanuel Maurel

Proposal for a regulation
Recital 104

(104) In order to fulfil the objectives of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to supplement this Regulation. In particular, delegated acts should be adopted in respect of criteria for identification of **very** large

(104) In order to fulfil the objectives of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to supplement this Regulation. In particular, delegated acts should be adopted in respect of criteria for identification of large online

online platforms and of technical specifications for access requests. It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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Or. fr

Amendment 346
Geoffroy Didier

Proposal for a regulation
Recital 106 a (new)

Text proposed by the Commission

Amendment

(106 a) In order to promote the freedom of expression and media pluralism online, the importance of editorial content and services must be recognised, requiring intermediary service providers to refrain from removing, suspending or disabling access to it. It follows that intermediary service providers should be exempt from liability for editorial content and services. Intermediary service providers should put mechanisms in place to facilitate the practical application, for example, the flagging of lawful editorial content and services by content providers. Providers of editorial content and services should be identified by the Member State in which the provider is established. These providers should be understood as performing an economic activity within the meaning of Articles 56 and 57 TFEU.

Justification

Safeguarding editorial freedom and media independence is key to safeguard public trust. Allowing global online platforms to ban and/or remove media content and services solely on the basis that they clash with their unilaterally imposed corporate community standards creates a serious threat for editorial freedom and media pluralism. Unlike media service providers, online platforms do not bear editorial responsibility for the content they make available. Yet, they perform actions on content that are editorial-like. The DSA must stop online platforms from playing the role of quasi-editors, a role that they are, in no way, apt to fulfil.

In turn, online platforms should be exempt from liability for content which has been provided by media service providers who bear editorial responsibility and exercise editorial control over such content.

Media service providers should be identified at the national level, by competent sector-specific regulatory authorities and bodies which have a role in overseeing media service providers. The Commission should subsequently publish the information provided by national authorities and make it publicly available.

Amendment 347
Emmanuel Maurel

Proposal for a regulation
Recital 106 a (new)

Text proposed by the Commission

Amendment

(106 a) The 'attention-seeking' profiling business model of digital markets, in which algorithms prioritise controversial content and thereby contribute to its online dissemination, undermines consumer faith in digital markets. This Regulation should therefore put an end to this practice and give users greater control over the way in which rankings are presented;

Or. fr

Amendment 348
Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Article 1 – paragraph 1 – introductory part

Text proposed by the Commission

1. This Regulation lays down harmonised rules on the provision of intermediary services in the internal market. In particular, it establishes:

Amendment

1. This Regulation lays down harmonised rules on the provision of intermediary services in ***order to improve the functioning of*** the internal market ***whilst ensuring the rights enshrined in the Charter of Fundamental Rights of the European Union, in particular the freedom of expression and information in an open and democratic society.*** In particular, it establishes:

Or. en

Amendment 349 Emmanuel Maurel

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

Text proposed by the Commission

(a) a framework for ***the conditional exemption from*** liability of providers of intermediary services;

Amendment

(a) a framework for liability of providers of intermediary services

Or. fr

Amendment 350 Daniel Buda

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

Text proposed by the Commission

(b) set out uniform rules for a safe, predictable and trusted online environment, where fundamental rights enshrined in the Charter are effectively protected.

Amendment

(b) set out uniform ***and proportional*** rules for a safe, ***accessible***, predictable and trusted online environment, where fundamental rights enshrined in the Charter are effectively protected.

Or. ro

Amendment 351

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Article 1 – paragraph 2 – point b

Text proposed by the Commission

(b) set out uniform rules for a safe, predictable and trusted online environment, where fundamental rights enshrined in the Charter are effectively protected.

Amendment

(b) set out uniform ***harmonised*** rules for a safe, predictable, ***accessible*** and trusted online environment, where fundamental rights enshrined in the Charter are effectively protected

Or. en

Amendment 352

Emmanuel Maurel

Proposal for a regulation

Article premier – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) protect minors making use of services falling under this Regulation.

Or. fr

Amendment 353

Emmanuel Maurel

Proposal for a regulation

Article premier – paragraph 2 – point b b (new)

Text proposed by the Commission

Amendment

(bb) protect consumers making use of services falling under this Regulation.

Or. fr

Amendment 354
Emmanuel Maurel

Proposal for a regulation
Article premier – paragraph 3

Text proposed by the Commission

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

Amendment

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

Or. fr

Amendment 355
Karen Melchior, Liesje Schreinemacher

Proposal for a regulation
Article 1 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. This Regulation shall respect the fundamental rights recognised by the Charter of Fundamental rights of the European Union and the fundamental rights constituting general principles of Union law. Accordingly, this Regulation may only be interpreted and applied in accordance with those fundamental rights, including the freedom of expression and information, as well as the freedom and pluralism of the media. When exercising the powers set out in this Regulation, all public authorities involved shall aim to achieve, in situations where the relevant fundamental rights conflict, a fair balance between the rights concerned, in accordance with the principle of proportionality.

Or. en

Amendment 356
Angelika Niebler

Proposal for a regulation
Article 1 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. This Regulation is be without prejudice to provisions of national law protecting the plurality of the media.

Or. en

Amendment 357
Emmanuel Maurel

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

Text proposed by the Commission

Amendment

5. This Regulation **is without prejudice to** the rules laid down by the following:

5. This Regulation **shall not affect** the rules laid down by the following:

Or. fr

Amendment 358
Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

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

Text proposed by the Commission

Amendment

(b) Directive **2010/13/EC**;

(b) Directive **2010/13/EU as amended by Directive 2018/1808/EU**;

Or. en

Amendment 359
Patrick Breyer

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

Text proposed by the Commission

Amendment

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

Or. en

Justification

In line with LIBE opinion on DSA. The DSA replaces the safe harbour provisions of the e-commerce directive, and the e-commerce directive (ECD) was never without prejudice to copyright. While we understand the intention not to create a conflict between the DSA and Article 17 of the Copyright DSM Directive, saying “without prejudice to Union law on copyright (in general, i.e. the whole copyright legislation” is too broad. Such 'blank' exemption would completely change the relationship between the rules of the ECD and copyright law, and would lead to very confusing results.

Amendment 360

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

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

Text proposed by the Commission

Amendment

(c) Union law on copyright and related rights;

(c) Union law on copyright and related rights, ***in particular Directive (EU) 2019/790 on Copyright and Related Rights in Digital Single Market;***

Or. en

Amendment 361
Stéphane Séjourné

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

Text proposed by the Commission

Amendment

(c) Union law on copyright and related rights;

(c) Union law on copyright and related rights, ***in particular Directive (EU) 2019/790 on Copyright and Related***

Or. en

Amendment 362
Emmanuel Maurel

Proposal for a regulation
Article premier – paragraph 5 – point c

Text proposed by the Commission

(c) Union law on copyright and related rights;

Amendment

(c) Union law on copyright and related rights ***in line with Member State legislation;***

Or. fr

Amendment 363
Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

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

Text proposed by the Commission

(h) Union law on consumer protection and product safety, including Regulation (EU) 2017/2394;

Amendment

(h) Union law on consumer protection and product safety, including Regulation (EU) 2017/2394, ***Regulation (EU) 2019/1020 and Regulation XXX (General Product Safety Regulation);***

Or. en

Amendment 364
Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

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

Text proposed by the Commission

Amendment

(i a) Directive (EU) 2019/882

Amendment 365

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti, Christel Schaldemose

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(i a) Directive 2006/123/EC

Or. en

Amendment 366

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Article 1 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. The Commission shall by [within one year of the adoption of this Regulation] publish guidelines with regard to the relations between this Regulation and legislative acts listed in Article 1(5). These guidelines shall clarify any potential conflicts between the conditions and obligations listed in those legislative acts and which act prevails where actions, in line with this Regulation, fulfil the obligations of another legislative act and which regulatory authority is competent.

Or. en

Amendment 367

Emmanuel Maurel

Proposal for a regulation

Article premier – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. This Regulation does not affect Member States' jurisdiction concerning measures they might take to promote cultural and linguistic diversity and ensure media freedom and pluralism.

Or. fr

Amendment 368
Geoffroy Didier

Proposal for a regulation
Article 1 a (new)

Text proposed by the Commission

Amendment

Article 1 a

Contractual provisions

1. Any contractual provisions between an intermediary service provider and a trader, business user, or a recipient of its service which are contrary to this Regulation shall be unenforceable.

2. This Regulation shall apply irrespective of the law applicable to contracts concluded between providers of intermediary services and a recipient of the service, a consumer, a trader or business user.

Or. en

Amendment 369
Kosma Złotowski

Proposal for a regulation
Article 2 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(b a) 'active end user' means an individual successfully accessing an online interface and having significant

interaction with it, its product or service;

Or. en

Amendment 370
Kosma Zlotowski

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

Text proposed by the Commission

(c) ‘consumer’ means any natural person who is acting for purposes which are outside his or her trade, business or profession;

Amendment

(c) ‘consumer’ means any natural person who is acting for purposes which are outside his or her trade, business ***craft*** or profession;

Or. en

Amendment 371
Emmanuel Maurel

Proposal for a regulation
Article 2 – paragraph 1 – point d – introductory part

Text proposed by the Commission

(d) ‘to offer services in the Union’ means enabling legal or natural persons in one or more Member States to use the services of the provider of information society services which has a substantial connection to the Union; such a substantial connection is deemed to exist where the provider has an establishment in the Union; ***in the absence of such an establishment, the assessment of a substantial connection is based on specific factual criteria, such as:***

Amendment

(d) ‘to offer services in the Union’ means enabling legal or natural persons in one or more Member States to use the services of the provider of information society services which has a substantial connection to the Union; such a substantial connection is deemed to exist where the provider has an establishment in the Union; ***such a substantial connection is established where the activities are conducted in one or more Member States.***

Or. fr

Amendment 372
Emmanuel Maurel

Proposal for a regulation

Article 2 – paragraph 1 – point d – indent 1

Text proposed by the Commission

Amendment

— *a significant number of users in one or more Member States; or* *deleted*

Or. fr

Amendment 373

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

Article 2 – paragraph 1 – point d – indent 1

Text proposed by the Commission

Amendment

— a significant number of users in one or more Member States; or

— a significant number of users in *relation to their population in* one or more Member States; or

Or. en

Amendment 374

Emmanuel Maurel

Proposal for a regulation

Article 2 – paragraph 1 – point d – indent 2

Text proposed by the Commission

Amendment

— *the targeting of activities towards one or more Member States.* *deleted*

Or. fr

Amendment 375

Stéphane Séjourné

Proposal for a regulation

Article 2 – paragraph 1 – point e

Text proposed by the Commission

(e) ‘trader’ means any natural person, or any legal person irrespective of whether privately or publicly owned, who is acting, including through any person acting in his or her name or on his or her behalf, for purposes relating to his or her trade, business, craft or profession;

Amendment

(e) ‘trader’ means any natural person, or any legal person irrespective of whether privately or publicly owned, who is acting, including through any person acting in his or her name or on his or her behalf, for purposes relating to his or her trade, business, craft or profession, **or any natural or legal person that is offering goods, digital content, or services on a commercial scale;**

Or. en

Amendment 376 Emmanuel Maurel

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

Text proposed by the Commission

(e) ‘trader’ means any natural person, or any legal person irrespective of whether privately or publicly owned, who is acting, including through any person **acting** in his or her name or on his or her behalf, for purposes relating to his or her trade, business, craft or profession;

Amendment

(e) ‘trader’ means any natural person, or any legal person irrespective of whether privately or publicly owned, who is acting, including through any person **marketing products and/or services** in his or her name or on his or her behalf, for purposes relating to his or her trade, business, craft or profession;

Or. fr

Amendment 377 Kosma Zlotowski

Proposal for a regulation Article 2 – paragraph 1 – point f – indent 3

Text proposed by the Commission

— a ‘hosting’ service that consists of the storage of information provided by, and

Amendment

— a ‘hosting’ service that consists of the storage of information provided by, and

at the request of, a recipient of the service;

at the request of, a recipient of the service,
unless this activity is an ancillary and additional feature of another service which is not an information society service and cannot, for objective or technical reasons, be provided independently of it;

Or. en

Amendment 378
Emmanuel Maurel

Proposal for a regulation
Article 2 – paragraph 1 – point f – indent 3 a (new)

Text proposed by the Commission

Amendment

- *an online search engine as defined in point (5) of Article 2 of Regulation (EU) 2019/1150.*

Or. fr

Amendment 379
Stéphane Séjourné

Proposal for a regulation
Article 2 – paragraph 1 – point f – indent 3 a (new)

Text proposed by the Commission

Amendment

- *an ‘online search engine’ as defined in point (5) of Article 2 of Regulation (EU) 2019/1150;*

Or. en

Amendment 380
Stéphane Séjourné

Proposal for a regulation
Article 2 – paragraph 1 – point f a (new)

(f a) 'live streaming platform services' mean information society services of which the main or one of the main purposes is to give the public access to audio or video material that is live broadcasted by its users, which it organises and promotes for profit-making purposes;

Or. en

Amendment 381
Stéphane Séjourné

Proposal for a regulation
Article 2 – paragraph 1 – point f b (new)

Text proposed by the Commission

Amendment

(f b) 'private messaging services' mean number-independent interpersonal communications services as defined in Article 2(7) of Directive (EU) 2018/1972, excluding transmission of electronic mail as defined in Article 2 (h) of Directive 2002/58/EC;

Or. en

Amendment 382
Karen Melchior, Liesje Schreinemacher

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

Text proposed by the Commission

Amendment

(g) 'illegal content' means any information,, which, in itself *or by its reference to an activity, including the sale of products or provision of services* is not in compliance with Union law or the law of a Member State, irrespective of the precise subject matter or nature of that law;

(g) 'illegal content' means any information, which, in itself is not in compliance with Union law or the law of a Member State, irrespective of the precise subject matter or nature of that law *or due to its connection to or promotion of an illegal activity, including the sale of*

products, substances, animals or plants, or provision of services, directly leads to the dissemination to the public of such an illegal content. 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 shall not be considered as illegal content. An assessment shall determine the true purpose of that dissemination and whether material is disseminated to the public for those purposes.

Or. en

Amendment 383

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti, Christel Schaldemose

Proposal for a regulation

Article 2 – paragraph 1 – point g

Text proposed by the Commission

(g) ‘illegal content’ means any information, which, *in itself or by its reference to an activity, including the sale of products or provision of services* is not in compliance with Union law or the law of a Member State, irrespective of the precise subject matter or nature of that law;

Amendment

(g) ‘illegal content’ means any information, which is not in compliance with Union law or the law of a Member State, irrespective of the precise subject matter or nature of that law;

Or. en

Amendment 384

Alessandra Basso, Gunnar Beck, Gilles Lebreton

Proposal for a regulation

Article 2 – paragraph 1 – point g

Text proposed by the Commission

(g) ‘illegal content’ means any information, *which, in itself or by its*

Amendment

(g) ‘illegal content’ means any information *or activity which*, including

reference to an activity, including the sale of products or provision of services is not in compliance with Union law or the *law* of a Member State, *irrespective of the precise subject matter or nature of that law*;

the sale of products or provision of services is not in compliance with Union law or the *criminal, administrative or civil legal framework* of a Member State;

Or. en

Amendment 385
Antonius Manders

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

Text proposed by the Commission

(g) ‘illegal content’ means any information,, which, in itself or by its reference to an activity, including the sale of products or provision of services is not in compliance with Union law or the law of a Member State, irrespective of the precise subject matter or nature of that law;

Amendment

(g) ‘illegal content’ means any information, which, in itself or by its reference to an activity, including *financial fraud*, the sale of products or provision of services is not in compliance with Union law or the law of a Member State, irrespective of the precise subject matter or nature of that law;

Or. en

Amendment 386
Kosma Zlotowski

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

Text proposed by the Commission

(g) ‘illegal content’ means any information,, *which, in itself or by its reference to an* activity, including the sale of products or provision of services is not in compliance with Union law or the law of a Member State, irrespective of the precise subject matter or nature of that law;

Amendment

(g) ‘illegal content’ means any *specific* information *or* activity, including the sale of products or provision of services, *which* is not in compliance with Union law or the law of a Member State, irrespective of the precise subject matter or nature of that law;

Or. en

Amendment 387
Kosma Zlotowski

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

Text proposed by the Commission

(h) ‘online platform’ means a provider of a hosting service which, at the request of a recipient of the service, stores and disseminates to the public information, unless that activity is a minor **and** purely ancillary feature of another service and, for objective and technical reasons cannot be used without that other service, and the integration of the feature into the other service is not a means to circumvent the applicability of this Regulation.

Amendment

(h) ‘online platform’ means a provider of a hosting service which, at the request of a recipient of the service, stores and disseminates to the public information, unless that activity is a minor **or a** purely ancillary feature of another **service or functionality of the principal** service and, for objective and technical reasons, cannot be used without that other service, and the integration of the feature **or functionality** into the other service is not a means to circumvent the applicability of this Regulation.

Or. en

Amendment 388
Axel Voss, Esteban González Pons, Luisa Regimenti, Monika Hohlmeier, Rainer Wieland, Daniel Caspary, Javier Zarzalejos, Sven Schulze, Christian Doleschal

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

Text proposed by the Commission

(h) ‘online platform’ means a provider of a hosting service which, at the request of a recipient of the service, stores and disseminates to the public information, unless that activity is a minor and purely ancillary feature of **another** service and, for objective and technical reasons cannot be used without that **other** service, and the integration of the feature into the other service is not a means to circumvent the applicability of this Regulation.

Amendment

(h) ‘online platform’ means a provider of a hosting service which, at the request of a recipient of the service, stores and disseminates to the public information, unless that activity is a minor and purely ancillary feature of **the principal** service and, for objective and technical reasons cannot be used without that **principal** service, and the integration of the feature into the other service is not a means to circumvent the applicability of this Regulation.

Or. en

Amendment 389

Axel Voss, Andrzej Halicki, 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

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

Text proposed by the Commission

Amendment

(h a) ‘editorial platform’ means an intermediary service which is in connection with a press publication within the meaning of Article 2(4) of Directive (EU) 2019/790 or another editorial media service and which allows users to discuss topics generally covered by the relevant media or to comment editorial content and which is under the supervision of the editorial team of the publication or other editorial media.

Or. en

Amendment 390

Kosma Złotowski

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(h a) ‘online social networking service’ means a platform that enables end users to connect, share, discover and communicate with each other across multiple devices and, in particular, via chats, posts, videos and recommendations;

Or. en

Amendment 391

Stéphane Séjourné

Proposal for a regulation
Article 2 – paragraph 1 – point h a (new)

Text proposed by the Commission

Amendment

(h a) ‘online marketplace’ means an online platform that allows consumers to conclude distance contracts with other traders or consumers on their platform;

Or. en

Amendment 392
Marion Walsmann

Proposal for a regulation
Article 2 – paragraph 1 – point h a (new)

Text proposed by the Commission

Amendment

(h a) ‘online marketplace’ means an online platform which allows consumers to conclude distance contracts with traders;

Or. en

Amendment 393
Kosma Złotowski

Proposal for a regulation
Article 2 – paragraph 1 – point h b (new)

Text proposed by the Commission

Amendment

(h b) ‘editorial platform’ means an intermediary service which is in connection with a press publication within the meaning of Article 2(4) of Directive (EU) 2019/790 or another editorial media service and which allows users to discuss topics generally covered by the relevant media or to comment editorial content and which is under the supervision of the editorial team of the publication or other

Amendment 394
Kosma Zlotowski

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

Text proposed by the Commission

(i) ‘dissemination to the public’ means making information available, at the request of the recipient of the service who provided the information, to a potentially unlimited number of third parties;

Amendment

(i) ‘dissemination to the public’ means ***taking an active role in*** making information available, at the request of the recipient of the service who provided the information, to a potentially unlimited number of third parties;

Amendment 395
Emmanuel Maurel

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

Text proposed by the Commission

(i) ‘dissemination to the public’ means making information available, at the request of the recipient of the service who provided the information, to a potentially unlimited number of third parties;

Amendment

(i) ‘dissemination to the public’ means making information available, at the request of the recipient of the service who provided the information, to a ***larger or a*** potentially unlimited number of third parties;

Amendment 396
Stéphane Séjourné

Proposal for a regulation
Article 2 – paragraph 1 – point i a (new)

(i a) ‘deep fake’ means an image, audio or video content that has been generated or manipulated using artificial intelligence tools to appreciably resembles existing persons, objects, places or other entities or events and falsely appears to a person to be authentic or truthful;

Or. en

Amendment 397

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

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

Text proposed by the Commission

Amendment

(i a) ‘live streaming platform services’ means an information society service which main or one the main purposes is to give the public access to live broadcasted audio or video material and which it organises and promotes for profit-making purposes;

Or. en

Amendment 398

Emmanuel Maurel

Proposal for a regulation

Article 2 – paragraph 1 – point n

Text proposed by the Commission

Amendment

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

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

remuneration specifically for promoting that information;

direct or indirect remuneration specifically for promoting that information;

Or. fr

Amendment 399
Emmanuel Maurel

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

Text proposed by the Commission

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

Amendment

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

Or. fr

Amendment 400
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
Article 2 – paragraph 1 – point o

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 401

Karen Melchior

Proposal for a regulation

Article 2 – paragraph 1 – point q

Text proposed by the Commission

(q) ‘terms and conditions’ means all terms and conditions or specifications, irrespective of their name or form, which govern the contractual relationship between the provider of intermediary services and the recipients of the services.

Amendment

(q) ‘terms and conditions’ means all terms and conditions or specifications **by the service provider**, irrespective of their name or form, which govern the contractual relationship between the provider of intermediary services and the recipients of the services, **and are unilaterally determined by the provider of online intermediary services and that unilateral determination of terms and conditions is being evaluated on the basis of an overall assessment for which the relative size of the parties concerned, the fact that a negotiation took place, or that certain provisions thereof might have been subject to such a negotiation and determined together by the relevant provider and recipient are not, in themselves, decisive; or the rules laid down by the intermediary service provider under which users will be allowed to use the intermediation service concerned.**

Or. en

Amendment 402

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti, Christel Schaldemose

Proposal for a regulation

Article 2 – paragraph 1 – point q

Text proposed by the Commission

(q) ‘terms and conditions’ means all terms and conditions or specifications, irrespective of their name or form, which govern the contractual relationship between the provider of intermediary

Amendment

(q) ‘terms and conditions’ means all terms and conditions or specifications **provided by the provider of intermediary services**, irrespective of their name or form, which govern the contractual

services and the recipients of the services.

relationship between the provider of intermediary services and the recipients of the services.

Or. en

Amendment 403
Emmanuel Maurel

Proposal for a regulation
Article 2 – paragraph 1 – point q a (new)

Text proposed by the Commission

Amendment

(qa) 'overriding reasons of general interest' means reasons recognised as such by the case-law of the Court of Justice of the European Union, such as: public policy; public security; public health; the preservation of the financial equilibrium of the social security system; the protection of consumers, recipients of services and workers; the protection of young people; the fairness of trade transactions; the fight against fraud; the protection of the natural and urban environment; animal welfare; intellectual property; the conservation of national historic and artistic heritage; social and cultural policy objectives; housing.

Or. fr

Amendment 404
Patrick Breyer

Proposal for a regulation
Article 2 – paragraph 1 – point q a (new)

Text proposed by the Commission

Amendment

(q a) 'dark pattern' means an online interface or a part thereof that via its structure, design or functionality subverts or impairs the autonomy, decision-making, preferences or choice of

recipients of the service.

Or. en

Amendment 405

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(q a) ‘manifestly illegal content’ means any information which is unmistakably and without requiring in-depth examination in breach of legal provisions regulating the legality of content online.

Or. en

Amendment 406

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(q a) ‘dark pattern’ means a user interface designed or manipulated with the substantial effect of subverting or impairing user autonomy, decision-making or choice.

Or. en

Amendment 407

Emmanuel Maurel

Proposal for a regulation

Article 2 – paragraph 1 – point q b (new)

Text proposed by the Commission

Amendment

(qb) 'online marketplaces' means a service using software, including a website, part of a website or an application, operated by or on behalf of a trader which allows consumers to conclude distance contracts with other traders or consumers, in accordance with Directive 2005/29/EC.

Or. fr

Amendment 408

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Article 2 – paragraph 1 – point q b (new)

Text proposed by the Commission

Amendment

(q b) 'deep fake' means a generated or manipulated image, audio or video content that appreciably resembles existing persons, objects, places or other entities or events and falsely appears to a person to be authentic or truthful;

Or. en

Amendment 409

Karen Melchior, Stéphane Séjourné, Liesje Schreinemacher

Proposal for a regulation

Article 2 – paragraph 1 – point q b (new)

Text proposed by the Commission

Amendment

(q b) 'minor' means a child below the age of 16, as established in Regulation (EU) 2016/679.

Or. en

Amendment 410

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation
Article 2 – paragraph 1 – point q c (new)

Text proposed by the Commission

Amendment

(q c) ‘persons with disabilities’ means persons with disabilities within the meaning of Article 3(1) of Directive (EU) 2019/882

Or. en

Amendment 411
Patrick Breyer

Proposal for a regulation
Article 2 a (new)

Text proposed by the Commission

Amendment

Article 2 a

Digital privacy

1. Where technically possible, a provider of an information society service shall enable the use of and payment for that service without collecting personal data of the recipient.

2. A provider of an information society service shall process personal data concerning the use of the service by a recipient only to the extent strictly necessary to enable the recipient to use the service or to charge the recipient for the use of the service. An operator of an online platform shall be allowed to process personal data concerning the use of the service by a recipient for the sole purpose of operating a recommender system if the recipient has given his or her explicit consent, as defined in Article 4(11) of Regulation (EU) 2016/679. Member States shall not require a provider of information society services to retain personal data concerning the use of the service by all recipients.

3. A provider of an information society service shall have the right to provide and support end-to-end encryption services

Or. en

Justification

Paragraph 1: According to Resolution 2020/2019(INL) - JURI report - par. 18, in line with the principle of data minimisation and in order to prevent unauthorised disclosure (such as a recent data breach affecting 500 million users), identity theft and other forms of abuse of personal data, the DSA should provide for the right to use and pay for digital services anonymously wherever technically possible (see also Resolution 2020/2018(INL) - IMCO report - par. 37). This addresses, for example, the Facebook data breach which exposed unnecessarily collected private phone numbers, locations etc. of up to 500 mio. users to criminals. Paragraph 2: According to Resolutions 2020/2022(INI) - LIBE report - par. 9, and 2020/2019(INL), par. 26, the online activities of an individual allow for deep insights into their (past and future) behaviour and make it possible to manipulate them. Users shall therefore be given a right not to be subject to pervasive tracking when using digital services, except where strictly necessary to provide the service and to bill the users (JURI opinion PE652.326v02, par. 4). This excludes i.e. behavioral advertising, as requested by LIBE and suggested by the EDPS. Merely requiring user consent for behavioral advertising would not effectively protect privacy and would fail to create a level playing field with traditional media some of which are existentially threatened due to the loss of advertising revenue to online services that offer targeted advertising. The sentence on data retention is based on 2020/2022(INI), par. 31. Paragraph 3: According to Resolution 2020/2018(INL), par. 26, 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, including to personal data.

Amendment 412

Patrick Breyer, Kim Van Sparrentak, Alexandra Geese, Rasmus Andresen, Clare Daly, Marcel Kolaja

Proposal for a regulation

Article 2 b (new)

Text proposed by the Commission

Amendment

Article 2 b

Targeting of digital advertising

1. Providers of information society services shall not collect or process personal data as defined by Regulation (EU) 2016/679 for the purpose of determining the recipients to whom advertisements are displayed.

2. This provision shall not prevent information society services from determining the recipients to whom advertisements are displayed on the basis of contextual information such as keywords, the language setting communicated by the device of the recipient or the geographical region of the recipients to whom an advertisement is displayed.

3. The use of the contextual information referred to in paragraph 2 shall only be permissible if it does not allow for the direct or, by means of combining it with other information, indirect identification of one or more natural persons, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person or persons.

Or. en

Justification

Phasing out personalised advertising follows a similar approach as requested by LIBE and suggested by the EDPS (opinion par. 69). Merely requiring user consent for personalised advertising would not effectively protect privacy and would fail to create a level playing field with traditional media some of which are existentially threatened due to the loss of advertising revenue to online services that offer targeted advertising.

Amendment 413 Kosma Złotowski

Proposal for a regulation Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

1. Where an information society service is provided that consists of the transmission in a communication network of information provided by a recipient of the service, or the provision of access to a communication network, the service

Amendment

1. Where an information society service is provided that consists of the transmission in a communication network of information provided by a recipient of the service, or the provision of access to a communication network, ***or an***

provider shall not be liable for the information transmitted, on condition that the provider:

improvement of the security of that transmission, the service provider shall not be liable for the information transmitted, on condition that the provider:

Or. en

Amendment 414
Patrick Breyer

Proposal for a regulation
Article 3 – paragraph 3

Text proposed by the Commission

Amendment

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

deleted

Or. en

Justification

According to Resolution 2020/2022(INI) - JURI Report - par. 22, illegal content should be removed where it is hosted and mere conduit intermediaries should not be required to block access to content (likewise in Resolution 2020/2018(INL) - IMCO report - par. 49). Access blocking can easily be circumvented (e.g. by changing DNS servers) and often results in over-blocking and collateral suppression of legal speech hosted on the same website, by the same provider or via the same network (IP address).

Amendment 415
Kosma Złotowski

Proposal for a regulation
Article 3 – paragraph 3

Text proposed by the Commission

Amendment

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

3. This Article shall not affect the possibility for a court or ***functionally independent*** administrative authority, in accordance with Member States' legal systems, of requiring the service provider

infringement.

to terminate or prevent an infringement.

Or. en

Amendment 416

Patrick Breyer

Proposal for a regulation

Article 4 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

To safeguard freedom of expression, the final decision on the legality of content shall rest with the independent judiciary (Resolution 2020/2019(INL), par. 5). This corresponds to recommendations i.e. in the Joint Declaration on International Mechanisms for Promoting Freedom of Expression of the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression.

Amendment 417

Raffaele Stancanelli

Proposal for a regulation

Article 5 – paragraph 1 – point b

Text proposed by the Commission

(b) upon obtaining such knowledge or awareness, ***acts*** expeditiously ***to remove or to disable*** access to the illegal content.

Amendment

(b) upon obtaining such knowledge or awareness, expeditiously ***and permanently removes or disables*** access to the illegal content. ***Expeditiously means immediately or as fast as possible and in any event no later than within 30 minutes where the illegal content pertains to the broadcast.***

Justification

It is very important to have a definition of the concept of rapid removal that must take place within the first 30 minutes

Amendment 418

Alessandra Basso, Gunnar Beck, Gilles Lebreton

Proposal for a regulation**Article 5 – paragraph 1 – point b***Text proposed by the Commission*

(b) upon obtaining such knowledge or awareness, acts ***expeditiously*** to remove or to disable access to the illegal content.

Amendment

(b) upon obtaining such knowledge or awareness, acts to remove or to disable access to the illegal content ***if the content or activity is to be deemed illegal under Article 2 (g).***

Or. en

Amendment 419

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

Proposal for a regulation**Article 5 – paragraph 1 – point b***Text proposed by the Commission*

(b) upon obtaining such knowledge or awareness, acts ***expeditiously to remove or to disable*** access to the illegal content.

Amendment

(b) upon obtaining such knowledge or awareness, acts ***according within the deadlines of Article 5Ia new when it comes to removing or disabling*** access to the illegal content.

Or. en

Amendment 420

Emmanuel Maurel

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

Text proposed by the Commission

(b) upon obtaining such knowledge or awareness, acts expeditiously to remove or **to** disable access to the illegal content.

Amendment

(b) upon obtaining such knowledge or awareness, acts expeditiously **and decisively** to remove or disable access to the illegal content.

Or. fr

Amendment 421

Axel Voss, Antonius Manders, 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

Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Without prejudice to specific deadlines, set out in Union law or within administrative or legal orders, providers of hosting services shall, upon obtaining actual knowledge or awareness, remove or disable access to illegal content as soon as possible and in any event:

(a) within 30 minutes where the illegal content pertains to the broadcast of a live sports or entertainment event;

(b) within 24 hours where the illegal content can seriously harm public policy, public security or public health or seriously harm consumers' health or safety;

(c) within seven days in all other cases where the illegal content does not seriously harm public policy, public security, public health or consumers' health or safety;

Where the provider of hosting services cannot comply with the obligation in paragraph 1a on grounds of force majeure or for objectively justifiable technical or operational reasons, it shall, without undue delay, inform the

competent authority.

Or. en

Amendment 422
Emmanuel Maurel

Proposal for a regulation
Article 5 – paragraph 2

Text proposed by the Commission

2. Paragraph 1 shall not apply *where the recipient of the service is acting under the authority or the control of the provider.*

Amendment

2. Paragraph 1 shall not apply:

(a) where the recipient of the service is acting under the authority or the control of the provider.

(b) to marketplaces in line with Article 25 and which do not comply with Articles 11, 13, 14(1), 19(1), 22, 24 and 29 in terms of mandatory due diligence requirements.

(c) to large platforms as described in Article 25 if they do not comply with the obligations set out in Article 9 of this Regulation.

Or. fr

Amendment 423
Axel Voss, Esteban González Pons, Luisa Regimenti, Monika Hohlmeier, Rainer Wieland, Daniel Caspary, Javier Zarzalejos, Sven Schulze, Christian Doleschal, Pascal Arimont

Proposal for a regulation
Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Paragraph 1 shall not apply when the main purpose of the information society service is to engage in or facilitate illegal activities or when the provider of the information society service

deliberately collaborates with a recipient of the services in order to undertake illegal activities.

Or. en

Amendment 424
Emmanuel Maurel

Proposal for a regulation
Article 5 – paragraph 3

Text proposed by the Commission

3. Paragraph 1 shall not apply with respect to liability ***under consumer protection law*** of online platforms allowing consumers to conclude distance contracts with traders, where such an online platform presents the specific item of information or otherwise enables the specific transaction at issue in a way that would lead an average and reasonably well-informed consumer to believe that the information, or the product or service that is the object of the transaction, is provided either by the online platform itself or by a recipient of the service who is acting under its authority or control.

Amendment

3. Paragraph 1 shall not apply with respect to liability of online platforms allowing consumers to conclude distance contracts with traders, where such an online platform presents the specific item of information or otherwise enables the specific transaction at issue in a way that would lead an average and reasonably well-informed consumer to believe that the information, or the product or service that is the object of the transaction, is provided either by the online platform itself or by a recipient of the service who is acting under its authority or control.

Or. fr

Amendment 425
Axel Voss, Esteban González Pons, Luisa Regimenti, Monika Hohlmeier, Rainer Wieland, Daniel Caspary, Javier Zarzalejos, Sven Schulze, Christian Doleschal

Proposal for a regulation
Article 5 – paragraph 3

Text proposed by the Commission

3. Paragraph 1 shall not apply with respect to liability under consumer protection law of online platforms allowing consumers to conclude distance contracts with traders, where such an online platform

Amendment

3. Paragraph 1 shall not apply with respect to liability under consumer protection law of online platforms allowing consumers to conclude distance contracts with traders ***on the platform***, where such

presents the specific item of information or otherwise enables the specific transaction at issue in a way that would lead an average and reasonably well-informed consumer to believe that the information, or the product or service that is the object of the transaction, is provided either by the online platform itself or by a recipient of the service who is acting under its authority or control.

an online platform presents the specific item of information or otherwise enables the specific transaction at issue in a way that would lead an average and reasonably well-informed consumer to believe that the information, or the product or service that is the object of the transaction, is provided either by the online platform itself or by a recipient of the service who is acting under its authority or control.

Or. en

Amendment 426
Stéphane Séjourné

Proposal for a regulation
Article 5 – paragraph 3

Text proposed by the Commission

3. Paragraph 1 shall not apply with respect to liability under consumer protection law of online ***platforms allowing consumers to conclude distance contracts with traders***, where such an online platform presents the specific item of information or otherwise enables the specific transaction at issue in a way that would lead an average and reasonably well-informed consumer to believe that the information, or the product or service that is the object of the transaction, is provided either by the online ***platform*** itself or by a recipient of the service who is acting under its authority or control.

Amendment

3. Paragraph 1 shall not apply with respect to liability under consumer protection law of ***providers of online marketplaces***, where such an online platform presents the specific item of information or otherwise enables the specific transaction at issue in a way that would lead an average and reasonably well-informed consumer to believe that the information, or the product or service that is the object of the transaction, is provided either by the online ***marketplace*** itself or by a recipient of the service who is acting under its authority or control.

Or. en

Amendment 427
Emmanuel Maurel

Proposal for a regulation
Article 5 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Paragraph 1 shall not apply to liability of marketplaces for illegal content which they host on their platforms.

Or. fr

Amendment 428
Emmanuel Maurel

Proposal for a regulation
Article 5 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. Paragraph 1 shall not apply where the provider of intermediary services plays an active role in providing, optimising, classifying or organising the referencing or promotion of the content.

Or. fr

Amendment 429
Patrick Breyer

Proposal for a regulation
Article 5 – paragraph 4

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 430
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
Article 5 a (new)**

Text proposed by the Commission

Amendment

Article 5 a

The exemptions from liability established in Articles 3, 4 and 5 shall not apply where the information society service plays an active role of such a kind as to give it knowledge of, or control over the information provided by the recipient of the service.

Or. en

**Amendment 431
Patrick Breyer**

**Proposal for a regulation
Article 6**

Text proposed by the Commission

Amendment

Article 6

deleted

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

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

Or. en

Justification

According to Resolutions 2020/2018(INL), par. 56, and 2020/2019(INL), par. 5, the responsibility for enforcing the law must rest with public authorities. Private providers and

their contractors lack the independence, qualification and accountability of public officials and shall not be encouraged to take law enforcement in their own hands. The "good samaritan"-type provision is also unnecessary in Union law and without practical effect because nothing in Articles 3-5 states that providers are liable solely due to their own initiative. For instance, courts have not considered that the use of YouTube's Content ID led to YouTube playing an active role in the provision of its users' content. Where case-law on the 'active' or 'passive' role of providers has resulted in legal uncertainty, it did not relate to compliance measures and is better addressed by the amendment to recital 18 proposed above.

Amendment 432
Emmanuel Maurel

Proposal for a regulation
Article 6 – paragraph 1

Text proposed by the Commission

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

Amendment

Where providers of intermediary services are aware of illegal activity or content as a result of investigations undertaken on their own initiative, they shall not be eligible for exemptions from liability.

They must therefore act as quickly as possible to withdraw or disable access to such activity or content.

Or. fr

Amendment 433
Stéphane Séjourné

Proposal for a regulation
Article 6 – paragraph 1

Text proposed by the Commission

Providers of intermediary services shall not be deemed ineligible for the exemptions from liability referred to in Articles 3, 4 and 5 solely because they carry out

Amendment

Providers of intermediary services shall not be deemed ineligible for the exemptions from liability referred to in Articles 3, 4 and 5 solely because they carry out

voluntary own-initiative investigations or other activities aimed at detecting, identifying and removing, or disabling of access to, illegal content, or take the necessary measures to comply with the requirements of Union law, including *those* set out in this Regulation.

voluntary own-initiative investigations or other activities aimed at detecting, identifying and removing, or disabling of access to, illegal content, or take the necessary measures to comply with the requirements of Union law, *or national law, in accordance with Union law, including the Charter of Fundamental Rights of the European Union, and the requirements* set out in this Regulation.

Or. en

Amendment 434

Alessandra Basso, Gunnar Beck, Gilles Lebreton

Proposal for a regulation Article 6 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 435

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti

Proposal for a regulation Article 6 – paragraph 1

Text proposed by the Commission

Providers of intermediary services shall not be deemed ineligible for the exemptions from liability referred to in Articles 3, 4

Amendment

Providers of intermediary services shall not be deemed ineligible for the exemptions from liability referred to in Articles 3, 4

and 5 solely because they carry out voluntary own-initiative investigations or other activities aimed at detecting, identifying **and removing**, or disabling of access to, illegal content, or take the necessary measures to comply with the requirements of Union law, including those set out in this Regulation.

and 5 solely because they carry out voluntary own-initiative investigations or other activities aimed at detecting, identifying or **temporarily** disabling of access to **manifestly** illegal content, or take the necessary measures to comply with the requirements of Union law, including those set out in this Regulation.

Or. en

Amendment 436

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti

Proposal for a regulation

Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Providers of intermediary services shall notify the competent judicial or administrative authority and the recipient of the service concerned about detection and/or disabling of access to manifestly illegal content without undue delay; notified authorities shall authorise the permanent removal of the content notified;

Or. en

Amendment 437

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti

Proposal for a regulation

Article 6 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

Voluntary own-initiative investigations shall not lead to ex-ante control measures based on automated content moderation tools.

Or. en

Amendment 438

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

Proposal for a regulation

Article 6 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

Providers of intermediary services shall ensure that such measures are accompanied by appropriate safeguards, such as human oversight, documentation, traceability, transparency of algorithms used or additional measures to ensure the accuracy, fairness, transparency and non-discrimination of voluntary own-initiative investigations.

Or. en

Amendment 439

Patrick Breyer

Proposal for a regulation

Article 7 – title

Text proposed by the Commission

Amendment

No general monitoring **or** active fact-finding obligations

No general monitoring, active fact-finding **or automated content moderation** obligations

Or. en

Amendment 440

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Article 7 – paragraph 1

Text proposed by the Commission

Amendment

No general obligation to monitor the information which providers of

No general obligation to monitor the information which providers of

intermediary services transmit or store, nor actively to seek facts or circumstances indicating illegal activity shall be imposed on those providers.

intermediary services transmit or store, nor actively to seek facts or circumstances indicating illegal activity shall be imposed on those providers. ***This Regulation shall not prevent providers from offering end-to-end encrypted services. The provision of such services shall not constitute a reason for liability or for becoming ineligible for the exemptions from liability.***

Or. en

Justification

Encryption is an important cybersecurity tool and any limitations on it or requirements to allow "backdoors" would endanger EU citizens and businesses

Amendment 441

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti, Brando Benifei

Proposal for a regulation

Article 7 – paragraph 1

Text proposed by the Commission

No general obligation to monitor the information which providers of intermediary services transmit or store, nor actively to seek facts or circumstances indicating illegal activity shall be imposed on those providers.

Amendment

No general obligation to monitor the information which providers of intermediary services transmit or store, nor actively to seek facts or circumstances indicating illegal activity shall be imposed on those providers. ***Providers of intermediary services shall not be obliged to use automated tools for content moderation.***

Or. en

Amendment 442

Patrick Breyer

Proposal for a regulation

Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Providers of intermediary services shall not be obliged to use automated tools for content moderation.

Or. en

Justification

According to resolutions 2020/2022(INI), par. 13, and 2020/2018(INL), par. 45, service providers shall not be obliged to use automated tools in content moderation because automated content moderation 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 private staff that lack sufficient independence, qualification and accountability (resolution 2020/2022(INI), par. 12). The responsibility for deciding on the legality of information shall rest with public authorities and not private entities. According to LIBE opinion PE650.375v02, par. 22, an explicit exclusion of such obligations is needed to clarify that nothing in the law shall be interpreted to require the use of such tools or to allow authorities to impose them. The provision is in line with Article 4 (8) of the recently adopted Regulation on Terrorist Content Online. According to Article 1 of the proposal this provision is without prejudice to Article 17 of the Copyright Directive which explicitly mandates the use of automated tools. The compliance of this obligation with fundamental rights is currently subject to judicial review.

Amendment 443

Karen Melchior

Proposal for a regulation

Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Providers of intermediary services shall not be obliged to use automated tools for content moderation

Or. en

Amendment 444

Patrick Breyer

Proposal for a regulation

Article 8 – paragraph 1

Text proposed by the Commission

1. Providers of intermediary services shall, upon the receipt of an order to act against a specific item of illegal content, issued by **the relevant** national judicial **or administrative authorities**, on the basis of the applicable Union or national law, in conformity with Union law, inform the authority issuing the order of the effect given to the **orders**, without undue delay, specifying the action taken **and the moment when the action was taken**.

Amendment

1. Providers of intermediary services shall, upon the receipt **via a secure communications channel** of an order to act against a specific item of illegal content, issued by **a** national judicial **authority**, on the basis of the applicable Union or national law, in conformity with Union law, inform the authority issuing the order of the effect given to the **order**, without undue delay, specifying the action taken . **This rule shall apply mutatis mutandis in respect of competent administrative authorities ordering online platforms to act against traders unlawfully promoting or offering products or services in the Union.**

Or. en

Justification

To safeguard freedom of expression, the final decision on the legality of content shall rest with the independent judiciary (resolution 2020/2019(INL), par. 5). Suppressing online speech interferes with fundamental rights and requires a balancing of interests which is typically entrusted to independent courts. Administrative authorities are controlled by the government whereas the judiciary is shielded against politically motivated interference. This corresponds to recommendations i.e. in the Joint Declaration on International Mechanisms for Promoting Freedom of Expression of the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression. Due to the reduced risk to freedom of expression in the case of commercial offers it would appear acceptable to allow for administrative orders to act against unlawful offers.

Amendment 445

Karen Melchior

Proposal for a regulation

Article 8 – paragraph 1

Text proposed by the Commission

1. Providers of intermediary services shall, upon the receipt of an order to act against a specific item of illegal content, issued by the relevant national judicial or administrative authorities, on the basis of

Amendment

1. Providers of intermediary services shall, upon the receipt of an order to act against a specific **individual** item of illegal content, **received from and** issued by the relevant national judicial or administrative

the applicable Union or national law, in conformity with Union law, inform the authority issuing the order of the effect given to the orders, without undue delay, specifying the action taken and the moment when the action was taken.

authorities, on the basis of the applicable Union or national law, in conformity with Union law, ***including the Charter of Fundamental Rights of the European Union***, inform the authority issuing the order of the effect given to the orders, without undue delay, specifying the action taken and the moment when the action was taken.

Or. en

Justification

Orders should be received directly from the authorities and not via any third parties, which would bring into doubt the validity of the order.

Amendment 446 **Kosma Złotowski**

Proposal for a regulation **Article 8 – paragraph 1**

Text proposed by the Commission

1. Providers of intermediary services shall, upon the receipt of an order to act against a specific ***item*** of illegal content, issued by the relevant national judicial or administrative authorities, on the basis of the applicable Union or national law, in conformity with Union law, inform the authority issuing the order of the effect given to the orders, without undue delay, specifying the action taken and the moment when the action was taken.

Amendment

1. Providers of intermediary services shall, upon the receipt of an order ***via a secure communications channel*** to act against a specific ***or multiple items*** of illegal content, issued by the relevant national judicial or administrative authorities, on the basis of the applicable Union or national law, in conformity with Union law, inform the authority issuing the order of the effect given to the orders, without undue delay, specifying the action taken and the moment when the action was taken.

Or. en

Amendment 447 **Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné**

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

Text proposed by the Commission

Amendment

1 a. *If the provider cannot comply with the removal order because it contains manifest errors or does not contain sufficient information for its execution, it shall, without undue delay, inform the authority that has issued the order.*

Or. en

Amendment 448
Karen Melchior, Stéphane Séjourné

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

Text proposed by the Commission

Amendment

1 b. *Where the provider does not have its main establishment or legal representative in the Member State of the competent authority that has issued the order and the provider believes that the implementation of an order issued under paragraph 1 would infringe the Charter of Fundamental rights of the European Union, Union law, or the national law of the Member State in which the main establishment or legal representative of the provider is located, or does not meet the conditions of paragraph 2, the provider shall have the right to submit a reasoned request for a decision of the Digital Services Coordinator from the Member State of establishment. The provider shall inform the authority issuing the order of this submission.*

Or. en

Amendment 449
Karen Melchior, Stéphane Séjourné

Proposal for a regulation

Article 8 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1 c. Upon receiving such a submission, the Digital Services Coordinator shall in a timely manner scrutinise the order and inform the provider of its decision. Where the Digital Services Coordinator agrees with the reasoning of the provider, in whole or in part, the Digital Services Coordinator shall inform, without undue delay, the Digital Services Coordinator of the Member State of the judicial or administrative authority issuing the order of its objection. The Digital Services Coordinator may choose to intervene on behalf of the provider in any redress, appeal or other legal processes in relations to the order.

Or. en

Amendment 450

Karen Melchior

Proposal for a regulation

Article 8 – paragraph 1 d (new)

Text proposed by the Commission

Amendment

1 d. Until an objection under paragraph 1, point (c) is withdrawn, any penalties, fines or other sanctions related to the non-implementation of an order issued by the relevant national judicial or administrative authorities shall be suspended and the order shall cease to have legal effects.

Or. en

Amendment 451

Karen Melchior, Stéphane Séjourné

Proposal for a regulation

Article 8 – paragraph 1 e (new)

Text proposed by the Commission

Amendment

1 e. Paragraphs 1b and 1c shall not apply in the case of very large online platforms or where a content is manifestly illegal under Union law.

Or. en

Amendment 452

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

Proposal for a regulation

Article 8 – paragraph 2 – point a – indent 1

Text proposed by the Commission

Amendment

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

— a statement of reasons explaining why the information is illegal content, by reference to the specific provision of Union or national law infringed ***with due regard to fundamental rights of the recipient of the service concerned;***

Or. en

Amendment 453

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Article 8 – paragraph 2 – point a – indent 1 a (new)

Text proposed by the Commission

Amendment

- ***the identification of the issuing authority and the means to verify the authentication of the order;***

Or. en

Amendment 454

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti, Christel Schaldemose

Proposal for a regulation

Article 8 – paragraph 2 – point a – indent 1 a (new)

Text proposed by the Commission

Amendment

- *identification of the competent judicial or administrative authority;*

Or. en

Amendment 455

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti, Christel Schaldemose

Proposal for a regulation

Article 8 – paragraph 2 – point a – indent 1 b (new)

Text proposed by the Commission

Amendment

- *reference to the legal basis for the order;*

Or. en

Amendment 456

Patrick Breyer

Proposal for a regulation

Article 8 – paragraph 2 – point a – indent 3

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 457

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti

Proposal for a regulation

Article 8 – paragraph 2 – point b

Text proposed by the Commission

(b) the territorial scope of the order, on the basis of the applicable rules of Union and national law, including the Charter, and, where relevant, general principles of international law, does not exceed what is strictly necessary to achieve its objective;

Amendment

(b) the territorial scope of ***the order, addressed to a provider that has its main establishment in the Member State issuing*** the order, on the basis of the applicable rules of Union and national law, including the Charter, and, where relevant, general principles of international law, does not exceed what is strictly necessary to achieve its objective;

Or. en

Amendment 458

Patrick Breyer

Proposal for a regulation

Article 8 – paragraph 2 – point b

Text proposed by the Commission

(b) the territorial scope of the order, on the basis of the applicable rules of Union and national law, including the Charter, and, where relevant, general principles of international law, does not exceed what is strictly necessary to achieve its objective;

Amendment

(b) the territorial scope of ***an order addressed to a provider that has its main establishment in the Member State issuing*** the order, on the basis of the applicable rules of Union and national law, including the Charter, and, where relevant, general principles of international law, does not exceed what is strictly necessary to achieve its objective;

Or. en

Amendment 459

Karen Melchior, Liesje Schreinemacher

Proposal for a regulation

Article 8 – paragraph 2 – point b

Text proposed by the Commission

(b) the territorial scope of the order, on the basis of the applicable rules of Union

Amendment

(b) the territorial scope of the order, on the basis of the applicable rules of Union

and national law, including the Charter, and, where relevant, general principles of international law, does not exceed what is strictly necessary to achieve its objective;

and national law, including the Charter, and, where relevant, general principles of international law, does not exceed what is strictly necessary to achieve its objective ***and in any case does not exceed the territory of the Member State of the order;***

Or. en

Amendment 460

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(b a) the territorial scope of an order addressed to a provider that has its main establishment or legal representation in another Member State or outside the Union, is limited to the territory of the Member State issuing the order, unless the legal basis for the order is directly applicable Union law;

Or. en

Amendment 461

Patrick Breyer

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Or. en

Justification

According to resolution 2020/2022(INI), par. 15, in order to protect freedom of speech, to avoid conflicts of laws, to avert unjustified and ineffective geo-blocking and to aim for a harmonised digital single market, hosting service providers should not be required to remove or disable access to information that is legal in the Member State that they are established in, or where their designated legal representative resides or is established ("what is legal offline is also legal online", see also resolution 2020/2018(INL), par. 55). In line with the 1st reading position on the Regulation on Terrorist Content Online, cross-border removal orders are acceptable where their effect is limited to the territory of the issuing Member State.

Amendment 462

Patrick Breyer

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(b b) if addressed to a provider that has its main establishment outside the Union, the territorial scope of the order is limited to the territory of the Member State issuing the order;

Or. en

Justification

Resolution 2020/2022(INI), par. 15, maintains that hosting service providers shall not be required to remove or disable access to information that is legal in their country of origin (likewise resolution 2020/2018(INL), par. 55). This also means that EU authorities can order the blocking of content legally published outside the Union only with effect for its own territory (e.g. content legally published in the U.S.). This avoids that third countries will themselves start ordering EU providers to remove content legally published in the Union. This is in line with the Terrorist Content Online regulation requiring providers to "disable access to terrorist content in all Member States".

Amendment 463

Patrick Breyer

Proposal for a regulation

Article 8 – paragraph 2 – point b c (new)

Text proposed by the Commission

Amendment

(b c) Points (b a) and (b b) shall not apply where online platforms are ordered to act against traders established in the same Member State as the issuing authority that are unlawfully promoting or offering products or services in the Union .

Or. en

Justification

Due to the limited effects on freedom of expression it is acceptable to allow for cross-border orders when it comes to commercial offers.

Amendment 464

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Article 8 – paragraph 2 – point c

Text proposed by the Commission

(c) the order is drafted in the language declared by the provider and is sent to the point of contact, appointed by the provider, in accordance with Article 10.

Amendment

(c) the order is drafted in the language declared by the provider and is sent to the point of contact, appointed by the provider, in accordance with Article 10, ***or in the official language of the Member State that issues the order against the specific item of illegal content. In such case, the point of contact may request the competent authority to provide translation into the language declared by the provider.***

Or. en

Amendment 465

Raffaele Stancanelli

Proposal for a regulation

Article 8 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(c a) compliance with the measures in

*the order should be technically feasible
taking into account the available
technical capabilities of the service
provider concerned;*

Or. en

Justification

Orders must be proportionate in that they should always consider the technical feasibility of the measures required.

Amendment 466
Kosma Zlotowski

Proposal for a regulation
Article 8 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

*(c a) the actor receiving the order has
technical and operational ability to act
against specific, notified illegal content
and has direct control over it.*

Or. en

Amendment 467
Karen Melchior, Liesje Schreinemacher

Proposal for a regulation
Article 8 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

*(c a) the order is issued only where no
other effective means are available to
bring about the cessation or the
prohibition of the infringement*

Or. en

Amendment 468
Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation
Article 8 – paragraph 2 – point c b (new)

Text proposed by the Commission

Amendment

(c b) where more than one provider of intermediary services is responsible for hosting the specific item, the order is issued to the most appropriate provider that has the technical and operational ability to act against the specific item.

Or. en

Amendment 469
Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation
Article 8 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. The Commission shall adopt delegated acts in accordance with Article 69, after consulting the Board, to lay down a specific template and form for such orders.

Or. en

Amendment 470
Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation
Article 8 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2 b. Member States shall ensure that providers have a right to appeal and object to implementing the order and shall facilitate the use and access to that right.

Or. en

Amendment 471

Karen Melchior, Liesje Schreinemacher

Proposal for a regulation

Article 8 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2 c. When an order to act against a specific individual item of illegal content is issued by a relevant national judicial or administrative authority, Member States shall ensure that the relevant national judicial or administrative authority duly informs the Digital Services Coordinator from the Member State of the judicial or administrative authority.

Or. en

Amendment 472

Stéphane Séjourné

Proposal for a regulation

Article 8 – paragraph 3

Text proposed by the Commission

Amendment

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

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

Where upon receiving the copy of the order, at least three Digital Services Coordinators consider that the order violates Union or national law that is in conformity with Union law, including the Charter, they can object the enforcement of the order to the Board, based on a reasoned statement. Following recommendation of the Board, the Commission may decide whether the

order should be enforced.

Where the order to act against a specific item of illegal content under Union or national law has been issued by the national judicial or administrative authority of a Member State that is under an Article 7 procedure for infringement of European values according to Article 2 of TEU, any Digital Service Coordinator may object the order directly to the Commission. The Commission shall assess the objection to the order as a matter of priority and decide whether the order should be enforced as swiftly as possible and no later than 48 hours upon receipt of the objection.

Or. en

Amendment 473

Patrick Breyer

Proposal for a regulation

Article 8 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 474

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Article 8 – paragraph 3 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

Where upon receiving the copy of the order, at least three Digital Services Coordinators consider that the order violates Union or national law that is in conformity with Union law, including the Charter, they can object the enforcement of the order to the Board, based on a reasoned statement. Following recommendation of the Board, the Commission may decide whether the order is to be enforced.

Or. en

Amendment 475
Kosma Zlotowski

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

Text proposed by the Commission

Amendment

3 a. *The Digital Services Coordinator of each Member State, on its own initiative and within 96 hours of receiving a copy of the order to act through the system developed in accordance with paragraph 4a of this Article, shall have the right to scrutinise the order to determine whether it infringes the respective Member State's law and deem it invalid on its own territory by adopting a reasoned decision.*

Or. en

Amendment 476
Patrick Breyer

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

Text proposed by the Commission

Amendment

3 a. *Digital Services Coordinators shall publish a ‘toolbox’ of complaint and*

redress mechanisms applicable in their respective territory, in at least one of the official languages of the Member State where they operate.

Or. en

Amendment 477
Kosma Zlotowski

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

Text proposed by the Commission

Amendment

3 b. Where the Digital Services Coordinator adopts a reasoned decision in accordance with paragraph 3a,

a) the Digital Services Coordinator shall communicate that decision to the authority that issued that order and the concerned provider of the service, and,

b) after receiving a decision finding that the content was not in fact illegal, the concerned provider shall immediately reinstate the content or access thereto in the territory of the Member State of the Digital Services Coordinator who issued the decision.

Or. en

Amendment 478
Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation
Article 8 – paragraph 4

Text proposed by the Commission

Amendment

4. The conditions and requirements laid down in this article shall be without prejudice to requirements under national criminal procedural law in conformity with Union law.

4. The conditions and requirements laid down in this article shall be without prejudice to requirements under national criminal procedural law **and administrative law** in conformity with

Union law, *including the Charter of Fundamental Rights. While acting in accordance with such laws, authorities shall not go beyond what is necessary in order to attain the objectives followed therein.*

Or. en

Amendment 479
Marion Walsmann

Proposal for a regulation
Article 8 – paragraph 4

Text proposed by the Commission

4. The conditions and requirements laid down in this article shall be without prejudice to requirements under national criminal procedural law in conformity with Union law.

Amendment

4. The conditions and requirements laid down in this article shall be without prejudice to *civil court decisions and* requirements under national criminal procedural law in conformity with Union law.

Or. en

Amendment 480
Kosma Złotowski

Proposal for a regulation
Article 8 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. The Commission shall adopt implementing acts, organising a European information exchange system, allowing for secure communication and authentication of authorised orders between relevant authorities, Digital Services Coordinators and providers, as referred to in Articles 8(1), 8a(1) and 9(1). Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 70.

Amendment 481

Patrick Breyer

Proposal for a regulation

Article 8 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. The Commission shall adopt implementing acts pursuant to Article 291 TFEU, laying down a European technical standard for secure communication channels. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 70.

Or. en

Amendment 482

Daniel Buda

Proposal for a regulation

Article 8 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The conditions and requirements laid down in this article shall be without prejudice to data confidentiality and commercial secrecy requirements, in conformity with Union law.

Or. ro

Amendment 483

Patrick Breyer

Proposal for a regulation

Article 8 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

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

Or. en

Justification

Where illegal content violates the rights of a person, that person shall have effective access to the judiciary to decide on the legality of the content and ensure redress. This shall include the right to apply for an interlocutory injunction. Orders shall be in accordance with Article 8, particularly concerning their territorial effect.

**Amendment 484
Kosma Zlotowski**

**Proposal for a regulation
Article 8 a (new)**

Text proposed by the Commission

Amendment

Article 8 a

Orders to restore lawful content

1. Providers of intermediary services shall, upon the receipt of an order via a secure communications channel to restore a specific item or multiple items of removed content, issued by the relevant national judicial or administrative authorities on the basis of the applicable Union or national law, in conformity with Union law, inform the authority issuing the order of the effect given to the orders without undue delay, specifying the action taken and the moment when the action was taken.

2. Member States shall ensure that the orders referred to in paragraph 1 meet the following conditions:

(a) the orders contain the following

elements:

(i) a statement of reasons explaining why the content in question is legal, by reference to the specific provision of Union or national law or court ruling;

(ii) one or more exact uniform resource locators and, where necessary, additional information enabling the identification of the legal content concerned;

(iii) information about redress available to the provider of the service who removed the content and to the recipient of the service who notified the content;

(b) the territorial scope of the order, on the basis of the applicable rules of Union and national law, including the Charter, and, where relevant, general principles of international law, does not exceed what is strictly necessary to achieve its objective; and

(c) the order is drafted in the language declared by the provider and is sent to the point of contact, appointed by the provider, in accordance with Article 10.

Or. en

Amendment 485
Stéphane Séjourné

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

1. Providers of intermediary services shall, upon receipt of an order to provide a specific item of information about one or more specific individual recipients of the service, issued by the relevant national judicial or administrative authorities on the basis of the applicable Union or national law, in conformity with Union law, inform without undue delay the authority of issuing the order of its receipt and the

Amendment

1. Providers of intermediary services shall, upon receipt of an order to provide a specific item of information about one or more specific individual recipients of the service, issued by the relevant national judicial or administrative authorities on the basis of the applicable Union or national law, in conformity with Union law, inform without undue delay the authority of issuing the order of its receipt and the effect given to the order. ***Where no effect***

effect given to the order.

has been given to the order, providers of intermediary services shall provide without delay the authority of issuing the order with a statement of reasons as to why the order was not given an effect.

Or. en

Amendment 486
Patrick Breyer

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

1. Providers of intermediary services shall, upon receipt of an order to provide a specific item of information about one or more specific individual recipients of the service, issued by **the relevant** national judicial **or administrative authorities** on the basis of the applicable Union or national law, in conformity with Union law, inform without undue delay the authority of issuing the order of **its receipt and** the effect given to the order.

Amendment

1. Providers of intermediary services shall, upon receipt **via a secure communications channel** of an order to provide a specific item of information about one or more specific individual recipients of the service, issued by **a** national judicial **authority** on the basis of the applicable Union or national law, in conformity with Union law, **for the purpose of preventing serious threats to public security** inform without undue delay the authority of issuing the order of the effect given to the order **via a secure communications channel**.

Or. en

Justification

According to Resolution 2020/2018(INL), par. 25 and Resolution 2020/2019(INL), par. 19, the online activities of individuals allow for deep insights into their personality, so that in the spirit of the case-law on communications metadata, public authorities shall be given access to a user's subscriber data and metadata only to investigate suspects of serious crimes with prior judicial authorisation. The fact that some persons use certain digital services can be very revealing regarding their private life, religion, health or sexuality. The disclosure of such information can result in harassment or blackmailing. Also identifying an anonymous account can expose a whistleblower and result in serious harm. The access to information for criminal proceedings will soon be subject to the e-evidence regulation. In the spirit of the case-law on communications data, serious threats to public security could also justify accessing this sensitive information, but not less pressing purposes.

Amendment 487
Kosma Zlotowski

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

1. Providers of intermediary services shall, upon receipt of an order to provide a specific item of information about one or more specific individual recipients of the service, issued by the relevant national judicial or administrative authorities on the basis of the applicable Union or national law, in conformity with Union law, inform without undue delay the authority of issuing the order of its receipt and the effect given to the order.

Amendment

1. Providers of intermediary services shall, upon receipt of an order ***via a secure communications channel*** to provide a specific item of information about one or more specific individual recipients of the service, issued by the relevant national judicial or administrative authorities on the basis of the applicable Union or national law, in conformity with Union law, inform without undue delay the authority of issuing the order of its receipt and the effect given to the order.

Or. en

Amendment 488
Karen Melchior, Liesje Schreinemacher

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

1. Providers of intermediary services shall, upon receipt of an order to provide a specific item of information about one or more specific individual recipients of the service, issued by the relevant national judicial or administrative authorities on the basis of the applicable Union or national law, in conformity with Union law, inform without undue delay the authority of issuing the order of its receipt and the effect given to the order.

Amendment

1. Providers of intermediary services shall, upon receipt of an order to provide a specific item of information about one or more specific individual recipients of the service, ***received from and*** issued by the relevant national judicial or administrative authorities on the basis of the applicable Union or national law, in conformity with Union law, inform without undue delay the authority of issuing the order of its receipt and the effect given to the order.

Or. en

Amendment 489

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Article 9 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. If the provider cannot comply with the information order because it contains manifest errors or does not contain sufficient information for its execution, it shall, without undue delay, inform the authority that issued the information order

Or. en

Amendment 490

Karen Melchior, Stéphane Séjourné

Proposal for a regulation

Article 9 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1 b. Where the provider does not have its main establishment or legal representative in the Member State of the competent authority that issued the order and a provider believes that the implementation of an order issued under paragraph 1 would infringe the Charter, Union law, or the national law of the Member State in which the main establishment or legal representative of the provider is located, or does not meet the conditions of paragraph 2, the provider shall have the right to submit a reasoned request for a decision of the Digital Services Coordinator from the Member State of establishment. The provider shall inform the authority issuing the order of this submission.

Or. en

Amendment 491
Karen Melchior, Stéphane Séjourné

Proposal for a regulation
Article 9 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1 c. Upon receiving such a submission, the Digital Services Coordinator shall in a timely manner scrutinise the order and inform the provider of its decision. Where the Digital Services Coordinator agrees with the reasoning of the provider, in whole or in part, the Digital Services Coordinator shall inform of its objection, without undue delay, the Digital Services Coordinator from the Member State of the judicial or administrative authority issuing the order. The Digital Services Coordinator may choose to intervene on behalf of the provider in any redress, appeal or other legal processes in relations to the order.

Or. en

Amendment 492
Karen Melchior

Proposal for a regulation
Article 9 – paragraph 1 d (new)

Text proposed by the Commission

Amendment

1 d. Until an objection under paragraph 1, point (c) is withdrawn, any penalties, fines or other sanctions related to the non-implementation of an order issued by the relevant national judicial or administrative authorities shall be suspended and the order shall cease to have legal effects.

Or. en

Amendment 493

Patrick Breyer

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(-a) the order is issued for the purpose of preventing serious threats to public security;

Or. en

Amendment 494

Patrick Breyer

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 495

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

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

Text proposed by the Commission

Amendment

-1 the identification of the issuing authority and the means to verify the authentication of the order;

Or. en

Amendment 496

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

Benifei

Proposal for a regulation

Article 9 – paragraph 2 – point a – indent 1

Text proposed by the Commission

— a statement of reasons explaining the objective for which the information is required and why the requirement to provide the information is necessary and proportionate to determine compliance by the recipients of the intermediary services with applicable Union or national rules, unless such a statement cannot be provided for reasons related to the prevention, investigation, detection and prosecution of criminal offences;

Amendment

— a statement of reasons explaining the objective for which the information is required and why the requirement to provide the information is necessary and proportionate to determine compliance by the recipients of the intermediary services with applicable Union or national rules, ***with due regard to fundamental rights of the recipient of the service concerned,*** unless such a statement cannot be provided for reasons related to the prevention, investigation, detection and prosecution of criminal offences;

Or. en

Amendment 497

Patrick Breyer

Proposal for a regulation

Article 9 – paragraph 2 – point a – indent 1

Text proposed by the Commission

— a statement of reasons explaining the objective for which the information is required and why the ***requirement to provide the information*** is necessary and ***proportionate to determine compliance by the recipients of the intermediary services with applicable Union or national rules, unless such a statement cannot be provided for reasons related to the prevention, investigation, detection and prosecution of criminal offences;***

Amendment

— a statement of reasons explaining the objective for which the information is required and ***–setting out*** why the ***measure*** is necessary and ***proportional, taking due account of the impact of the measure on the fundamental rights of the specific recipient of the service whose data is sought and the seriousness of the offence;***

Or. en

Amendment 498

Stéphane Séjourné

Proposal for a regulation

Article 9 – paragraph 2 – point a – indent 1

Text proposed by the Commission

— a statement of reasons ***explaining the objective for*** which the information is required ***and why the requirement to provide the information is necessary and proportionate*** to determine compliance by the recipients of the intermediary services with applicable Union or national rules, unless such a statement cannot be provided for reasons related to the prevention, investigation, detection and prosecution of criminal offences;

Amendment

— a statement of reasons ***according to*** which the information is required to determine compliance by the recipients of the intermediary services with applicable Union or national rules, unless such a statement cannot be provided for reasons related to the prevention, investigation, detection and prosecution of criminal offences;

Or. en

Amendment 499

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti, Christel Schaldemose

Proposal for a regulation

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

Text proposed by the Commission

Amendment

- ***identification of the competent judicial or administrative authority;***

Or. en

Amendment 500

Patrick Breyer

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Amendment 501

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti, Christel Schaldemose

Proposal for a regulation

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

Text proposed by the Commission

Amendment

- *reference to the legal basis for the order;*

Or. en

Amendment 502

Patrick Breyer

Proposal for a regulation

Article 9 – paragraph 2 – point a – indent 2

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 503

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

Article 9 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) the order only requires the provider to provide information already collected for the purposes of providing the service and which lies within its control;

(b) the order only requires the provider to provide information already collected for the purposes of providing the service and which lies within its control, *including email addresses, telephone numbers, IP addresses and other contact details*

necessary to determine the compliance referred to in (a);

Or. en

Amendment 504

Patrick Breyer

Proposal for a regulation

Article 9 – paragraph 2 – point b

Text proposed by the Commission

(b) the order only requires the provider to provide information already collected for the purposes of providing the service and which lies within its control;

Amendment

(b) the order only requires the provider to provide information already ***legally*** collected for the purposes of providing the service and which lies within its control;

Or. en

Amendment 505

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Article 9 – paragraph 2 – point c

Text proposed by the Commission

(c) the order is drafted in the language declared by the provider and is sent to the point of contact appointed by that provider, in accordance with Article 10;

Amendment

(c) the order is drafted in the language declared by the provider and is sent to the point of contact appointed by that provider, in accordance with Article 10, ***or in the official language of the Member State that issues the order against the specific item of illegal content. In such case, the point of contact may request the competent authority to provide translation into the language declared by the provider;***

Or. en

Amendment 506

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation
Article 9 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(c a) the order is issued only where no other effective means are available to receive the same specific item of information

Or. en

Amendment 507
Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation
Article 9 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. The Commission shall adopt delegated acts in accordance with Article 69, after consulting the Board, to lay down a specific template and form for such orders. It shall ensure that form means the standards set down in the Annex of [XXX the regulation on European Production and Preservation Orders for electronic evidence in criminal matters].

Or. en

Amendment 508
Karen Melchior, Liesje Schreinemacher

Proposal for a regulation
Article 9 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2 b. When an order to provide a specific item of information about one or more specific individual recipients of the service is issued by a relevant national

judicial or administrative authority, Member States shall ensure that the relevant national judicial or administrative authority duly informs the Digital Services Coordinator from the Member State of the judicial or administrative authority.

Or. en

Amendment 509
Patrick Breyer

Proposal for a regulation
Article 9 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 510
Patrick Breyer

Proposal for a regulation
Article 9 – paragraph 4

Text proposed by the Commission

4. The *conditions and requirements laid down in this article* shall be *without prejudice to requirements under national criminal procedural law in conformity with Union law*.

Amendment

4. The *provider shall inform, without undue delay, the recipient whose data is being sought without undue delay. As long as this is necessary and proportionate, and is in order to protect the fundamental rights of another person, the issuing judicial authority, taking due account the impact of the measure on the fundamental rights of the person whose*

*data is sought, may request the provider to delay informing the recipient. Such a request shall be **duly justified**, specify the duration of the obligation of confidentiality and be subject to periodic review.*

Or. en

Amendment 511
Marion Walsmann

Proposal for a regulation
Article 9 – paragraph 4

Text proposed by the Commission

4. The conditions and requirements laid down in this article shall be without prejudice to requirements under national criminal procedural law in conformity with Union law.

Amendment

4. The conditions and requirements laid down in this article shall be without prejudice to ***civil court decisions and*** requirements under national criminal procedural law in conformity with Union law.

Or. en

Amendment 512
Karen Melchior, Liesje Schreinemacher

Proposal for a regulation
Article 9 – paragraph 4

Text proposed by the Commission

4. The conditions and requirements laid down in this article shall be without prejudice to requirements under national criminal procedural law in conformity with Union law.

Amendment

4. The conditions and requirements laid down in this article shall be without prejudice to requirements under national criminal procedural law ***and administrative law*** in conformity with Union law.

Or. en

Amendment 513

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti

Proposal for a regulation

Article 9 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. The obligations under this Article shall not oblige providers of intermediary services to introduce new tracking of profiling techniques for recipients of the service in order to comply with orders to provide information.

Or. en

Amendment 514

Daniel Buda

Proposal for a regulation

Article 9 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The conditions and requirements laid down in this article shall be without prejudice to data confidentiality and commercial secrecy requirements, in conformity with Union law.

Or. ro

Amendment 515

Patrick Breyer

Proposal for a regulation

Article 9 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. This Article shall apply, mutatis mutandis, in respect of competent administrative authorities ordering online platforms to provide the information listed in Article 22.

Justification

When it comes to the effective investigation of commercial activities, it appears justified to apply lower safeguards.

Amendment 516

Patrick Breyer

Proposal for a regulation

Article 9 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4 b. Where information is sought for the purpose of criminal proceedings, Regulation (EU) 2021/XXXX on access to electronic evidence shall apply.

Or. en

Amendment 517

Patrick Breyer

Proposal for a regulation

Article 9 – paragraph 4 c (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 518

Patrick Breyer

Proposal for a regulation

Article 9 – paragraph 4 d (new)

4 d. The Commission shall adopt implementing acts pursuant to Article 291 of the Treaty on the Functioning of the European Union (TFEU), establishing a common European information exchange system with secure channels for the handling of authorised cross-border communications, authentication and transmission of the order referred to in paragraph 1 and, where applicable, of the requested data between the competent judicial authority and the provider. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 70.

Or. en

Amendment 519

Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation

Article -10 (new)

Article -10

Waiver

1. Providers of intermediary services may apply to the Commission for a waiver from the requirements of Chapter III, if they prove that they are:

(a) non-for-profit or equivalent and serve a manifestly positive role in the public interest;

(b) micro or small enterprises within the meaning of the Annex to Recommendation 2003/361/EC; or

(c) a medium enterprises within the meaning of the Annex to Recommendation 2003/361/EC without any systemic risk related to illegal content. The Providers shall present justified

reasons for their request.

2. The Commission shall examine such an application and, after consulting the Board, may issue a waiver in whole or in parts to the requirements of this Chapter.

3. Upon the request of the Board or the provider, or on its own initiative, the Commission may review a waiver issued and revoke the waiver in whole or in parts.

4. The Commission shall maintain a list of all waivers issued and their conditions and shall publish this list to the public.

Or. en

Justification

The burdens of this regulation must be weighed against the benefits that are achieved with those obligations. In a selected number of cases, the burden would outweigh the benefit and therefore the Commission should have the power to address this issue in order to remove burdens where merited. Without such a power, providers which were not the target or object of this legislation maybe find themselves unable to meet their obligations while maintaining their other functions which would have a negative effect on the European market and its citizens. This amendment is therefore need to order to ensure the proportionality of the obligations to their intended goals.

Amendment 520

Patrick Breyer

Proposal for a regulation

Article -10 (new)

Text proposed by the Commission

Amendment

Article -10

Exclusion for micro enterprises and not-for-profit services

This Chapter shall not apply to online platforms that qualify as micro enterprises within the meaning of the Annex to Recommendation 2003/361/EC or as a not-for-profit service with fewer than 100.000 monthly active users.

Or. en

Amendment 521
Karen Melchior, Liesje Schreinemacher

Proposal for a regulation
Article -10 a (new)

Text proposed by the Commission

Amendment

Article -10 a

Conflict between Union Acts

- 1. Where any obligation set down in this Regulation can be viewed as equivalent with or superseded by an obligation within another Union act, in which a provider of intermediary services is also a subject, a provider of intermediary services may apply to the Commission for a waiver from such requirements or a declaration that it should be deemed as having complied with this Regulation, in whole or in parts. The provider shall present justified reasons for their request.***
- 2. The Commission shall examine such an application and, after consulting the Board, may issue a waiver or declaration in whole or in parts to the requirements of this Regulation.***
- 3. Upon the request of the Board or on its own initiative, the Commission may review a waiver or declaration issued and revoke the waiver or declaration in whole or in parts.***
- 4. The Commission shall maintain a list of all waivers and declarations issued and their conditions and shall publish this list to the public.***

Or. en

Justification

As the number of different legislative acts, especial lex specialis, will potentially have conflicts with this act, the Commission should have the power to address these conflicts in order to remove potential double or conflicting burdens. Without such a power, it would be left to the courts to undertake the same actions.

Amendment 522
Kosma Złotowski

Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

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

Amendment

2. Providers of intermediary services shall make public the information necessary to easily identify and communicate with their single points of contact ***and ensure that information is up to date. Providers of intermediary services shall notify that information, including the name, postal address, the electronic mail address and telephone number of their single point of contact, to the Digital Services Coordinator in the Member State where they are established.***

Or. en

Amendment 523
Karen Melchior, Liesje Schreinemacher, Stéphane Séjourné

Proposal for a regulation
Article 10 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Providers of intermediary services may establish the same single point of contact for this Regulation and another single point of contact as required under other Union law. When doing so, the provider shall inform the Commission of this decision.

Or. en

Amendment 524
Kosma Złotowski

Proposal for a regulation
Article 11 – paragraph 1

Text proposed by the Commission

1. Providers of intermediary services which do not have an establishment in the Union but which offer services in the Union shall designate, in writing, a legal or natural person as their legal representative in one of the Member States where the provider offers its services.

Amendment

1. Providers of intermediary services which do not have an establishment in the Union but which offer services in the Union shall designate, in writing, a legal or natural person as their legal representative in ***at least*** one of the Member States where the provider offers its services. ***Very large online platforms shall designate a legal representative in each of the Member States where the provider offers its services.***

Or. en

Amendment 525

Axel Voss, Antonius Manders, 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, Pascal Arimont

Proposal for a regulation
Article 11 – paragraph 1

Text proposed by the Commission

1. Providers of intermediary services which do not have an establishment in the Union but which offer services in the Union shall designate, in writing, a legal or natural person as their legal representative in one of the Member States where the provider offers its services.

Amendment

1. Providers of intermediary services which do not have an establishment in the Union but which offer services in the Union shall designate, in writing, a legal or natural person as their legal representative in one of the Member States where the provider offers its services. ***The Member States may require very large online platforms to designate a legal representative in their Member State.***

Or. en

Amendment 526
Karen Melchior

Proposal for a regulation
Article 11 – paragraph 1

Text proposed by the Commission

1. Providers of intermediary services ***which do not have an establishment in the Union but which offer services in the Union*** shall designate, in writing, a legal or natural person as their legal representative in ***one of the*** Member ***States*** where the provider offers its services.

Amendment

1. Providers of intermediary services shall designate, in writing, a legal or natural person as their legal representative in ***each*** Member ***State*** where the provider offers its services.

Or. en

Amendment 527
Emmanuel Maurel

Proposal for a regulation
Article 11 – paragraph 1

Text proposed by the Commission

1. Providers of intermediary services which do not have an establishment in the Union but which offer services in the Union shall designate, in writing, a legal or natural person as their legal representative in ***one*** of the Member States where the provider offers its services.

Amendment

1. Providers of intermediary services which do not have an establishment in the Union but which offer services in the Union shall designate, in writing, a legal or natural person as their legal representative in ***each*** of the Member States where the provider offers its services.

Or. fr

Amendment 528
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
Article 11 – paragraph 2

Text proposed by the Commission

2. Providers of intermediary services shall mandate their legal representatives to be addressed in addition to or instead of the

Amendment

2. Providers of intermediary services shall mandate their legal representatives to be addressed in addition to or instead of the

provider by the Member States' authorities, the Commission and the Board on all issues necessary for the receipt of, compliance with and enforcement of decisions issued in relation to this Regulation. Providers of intermediary services shall provide their legal representative with the necessary powers and resource to *cooperate* with the Member States' authorities, the Commission and the Board and comply with those decisions.

provider by the Member States' authorities, the Commission and the Board on all issues necessary for the receipt of, compliance with and enforcement of decisions issued in relation to this Regulation. Providers of intermediary services shall provide their legal representative with the necessary powers and resource to ***guarantee the proper and timely cooperation*** with the Member States' authorities, the Commission and the Board and comply with those decisions.

Or. en

Amendment 529
Kosma Złotowski

Proposal for a regulation
Article 11 – paragraph 4

Text proposed by the Commission

4. Providers of intermediary services shall notify the name, address, the electronic mail address and telephone number of their legal representative to the Digital Service Coordinator in the Member State where that legal representative resides or is established. They shall ensure that that information is up to date.

Amendment

4. Providers of intermediary services shall notify ***identification data, including*** the name, ***postal*** address, the electronic mail address and telephone number of their legal representative to the Digital Service Coordinator in the Member State where that legal representative resides or is established. They shall ensure that that information is up to date. ***The Digital Service Coordinator in the Member State where that legal representative resides or is established shall, upon receiving that information, make reasonable efforts to assess its validity.***

Or. en

Amendment 530
Kosma Złotowski

Proposal for a regulation
Article 11 – paragraph 5 a (new)

5 a. Providers of online social networking services designated as very large online platform according to Article 25 shall designate a legal representative to be bound to obligations laid down in this Article at the request of the Digital Services Coordinator of the Member States where this provider offers its services.

Or. en

Amendment 531

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

**Proposal for a regulation
Article 11 a (new)**

Article 11 a

Exclusions

Articles 12 and 13 of Section 1, and the provisions of Section 2, and Section 3 of Chapter III shall not apply to:

(a) editorial platforms within the meaning of Article 2(h a) of this Regulation;

(b) online platforms that qualify as micro and medium-sized enterprises within the meaning of the Annex to Recommendation 2003/361/EC.

(c) an intermediary service, except very large online platforms, where it would constitute a disproportionate burden in view of its size, the nature of its activity and the risk posed to users.

Or. en

Amendment 532

Kosma Zlotowski

Proposal for a regulation
Article 11 a (new)

Text proposed by the Commission

Amendment

Article 11 a

Exclusions

Articles 12 and 13 of Section 1, and the provisions of Section 2, and Section 3 of Chapter III shall not apply to:

(a) editorial platforms within the meaning of Article 2(h a) of this Regulation;

(b) online platforms that qualify as micro and medium-sized enterprises within the meaning of the Annex to Recommendation 2003/361/EC;

(c) an intermediary service, except very large online platforms, where it would constitute a disproportionate burden in view of its size, the nature of its activity and the risk posed to users.

Or. en

Amendment 533
Emmanuel Maurel

Proposal for a regulation
Article 12 – paragraph 1

Text proposed by the Commission

Amendment

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

1. Providers of intermediary services shall ***ensure that their terms and conditions prohibit*** the recipients of ***their services from providing content that is not in compliance with Union law or the law of the Member State where such content is made*** available.

unambiguous language and shall be publicly available in an easily accessible format.

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

Or. fr

Amendment 534

Tiemo Wölken, Evelyne Gebhardt, Franco Roberti, Christel Schaldemose

Proposal for a regulation

Article 12 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 535

Karen Melchior, Stéphane Séjourné

Proposal for a regulation

Article 12 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

To improve the accountability of service providers, researchers need access to the full history of these terms and conditions to understand when policies may have been modified by the company, and, when researchers examine past actions, when the terms & conditions should have been enforced. Terms and conditions can evolve rapidly in response to real world events. It has occurred that researchers will identify information incompatible with a platform's current terms and conditions, only to discover that the terms and conditions have changed since the first publication or first identification of that information. Accurate supervision and compliance with terms and conditions therefore requires the availability of such an archive.

Amendment 536

Patrick Breyer

Proposal for a regulation

Article 12 – paragraph 1

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 537

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

Proposal for a regulation Article 12 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 538
Kosma Złotowski

Proposal for a regulation
Article 12 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 539
Karen Melchior, Stéphane Séjourné

Proposal for a regulation
Article 12 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Providers of intermediary services shall include information on any restrictions that they impose in relation to the use of their service in respect of information provided by the recipients of the service, in their terms and conditions. That information shall include information on any policies, procedures, measures and tools used for the purpose of content moderation, including algorithmic decision-making and human review, and available remedies including

applicable alternative dispute resolution mechanisms. It shall be set out in clear and unambiguous language and shall be publicly available in an easily accessible format. Providers of intermediary services shall provide recipients of services with a concise and easily readable summary of the terms and conditions, including information on the available remedies and the possibilities for opt-out, where relevant.

Or. en

Amendment 540
Stéphane Séjourné

Proposal for a regulation
Article 12 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Providers of intermediary services shall ensure that their terms and conditions are written in unambiguous and comprehensible language and prevent the recipients of their services from providing information that is not compliant with Union law or the law of the Member State where the information is provided. Any additional restrictions that providers of intermediary services may impose in relation to the use of their service and the information provided by the recipients of the service shall be in full compliance with the fundamental rights of the recipients of the services as enshrined in the Charter of Fundamental Rights of the European Union.

Or. en