



**2020/0361(COD)**

26.10.2021

# **OPINION**

of the Committee on Economic and Monetary Affairs

for the Committee on the Internal Market and Consumer Protection

on the proposal for a regulation of the European Parliament and of the Council  
on a Single Market For Digital Services (Digital Services Act) and amending  
Directive 2000/31/EC  
(COM(2020)0825 – C9-0418/2020 – 2020/0361(COD))

Rapporteur for opinion: Mikuláš Peksa

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## AMENDMENTS

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

### Amendment 1

#### Proposal for a regulation

##### Recital 1

###### *Text proposed by the Commission*

(1) Information society services and especially intermediary services have become an important part of the Union's economy and daily life of Union citizens. Twenty years after the adoption of the existing legal framework applicable to such services laid down in Directive 2000/31/EC of the European Parliament and of the Council<sup>25</sup>, new and innovative business models and services, such as online social networks and marketplaces, have allowed business users and consumers to impart and access information and engage in transactions in novel ways. A majority of Union citizens now uses those services on a daily basis. However, the digital transformation and increased use of those services has also resulted in new risks and challenges, both for individual users and for society as a whole.

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

###### *Amendment*

(1) Information society services and especially intermediary services have become an important part of the Union's economy and daily life of Union citizens. Twenty years after the adoption of the existing legal framework applicable to such services laid down in Directive 2000/31/EC of the European Parliament and of the Council<sup>25</sup>, new and innovative business models and services, such as online social networks and marketplaces, have allowed business users and consumers to impart and access information and engage in transactions in novel ways. A majority of Union citizens now uses those services on a daily basis. However, the digital transformation and increased use of those services has also resulted in new risks, ***not least cybersecurity risks***, and challenges, both for individual users and for society ***and the economy*** as a whole.

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

### Amendment 2

#### Proposal for a regulation

##### Recital 1 a (new)

*Text proposed by the Commission*

*Amendment*

***(1a) The digitalisation of European society and its economy is often leaving policy makers, corporations and citizens struggling to catch up. Furthermore, the accumulation of data is regularly creating an uneven competitive level on the market since this is being used as a tool to determine who enters and who exits the market.***

### **Amendment 3**

#### **Proposal for a regulation**

##### **Recital 2**

*Text proposed by the Commission*

*Amendment*

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

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

### **Amendment 4**

**Proposal for a regulation**  
**Recital 3**

*Text proposed by the Commission*

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

**Amendment 5**

**Proposal for a regulation**  
**Recital 4**

*Text proposed by the Commission*

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

*Amendment*

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

*Amendment*

(4) Therefore, in order to safeguard and improve the functioning of the internal market **and ensure that citizens' fundamental rights are respected**, a targeted set of uniform, effective, **risk-based** and proportionate mandatory rules should be established at Union level. This Regulation provides the **right** conditions **and competitive settings** for innovative digital services to emerge and to **scale up** in the internal market. The approximation of national regulatory measures at Union level concerning the requirements for providers of intermediary services is necessary in order to avoid and put an end to fragmentation of the internal market and to ensure legal certainty, thus reducing uncertainty for developers, fostering interoperability **and assure the possibility for new entries to penetrate the market**. By using requirements that are technology neutral, innovation **and the competitiveness of Union companies**

should not be hampered but instead be stimulated.

## Amendment 6

### Proposal for a regulation

#### Recital 5

##### *Text proposed by the Commission*

(5) This Regulation should apply to providers of certain information society services as defined in Directive (EU) 2015/1535 of the European Parliament and of the Council<sup>26</sup>, that is, any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient. Specifically, this Regulation should apply to providers of intermediary services, and in particular intermediary services consisting of services known as ‘mere conduit’, ‘caching’ and ‘hosting’ services, given that the exponential growth of the use made of those services, mainly for legitimate and socially beneficial purposes of all kinds, has also increased their role in the intermediation and ***spread of unlawful or otherwise harmful information and activities***.

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

## Amendment 7

### Proposal for a regulation

#### Recital 5 a (new)

##### *Amendment*

(5) This Regulation should apply to providers of certain information society services as defined in Directive (EU) 2015/1535 of the European Parliament and of the Council<sup>26</sup>, that is, any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient. Specifically, this Regulation should apply to providers of intermediary services, and in particular intermediary services consisting of services known as ‘mere conduit’, ‘caching’ and ‘hosting’ services, given that the exponential growth of the use made of those services, mainly for legitimate and socially beneficial purposes of all kinds, has also increased their role in the intermediation and ***their responsibility to uphold fundamental rights***.

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

***(5a) Given the cross-border nature of the services concerned, Union action to harmonise accessibility requirements for intermediary services across the internal market is vital to avoid market fragmentation and to ensure that equal right of access to and choice of those services by all consumers and other recipients of services, including by persons with disabilities, is protected throughout the Union. Lack of harmonised accessibility requirements for digital services and platforms would also create barriers for the implementation of existing Union legislation on accessibility, as many of the services falling under those laws rely on intermediary services to reach end-users. Therefore, accessibility requirements for intermediary services, including their online interfaces, should be consistent with existing Union accessibility legislation, such as the European Accessibility Act and the Web Accessibility Directive, so that no one is left behind as result of digital innovation. That aim is in line with the Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030 and the Union's commitment to the United Nations' Sustainable Development Goals.***

## **Amendment 8**

### **Proposal for a regulation**

#### **Recital 8**

*Text proposed by the Commission*

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

*Amendment*

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

more Member States. The targeting of activities towards one or more Member States can be determined on the basis of all relevant circumstances, including factors such as the use of a language or a currency generally used in that Member State, or the possibility of ordering products or services, or using a national top level domain. The targeting of activities towards a Member State could also be derived from the availability of an application in the relevant national application store, from the provision of local advertising or advertising in the language used in that Member State, or from the handling of customer relations such as by providing customer service in the language generally used in that Member State. A substantial connection should also be assumed where a service provider directs its activities to one or more Member State as set out in Article 17(1)(c) of Regulation (EU) 1215/2012 of the European Parliament and of the Council<sup>27</sup>. On the other hand, mere technical accessibility of a website from the Union cannot, on that ground alone, be considered as establishing a substantial connection to the Union.

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

States can be determined on the basis of all relevant circumstances, including factors such as the use of a language or a currency generally used in that Member State, or the possibility of ordering products or services, or using a national top level domain. The targeting of activities towards a Member State could also be derived from the availability of an application in the relevant national application store, from the provision of local advertising or advertising in the language used in that Member State, or from the handling of customer relations such as by providing customer service in the language generally used in that Member State. A substantial connection should also be assumed where a service provider directs its activities to one or more Member State as set out in Article 17(1)(c) of Regulation (EU) 1215/2012 of the European Parliament and of the Council<sup>27</sup>. On the other hand, mere technical accessibility of a website from the Union cannot, on that ground alone, be considered as establishing a substantial connection to the Union.

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

## **Amendment 9**

### **Proposal for a regulation Recital 12**

*Text proposed by the Commission*

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

*Amendment*

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



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

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

## **Amendment 10**

### **Proposal for a regulation Recital 12 a (new)**

*Text proposed by the Commission*

*Amendment*

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

*purpose of that dissemination and whether material is disseminated to the public for those purposes.*

## Amendment 11

### Proposal for a regulation

#### Recital 13

##### *Text proposed by the Commission*

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

##### *Amendment*

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

## Amendment 12

### Proposal for a regulation

#### Recital 14

##### *Text proposed by the Commission*

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

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

##### *Amendment*

(14) The concept of ‘dissemination to the public’, as used in this Regulation, should entail the making available of information to a potentially unlimited number of persons, that is, making the information easily accessible to users in general without further action by the recipient of the service providing the information being required, irrespective of whether those persons actually access the information in question. ***Accordingly, where access to information requires registration or admittance to a group of users, that information should be considered to be disseminated to the public only where users seeking to access the information are automatically registered or admitted without a human decision or selection of whom to grant access.*** Interpersonal communication services, as defined in Directive (EU) 2018/1972 of the European Parliament and of the Council,<sup>39</sup> such as emails or private messaging services, fall outside the scope of this Regulation, ***as they are not considered to be disseminated to the public.*** Information should be considered disseminated to the public within the meaning of this Regulation only where that occurs upon the direct request by the recipient of the service that provided the information.

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

## Amendment 13

### Proposal for a regulation Recital 15 a (new)

*Text proposed by the Commission*

*Amendment*

***(15a) The general collection of personal data concerning every use of a digital service interferes disproportionately with the right to privacy in the digital age. In line with the principle of data minimisation and in order to prevent unauthorised disclosure, identity theft and other forms of abuse of personal data, recipients should have the possibility to access information society services rights to use and pay for information society services anonymously wherever technically possible. Similarly users should have a right not to be subject to tracking when using information society services. To that end, the processing of personal data concerning the use of services should be limited to the extent strictly necessary to provide the service and to bill the users.***

## Amendment 14

### Proposal for a regulation Recital 18

*Text proposed by the Commission*

*Amendment*

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

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

of the service but by the provider of intermediary service itself, including where the information has been developed under the editorial responsibility of that provider.

## Amendment 15

### Proposal for a regulation

#### Recital 22

##### *Text proposed by the Commission*

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

## Amendment 16

### Proposal for a regulation

#### Recital 27

##### *Text proposed by the Commission*

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

##### *Amendment*

(22) In order to benefit from the exemption from liability for hosting services, the provider should, upon obtaining actual knowledge or awareness of illegal content, act expeditiously ***and in good faith*** to remove or to disable access to that content. The removal or disabling of access should be undertaken in the observance of the principle of freedom of expression. The provider can obtain such actual knowledge or awareness through, in particular, its own-initiative investigations or notices submitted to it by individuals or entities in accordance with this Regulation, ***without prejudice to Article 6***, in so far as those notices are sufficiently precise and adequately substantiated to allow a diligent economic operator to reasonably identify, assess and where appropriate act against the allegedly illegal content.

##### *Amendment*

(27) New technologies have emerged that improve the availability, efficiency, speed, reliability, capacity and security of systems for the transmission and storage of data online, leading to an increasingly complex online ecosystem ***that makes it harder for both policymakers to manage***,

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

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

## Amendment 17

### Proposal for a regulation

#### Recital 28

##### *Text proposed by the Commission*

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

##### *Amendment*

(28) Providers of intermediary services should not be subject to a monitoring obligation with respect to obligations of a general nature ***nor should they use automated tools for content moderation.*** This does not concern monitoring obligations in a specific case and, in particular, does not affect orders by national authorities in accordance with



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

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

## Amendment 18

### Proposal for a regulation Recital 31

#### *Text proposed by the Commission*

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

#### *Amendment*

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

## Amendment 19

**Proposal for a regulation**  
**Recital 31 a (new)**

*Text proposed by the Commission*

*Amendment*

***(31a) The Commission should ensure the proper enforcement of this Regulation at Union and Member State level, in order to avoid potential inequalities, differences of approach and unfair competition within or from outside the Union.***

**Amendment 20**

**Proposal for a regulation**  
**Recital 35**

*Text proposed by the Commission*

*Amendment*

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

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

**Amendment 21**



**Proposal for a regulation**  
**Recital 36**

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 22**

**Proposal for a regulation**  
**Recital 38**

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 23

### Proposal for a regulation Recital 39

#### *Text proposed by the Commission*

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

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

## Amendment 24

### Proposal for a regulation Recital 43

#### *Text proposed by the Commission*

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

#### *Amendment*

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

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

#### *Amendment*

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

Recommendation help ensure that any circumvention of those additional obligations is prevented. The exemption of micro- and small enterprises from those additional obligations should not be understood as affecting their ability to set up, on a voluntary basis, a system that complies with one or more of those obligations.

Recommendation help ensure that any circumvention of those additional obligations is prevented. The exemption of micro- and small enterprises from those additional obligations should not be understood as affecting their ability to set up, on a voluntary basis, a system that complies with one or more of those obligations. *In this regard, the Commission and Digital Service Coordinators should have the possibility to work together on information and guidelines for the voluntary implementation of this Regulation for micro or small enterprises. Furthermore, the Commission and Digital Services Coordinators are also encouraged to do so for medium enterprises, which while not benefitting from the liability exemptions in Section 3, may sometimes lack the legal resources necessary to ensure proper understanding and compliance with this Regulation.*

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

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

## Amendment 25

### Proposal for a regulation Recital 47

#### *Text proposed by the Commission*

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

#### *Amendment*

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

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

misuse. Under certain conditions, online platforms should temporarily suspend their relevant activities in respect of the person engaged in abusive behaviour. Redress should always be open to the decisions taken in this regard by online platforms and they should be subject to oversight by the competent Digital Services Coordinator. The rules of this Regulation on misuse should not prevent online platforms from taking other measures to address misuse of their services, in accordance with the applicable Union and national law. Those rules are without prejudice to any possibility to hold the persons engaged in misuse liable, including for damages, provided for in Union or national law.

## **Amendment 26**

### **Proposal for a regulation**

#### **Recital 48**

*Text proposed by the Commission*

(48) An online platform may in some instances become aware, such as through a notice by a notifying party or through its

*Amendment*

(48) An online platform may in some instances become aware, such as through a notice by a notifying party or through its

own voluntary measures, of information relating to certain activity of a recipient of the service, such as the provision of certain types of illegal content, that reasonably justify, having regard to all relevant circumstances of which the online platform is aware, the suspicion that the recipient may have committed, may be committing or is likely to commit a *serious* criminal offence *involving a threat to the life or safety of person, such as offences specified in Directive 2011/93/EU of the European Parliament and of the Council*<sup>44</sup>. In such instances, the online platform should inform without delay the competent law enforcement authorities of such suspicion, providing all relevant information available to it, including where relevant the content in question and an explanation of its suspicion. This Regulation does not provide the legal basis for profiling of recipients of the services with a view to the possible identification of criminal offences by online platforms. Online platforms should also respect other applicable rules of Union or national law for the protection of the rights and freedoms of individuals when informing law enforcement authorities.

own voluntary measures, of information relating to certain activity of a recipient of the service, such as the provision of certain types of illegal content, that reasonably justify, having regard to all relevant circumstances of which the online platform is aware, the suspicion that the recipient may have committed, may be committing or is likely to commit a criminal offence. In such instances, the online platform should inform without delay the competent law enforcement authorities of such suspicion, providing all relevant information available to it, including where relevant the content in question and an explanation of its suspicion. This Regulation does not provide the legal basis for profiling of recipients of the services with a view to the possible identification of criminal offences by online platforms. Online platforms should also respect other applicable rules of Union or national law for the protection of the rights and freedoms of individuals when informing law enforcement authorities.

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

## Amendment 27

### Proposal for a regulation Recital 49

*Text proposed by the Commission*

(49) In order to contribute to a safe,

*Amendment*

(49) In order to contribute to a safe,

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

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

## Amendment 28

### Proposal for a regulation

#### Recital 50

*Text proposed by the Commission*

(50) To ensure an efficient and adequate application of that obligation, without imposing any disproportionate burdens, the online platforms covered should make reasonable efforts to verify the reliability of the information provided by the traders concerned, in particular by using freely available official online databases and online interfaces, such as national trade registers and the VAT Information Exchange System<sup>45</sup>, *or by requesting the*

*Amendment*

(50) To ensure an efficient and adequate application of that obligation, without imposing any disproportionate burdens, the online platforms covered should make reasonable efforts to verify the reliability *of some* of the information provided by the traders concerned, in particular by using freely available official online databases and online interfaces, such as national trade registers and the VAT Information Exchange System.<sup>45</sup> The online platforms



*traders concerned to provide trustworthy supporting documents, such as copies of identity documents, certified bank statements, company certificates and trade register certificates. They may also use other sources, available for use at a distance, which offer a similar degree of reliability for the purpose of complying with this obligation. However,* the online platforms covered should not be required to engage in excessive or costly online fact-finding exercises or to carry out verifications on the spot. Nor should such online platforms, which have made the reasonable efforts required by this Regulation, be understood as guaranteeing the reliability of the information towards consumer or other interested parties. Such online platforms should also design and organise their online interface in a way that enables traders to comply with their obligations under Union law, in particular the requirements set out in Articles 6 and 8 of Directive 2011/83/EU of the European Parliament and of the Council<sup>46</sup>, Article 7 of Directive 2005/29/EC of the European Parliament and of the Council<sup>47</sup> and Article 3 of Directive 98/6/EC of the European Parliament and of the Council<sup>48</sup>.

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[https://ec.europa.eu/taxation\\_customs/vies/vieshome.do?selectedLanguage=en](https://ec.europa.eu/taxation_customs/vies/vieshome.do?selectedLanguage=en)

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

<sup>47</sup> Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council

covered should not be required to engage in excessive or costly online fact-finding exercises or to carry out verifications on the spot. Nor should such online platforms, which have made the reasonable efforts required by this Regulation, be understood as guaranteeing the reliability of the information towards consumer or other interested parties ***or be liable for that information in case it proves to be inaccurate.*** Such online platforms should also design and organise their online interface in a way that enables traders to comply with their obligations under Union law, in particular the requirements set out in Articles 6 and 8 of Directive 2011/83/EU of the European Parliament and of the Council<sup>46</sup>, Article 7 of Directive 2005/29/EC of the European Parliament and of the Council<sup>47</sup> and Article 3 of Directive 98/6/EC of the European Parliament and of the Council<sup>48</sup>.

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[https://ec.europa.eu/taxation\\_customs/vies/vieshome.do?selectedLanguage=en](https://ec.europa.eu/taxation_customs/vies/vieshome.do?selectedLanguage=en)

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

<sup>47</sup> Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council

Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive')

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

Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive')

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

## Amendment 29

### Proposal for a regulation Recital 52

#### *Text proposed by the Commission*

(52) Online advertisement plays an important role in the online environment, including in relation to the provision of the services of online platforms. However, online advertisement can contribute to significant risks, ranging from advertisement that is itself illegal content, to contributing to financial incentives for the publication or amplification of illegal or otherwise harmful content and activities online, or the discriminatory display of advertising with an impact on the equal treatment and opportunities of citizens. In addition to the requirements resulting from Article 6 of Directive 2000/31/EC, online platforms should therefore be required to ensure that the recipients of the service have *certain* individualised information necessary for them to understand when and on whose behalf the advertisement is displayed. In addition, recipients of the service should have information on the main parameters used for determining that specific advertising is to be displayed to them, providing meaningful explanations of the logic used to that end, including when this is based on profiling. The requirements of this Regulation on the

#### *Amendment*

(52) Online advertisement plays an important role in the online environment, including in relation to the provision of the services of online platforms. However, online advertisement can contribute to significant risks, ranging from advertisement that is itself illegal content, to contributing to financial incentives for the publication or amplification of illegal or otherwise harmful content and activities online, or the discriminatory display of advertising with an impact on the equal treatment and opportunities of citizens. ***The advertisement led model has generated deep changes in the way information is presented and has created new data collection patterns and business models that are not always positive.*** In addition to the requirements resulting from Article 6 of Directive 2000/31/EC, online platforms should therefore be required to ensure that ***data collection is kept to a minimum, the maximisation of revenue from advertising does not limit the quality of the service and*** the recipients of the service have *extensive* individualised information necessary for them to understand when and on whose behalf the



provision of information relating to advertisement is without prejudice to the application of the relevant provisions of Regulation (EU) 2016/679, in particular those regarding the right to object, automated individual decision-making, including profiling and specifically the need to obtain consent of the data subject prior to the processing of personal data for targeted advertising. Similarly, it is without prejudice to the provisions laid down in Directive 2002/58/EC in particular those regarding the storage of information in terminal equipment and the access to information stored therein.

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

## Amendment 30

### Proposal for a regulation Recital 53

#### *Text proposed by the Commission*

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

#### *Amendment*

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

achieve the same result.

achieve the same result.

## Amendment 31

### Proposal for a regulation

#### Recital 54

##### *Text proposed by the Commission*

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

##### *Amendment*

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

## Amendment 32

### Proposal for a regulation

#### Recital 55

##### *Text proposed by the Commission*

(55) In view of the network effects characterising the platform economy, the user base of an online platform may quickly expand and reach the dimension of a very large online platform, with the related impact on the internal market. This

##### *Amendment*

(55) In view of the network effects characterising the platform economy, the user base of an online platform may quickly expand and reach the dimension of a very large online platform, with the related impact on the internal market,

may be the case in the event of exponential growth experienced in short periods of time, or by a large global presence and turnover allowing the online platform to fully exploit network effects and economies of scale and of scope. A high annual turnover or market capitalisation can in particular be an indication of fast scalability in terms of user reach. In those cases, the Digital Services Coordinator should be able to request more frequent reporting from the platform on the user base to be able to timely identify the moment at which that platform should be designated as a very large online platform for the purposes of this Regulation.

*economic actors and consumers.* This may be the case in the event of exponential growth experienced in short periods of time, or by a large global presence and turnover allowing the online platform to fully exploit network effects and economies of scale and of scope. A high annual turnover or market capitalisation can in particular be an indication of fast scalability in terms of user reach. In those cases, the Digital Services Coordinator should be able to request more frequent reporting from the platform on the user base to be able to timely identify the moment at which that platform should be designated as a very large online platform for the purposes of this Regulation.

### Amendment 33

#### Proposal for a regulation

##### Recital 56

###### *Text proposed by the Commission*

(56) Very large online platforms are used in a way that strongly influences safety online, the shaping of public opinion and discourse, as well as on online trade. The way they design their services is generally optimised to benefit their often advertising-driven business models and can cause societal concerns. In the absence of effective regulation and enforcement, they can set the rules of the game, without effectively identifying and mitigating the risks and the societal and economic harm they can cause. Under this Regulation, very large online platforms should therefore assess the systemic risks stemming from the functioning and use of their service, as well as by potential misuses by the recipients of the service, and take appropriate mitigating measures.

###### *Amendment*

(56) Very large online platforms are used in a way that strongly influences safety online, the shaping of public opinion and discourse, as well as on online trade. The way they design their services is generally optimised to benefit their often advertising-driven business models and can cause societal concerns. In the absence of effective regulation and enforcement **at both Union and national level**, they can set the rules of the game, without effectively identifying and mitigating the risks and the societal and economic harm they can cause. Under this Regulation, very large online platforms should therefore assess the systemic risks stemming from the functioning and use of their service, as well as by potential misuses by the recipients of the service, and take appropriate **and transparent** mitigating measures **to redress in particular filtering bubbles and filtering effects**.

## Amendment 34

### Proposal for a regulation

#### Recital 57

##### *Text proposed by the Commission*

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

##### *Amendment*

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

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

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

## Amendment 35

### Proposal for a regulation Recital 58

#### *Text proposed by the Commission*

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

#### *Amendment*

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

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

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

## Amendment 36

### Proposal for a regulation Recital 60 a (new)

*Text proposed by the Commission*

*Amendment*

***(60a) Auditors of digital services, whether independent or not, need to have specific technological and operational competences and expertise in the sector,. They also need to be knowledgeable in the relevant social, economic and human rights issues, among others. Whether as SMEs or multinationals, extensions of existing accountancy and auditing, legal, and ICT consultancy or similar companies cannot be automatically assumed to have the required knowhow to qualify as auditors. Member States and the Commission should therefore develop protocols – following consultation with all actors involved – by which to assess and accredit auditors of digital services, preferably according to clear rules based on Union practice, and thereby to establish registers of accredited auditors***



*on a national and on a Union level.*

## **Amendment 37**

### **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.

*Amendment*

(62) A core part of 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, online platforms should ensure that recipients are appropriately informed **of the use of recommender systems, and that recipients** 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. **Very large online platforms** should also ensure that the recipients enjoy alternative options for the main parameters, including options that are not based on profiling of the recipient.

## **Amendment 38**

### **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 pose particular risks **at both economic and political level**, 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. **In particular, the accumulation of personal data by online platforms is converted into massive commercial assets often used as a way to give an advantage to certain economic players.** Therefore, 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 39

### 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

*Amendment*

(65) Given the complexity of the functioning of the systems deployed and the systemic risks they present to society **and the economy**, very large online platforms should appoint compliance officers, which should have the necessary



measures and monitor the compliance with this Regulation within the platform's organisation. Very 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.

qualifications to operationalise measures and monitor the compliance with this Regulation within the platform's organisation. Very 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.

#### **Amendment 40**

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

*Text proposed by the Commission*

*Amendment*

***(65a) Interoperability requirements for very large online platforms are desirable as they can create new opportunities for the development of innovative services, overcome the lock-in effect of closed platforms and ensure competition and user choice. Very large online platforms should provide an application programming interface through which third-party platforms and their recipients can interoperate with the ancillary services and, where possible, the main functionalities and recipients of the core services offered by the platform. The interoperability requirements do not prevent platforms from offering non-core additional features to their recipients.***

#### **Amendment 41**

**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 42**

**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

*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, ***interoperability of content hosting platforms*** 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*

(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, ***the economy*** 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.

creation of fake or misleading information, sometimes with a purpose of obtaining economic gain, which **from a microeconomic perspective** are particularly harmful for vulnerable recipients of the service, such as children **but which could also hamper the competitive aspect of the market**. 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.

## Amendment 43

### Proposal for a regulation

#### Recital 71

##### *Text proposed by the Commission*

(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

##### *Amendment*

(71) In case of extraordinary circumstances affecting public security, **the economy of one or more Member States**, 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

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.

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.

#### Amendment 44

##### Proposal for a regulation Recital 71 a (new)

*Text proposed by the Commission*

*Amendment*

***(71a) In order to ensure that the systemic role of very large online platforms does not endanger the internal market by unfairly excluding innovative new entrants, including SMEs, entrepreneurs and start-ups, additional rules are needed to allow recipients of a service to switch or connect and interoperate between online platforms or internet ecosystems. Therefore, interoperability obligations should require very large online platforms to share appropriate tools, data, expertise, and resources. As part of those measures, the Commission should explore different technologies and open standards and protocols, including the possibility of technical interfaces (Application Programming Interface), that would allow recipients of service or other market participants to benefit from the key functionalities of very large online platforms to exchange information.***

#### Amendment 45

**Proposal for a regulation**  
**Recital 77**

*Text proposed by the Commission*

(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.

*Amendment*

(77) Member States should provide the Digital Services Coordinator, and any other competent authority designated under this Regulation, with sufficient powers, **human resources and financial** 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. **Furthermore, the Digital Services Coordinator of each Member State should establish a structured working relationship with the national competition authorities as well as the financial regulatory authorities working on their territory.**

**Amendment 46**

**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

*Amendment*

(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, **assistance from the Commission or**

exercise its investigatory and enforcement powers under this Regulation.

*otherwise ask* the Commission to intervene and exercise its investigatory and enforcement powers under this Regulation.

#### **Amendment 47**

##### **Proposal for a regulation Recital 93 a (new)**

*Text proposed by the Commission*

*Amendment*

***(93a) However, the sector of digital services is a fast moving one in which Union cannot afford Regulation that is lagging behind technological and operational innovations. Governance structures should remain fit for purpose, flexible and transparent. While ensuring accountability on the part of players in the sector, they themselves should remain accountable. Regulatory structures in which any one institution is granted powers so that it seemingly can operate as prosecution, jury and judge, could easily create problems of checks and balances thereby stimulating more litigation; it could also be less flexible in dealing with innovation. Therefore the Board should during the first five years after the entry into force of this Regulation carry out a continuous assessment of governance structures related to this Regulation and eventually make recommendations for their improvement, their streamlining, and the consolidation of effective checks and balances mechanisms.***

#### **Amendment 48**

##### **Proposal for a regulation Recital 94**

*Text proposed by the Commission*

*Amendment*

(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

(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.

affect a substantial number of recipients of the services across different Member States and may cause large societal **and economic** harms, while such failures may also be particularly complex to identify and address.

## Amendment 49

### 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

##### *Amendment*

(97) The Commission should, **on the basis of this Regulation and other relevant Union law**, decide whether or not 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



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.

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 50

### 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

#### *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



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

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.

## Amendment 51

### Proposal for a regulation Recital 100

#### *Text proposed by the Commission*

(100) Compliance with the relevant obligations imposed under this Regulation should be enforceable by means of fines and periodic penalty payments. To that end, appropriate levels of fines and periodic penalty payments should also be laid down for non-compliance with the obligations and breach of the procedural rules, subject to appropriate limitation periods.

#### *Amendment*

(100) Compliance with the relevant obligations imposed under this Regulation should be enforceable by means of fines and periodic penalty payments. To that end, appropriate levels of fines and periodic penalty payments should also be laid down for **systemic** non-compliance with the **relevant** obligations and breach of the procedural rules, subject to appropriate limitation periods. **Systemic non-compliance is a pattern of online harm that, when the individual harms are added up, constitutes an aggregation of systemic harm to active recipients of the service across three or more Member States.**

## Amendment 52

### 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, in particular the freedom of expression and information in an open and democratic society.* In particular, it establishes:

### Amendment 53

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

*Text proposed by the Commission*

(a) contribute to the proper functioning of the internal market for intermediary services;

*Amendment*

(a) contribute to the proper functioning of the internal market for intermediary services ***and affected economic actors and encourage competition;***

### Amendment 54

#### 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 rules for a safe, ***accessible, including for persons with disabilities,*** predictable and trusted online environment, where fundamental rights enshrined in the Charter are effectively protected;

### Amendment 55

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

*Text proposed by the Commission*

*Amendment*

***(ba) achieve a high level of consumer protection in the Digital Single Market.***

### Amendment 56

#### Proposal for a regulation Article 1 – 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 ***directed at and*** 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 57**

##### **Proposal for a regulation**

##### **Article 1 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4a. This Regulation shall respect the fundamental rights recognised by the Charter 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 and proportionate balance between the rights concerned.***

#### **Amendment 58**

##### **Proposal for a regulation**

##### **Article 1 – paragraph 5 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

***(ba) Directive (EU) 2019/882;***

#### **Amendment 59**

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

*Text proposed by the Commission*

*Amendment*

**(bb) Directive (EU) 2019/770 - digital content;**

**Amendment 60**

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

*Text proposed by the Commission*

*Amendment*

**(bc) COM/2018/819 - Directive on distant sales of goods;**

**Amendment 61**

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

*Text proposed by the Commission*

*Amendment*

**5a. The Commission shall by ... [one year after the date of adoption of this Regulation] publish guidelines with regard to the relations between this Regulation and those legislative acts listed in Article 1(5). These guidelines shall clarify any potential conflicts between the conditions and obligations enlisted in these 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.**

**Amendment 62**

**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 *average monthly active recipients* in one or more Member States; or

### Amendment 63

#### 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 *through* the sale of products or provision of services is not in compliance with Union law or the law of *the* Member State *of origin*, irrespective of the precise subject matter or nature of that law;

### Amendment 64

#### 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 *or functionality* of another *service or principle* 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.

### Amendment 65

#### Proposal for a regulation

#### Article 2 – paragraph 1 – point n

*Text proposed by the Commission*

(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;

*Amendment*

(n) ‘advertisement’ means information designed to **directly or indirectly** promote **or rank information, products or services** 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 **or parts thereof** against **direct or indirect** remuneration specifically for promoting that information, **product or service**;

**Amendment 66**

**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 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 **as well as ranking and prioritisation techniques**;

**Amendment 67**

**Proposal for a regulation**

**Article 2 – paragraph 1 – point p**

*Text proposed by the Commission*

(p) ‘content moderation’ means the activities undertaken by providers of intermediary services aimed at detecting, identifying and addressing illegal content or information incompatible with their terms and conditions, provided by recipients of the service, including measures taken that affect the availability, visibility and accessibility of that illegal

*Amendment*

(p) ‘content moderation’ means the activities, **either through automated or manual means**, undertaken by providers of intermediary services aimed at detecting, identifying and addressing illegal content or information incompatible with their terms and conditions, provided by recipients of the service, including measures taken that affect the availability,

content or that information, such as demotion, disabling of access to, or removal thereof, or the recipients' ability to provide that information, such as the termination or suspension of a recipient's account;

visibility, **monetisation** and accessibility of that illegal content or that information, such as demotion, disabling of access to, **delisting, demonetisation** or removal thereof, or the recipients' ability to provide that information, such as the termination or suspension of a recipient's account;

## Amendment 68

### Proposal for a regulation

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

*Text proposed by the Commission*

*Amendment*

**(qa) ‘online marketplace’ 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, according to Directive (EU) 2019/2161;**

## Amendment 69

### Proposal for a regulation

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

*Text proposed by the Commission*

*Amendment*

**(qb) ‘trusted flagger’ means an economically and politically neutral entity representing collective interests which is dedicated to detecting, identifying and notifying illegal content and has relevant expertise and competence;**

## Amendment 70

### Proposal for a regulation

#### Article 2 – paragraph 1 – point q c (new)

*Text proposed by the Commission*

*Amendment*

**(qc) ‘persons with disabilities’ means**



*persons within the meaning of Article 3(1) of Directive(EU) 2019/882;*

## **Amendment 71**

### **Proposal for a regulation Article 2 a (new)**

*Text proposed by the Commission*

*Amendment*

#### *Article 2a*

##### *Protection of consumer rights in a data based economy*

- 1. Where technically possible and in accordance with Union law, a provider of information society service acting as a provider of intermediary service shall enable the use of and payment for that service without collecting the personal data of the recipient.*
- 2. A provider of an information society service acting as a provider of intermediary 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 only be allowed to process personal data concerning the use of the service by a recipient for the sole purpose of operating a recommender system where 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.*
- 4. User profiling carried out by the*

*information society service providers shall only be conducted on the basis of the data provided with the user's clear consent, in line with Regulation 2016/679.*

*Information society service providers are explicitly prohibited from carrying out profiling on third persons who are not users of the service.*

## **Amendment 72**

### **Proposal for a regulation**

#### **Article 4 – paragraph 1 – point e**

*Text proposed by the Commission*

(e) the provider acts expeditiously to remove or to disable access to the information it has stored upon obtaining actual knowledge of the fact that the information at the initial source of the transmission has been removed from the network, or access to it has been disabled, or that a court or an administrative authority has ordered such removal or disablement.

*Amendment*

(e) the provider acts expeditiously **and in good faith** to remove or to disable access to the information it has stored upon obtaining actual knowledge of the fact that the information at the initial source of the transmission has been removed from the network, or access to it has been disabled, or that a court or an administrative authority has ordered such removal or disablement.

## **Amendment 73**

### **Proposal for a regulation**

#### **Article 5 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) does not have actual knowledge of illegal **activity or** illegal content and, as regards claims for damages, is not aware of facts or circumstances from which the illegal **activity or** illegal content is apparent; or

*Amendment*

(a) does not have actual knowledge of illegal content and, as regards claims for damages, is not aware of facts or circumstances from which the illegal content is apparent; or

## **Amendment 74**

### **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 in good faith*** to remove or to disable access to the illegal content.

**Amendment 75**

**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 online platforms allowing consumers to conclude distance contracts with traders. ***It is important that hosting services adopt the highest standards of transparency to highlight,*** in a way that would lead an average and reasonably well-informed consumer to ***understand,*** that the information ***comes from a third party and is not offered*** by the ***hosting*** service.

**Amendment 76**

**Proposal for a regulation  
Article 6 – paragraph 1 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Providers of intermediary services shall ensure that such measures shall be accompanied with appropriate safeguards, such as human oversight, documentation, traceability or any additional measure to ensure that own-initiative investigations are accurate, fair, non-discriminatory and transparent.***

## Amendment 77

### Proposal for a regulation Article 7 – title

*Text proposed by the Commission*

No general monitoring or active fact-finding obligations

*Amendment*

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

## Amendment 78

### 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. ***No provision of this Regulation shall be understood as mandating, requiring or recommending the use of automated decision-making, or the monitoring of the behaviour of a large number of natural persons. When using moderation content automated tools, intermediary services should always ensure a human oversight of each decision to remove, disable, restrict or modify in any way the information content.***

## Amendment 79

### Proposal for a regulation Article 7 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***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.*

## Amendment 80

### 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 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, ***execute that order and*** 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 81

### Proposal for a regulation Article 8 – paragraph 2 – point a – indent 3

*Text proposed by the Commission*

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

*Amendment*

— information about redress ***mechanisms*** available to the provider of the service and to the recipient of the service who provided the content; ***which may be sought in the Member State of establishment of the provider of the service and/or in the Member State of establishment of the recipient of the service who provided the content;***

## Amendment 82

### Proposal for a regulation

**Article 8 – paragraph 2 – point a – indent 3 a (new)**

*Text proposed by the Commission*

*Amendment*

- *the order is transmitted via secure channels established between the Digital Services Coordinator of establishment and the providers of intermediary services;*

**Amendment 83**

**Proposal for a regulation**

**Article 8 – paragraph 2 – point a – indent 3 b (new)**

*Text proposed by the Commission*

*Amendment*

- *the order shall clarify the neutrality and non-discriminatory approach of the decision;*

**Amendment 84**

**Proposal for a regulation**

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

*Text proposed by the Commission*

*Amendment*

- *precise identification elements of the recipients of the service concerned;*

**Amendment 85**

**Proposal for a regulation**

**Article 9 – paragraph 2 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

- (ba) *the order is transmitted via secure channels established between the Digital Services Coordinator of establishment and the providers of intermediary services.*

**Amendment 86**

**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, ***in a clear and user-friendly manner.***

**Amendment 87**

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

*Text proposed by the Commission*

*Amendment*

***2a. 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.***

**Amendment 88**

**Proposal for a regulation**  
**Article 10 – paragraph 3**

*Text proposed by the Commission*

3. Providers of intermediary services shall specify in the information referred to in paragraph 2, the official language or languages of the Union, which can be used to communicate with their points of contact and which shall include ***at least one of*** the official languages of the Member State in which the provider of intermediary services has its main establishment or where its legal representative resides or is established.

*Amendment*

3. Providers of intermediary services shall specify in the information referred to in paragraph 2, the official language or languages of the Union, which can be used to communicate with their points of contact and which shall include the official languages of the Member State in which the provider of intermediary services has its main establishment ***or offers its activities*** or where its legal representative resides or is established.



## Amendment 89

### Proposal for a regulation Article 10 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

**3a. Any request to providers of intermediary services, according to this Regulation, shall be transmitted through the Digital Service Coordinator in the Member State of establishment, who is responsible for collecting requests and information from all relevant sources.**

## Amendment 90

### 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. ***Such restrictions shall in no way serve to provide selected economic actors with competitive advantages.*** 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. ***The use of algorithmic decision-making processes shall be notified to users whenever it is applied.***

## Amendment 91

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

*Text proposed by the Commission*

*Amendment*

**1a. Providers of intermediary services**

*shall list the restrictions in relation to the use of their service for the dissemination of content deemed illegal under Union or Member State law in a clear and user-friendly manner separately from the general conditions for the use of their service so as to make the user aware of what is deemed illegal and what is subject to the terms and conditions for the use of the service.*

## Amendment 92

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

*Text proposed by the Commission*

*Amendment*

*1b. The information mentioned in paragraphs 1 and 1a shall be set out in clear and unambiguous language and shall be publicly available in an easily accessible and machine-readable format. Providers of intermediary services except those that qualify as micro or small enterprises within the meaning of the Annex to the Commission Recommendation 2003/361/EC shall make publicly available a summary of the terms and conditions, setting out the most important points in concise, clear and unambiguous language.*

## Amendment 93

### Proposal for a regulation Article 12 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. Providers of intermediary services shall act in a diligent, **objective** and proportionate manner in applying and enforcing the restrictions referred to in paragraph 1, with due regard to the rights and legitimate interests of all parties involved, including the applicable

2. Providers of intermediary services shall act in a diligent, **transparent, non-discriminatory, coherent, predictable, non-arbitrary** and proportionate manner in applying and enforcing the restrictions referred to in paragraph 1, with due regard to the rights and legitimate interests of all

fundamental rights of the recipients of the service as enshrined in the Charter.

parties involved, including the applicable fundamental rights of the recipients of the service as enshrined in the Charter.

#### **Amendment 94**

##### **Proposal for a regulation Article 12 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2a. Terms and conditions of providers of intermediary services shall respect the essential principles of fundamental rights as enshrined in the Charter and in international law.**

#### **Amendment 95**

##### **Proposal for a regulation Article 12 – paragraph 2 b (new)**

*Text proposed by the Commission*

*Amendment*

**2b. Terms and conditions that do not comply with this Article shall not be binding on recipients in accordance with Directive 93/13/EC.**

#### **Amendment 96**

##### **Proposal for a regulation Article 12 – paragraph 2 c (new)**

*Text proposed by the Commission*

*Amendment*

**2c. All changes in terms and conditions shall be fully in accordance with this Article. Intermediary service providers shall inform the users of all changes in terms and conditions at least one month before their implementation.**

## Amendment 97

### Proposal for a regulation Article 12 – paragraph 2 d (new)

*Text proposed by the Commission*

*Amendment*

**2d.** *To preserve and strengthen the internal market and the transparency of the services provided, the provider shall, as much as possible, use similar terms and conditions across the whole internal market, with divergences being clearly marked and justified.*

## Amendment 98

### Proposal for a regulation Article 12 – paragraph 2 e (new)

*Text proposed by the Commission*

*Amendment*

**2e.** *The very large online platforms shall consult their terms of service with the Digital Services Coordinator and take into account the recommendations that the Digital Services Coordinator may have.*

## Amendment 99

### Proposal for a regulation Article 13 – paragraph 1 – introductory part

*Text proposed by the Commission*

*Amendment*

1. Providers of intermediary services shall publish, at least once a year, clear, easily comprehensible and detailed reports on any content moderation they engaged in during the relevant period. Those reports shall include, in particular, information on the following, as applicable:

1. Providers of intermediary services shall publish ***in a standardised and machine-readable format***, at least once a year, clear, easily comprehensible and detailed reports on any content moderation they engaged in during the relevant period. Those reports shall include, in particular, information on the following, as applicable:

## Amendment 100

### Proposal for a regulation Article 13 – paragraph 1 – point c

*Text proposed by the Commission*

(c) the content moderation engaged in at the providers' own initiative, including the number and type of measures taken that affect the availability, visibility and accessibility of information provided by the recipients of the service and the recipients' ability to provide information, categorised by the type of reason and basis for taking those measures;

*Amendment*

(c) the content moderation engaged in ***through the provider's voluntary own-initiative investigations as referred to in Article 6***, including the number and type of measures taken that affect the availability, visibility and accessibility of information provided by the recipients of the service and the recipients' ability to provide information, categorised by the type of reason and basis for taking those measures, ***as well as the measures taken to qualify content moderators and the safeguards to ensure that non-infringing content is not affected***;

## Amendment 101

### Proposal for a regulation Article 13 – paragraph 2

*Text proposed by the Commission*

2. Paragraph 1 shall not apply to providers of intermediary services that qualify as micro or small enterprises within the meaning of the Annex to Recommendation 2003/361/EC.

*Amendment*

2. ***Points (b), (c) and (d) of*** paragraph 1 shall not apply to providers of intermediary services that qualify as micro or small enterprises within the meaning of the Annex to ***the Commission*** Recommendation 2003/361/EC.

## Amendment 102

### Proposal for a regulation Article 14 – paragraph 1

*Text proposed by the Commission*

1. Providers of hosting services shall put mechanisms in place to allow any individual or entity to notify them of the presence on their service of specific items

*Amendment*

1. Providers of hosting services shall put mechanisms in place to allow any individual or ***non-governmental*** entity to notify them of the presence on their service

of information that the individual or entity considers to be illegal content. Those mechanisms shall be easy to access, user-friendly, and allow for the submission of notices exclusively by electronic means.

of specific items of information that the individual or entity considers to be illegal content. Those mechanisms shall be easy to access, user-friendly, and allow for the submission of notices exclusively by electronic means ***and may include a clearly identifiable banner or single reporting button, allowing the users of those services to notify the providers of hosting services in a quick and easy manner.***

### **Amendment 103**

#### **Proposal for a regulation Article 14 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) a clear indication of the electronic location of that information, in particular the exact URL or URLs, and, where necessary, additional information enabling the identification of the illegal content;

*Amendment*

(b) ***where possible*** a clear indication of the electronic location of that information, in particular the exact URL or URLs, and, where necessary, additional information enabling the identification of the illegal content;

### **Amendment 104**

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

*Text proposed by the Commission*

(c) the name and an electronic mail address of the individual or entity submitting the notice, except in the case of information considered to involve one of the offences referred to in Articles 3 to 7 of Directive 2011/93/EU;

*Amendment*

(c) ***where possible*** the name and an electronic mail address of the individual or entity submitting the notice, except in the case of information considered to involve one of the offences referred to in Articles 3 to 7 of Directive 2011/93/EU;

### **Amendment 105**

#### **Proposal for a regulation Article 14 – paragraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) where an alleged infringement of an intellectual property right is notified, evidence that the entity submitting the notice is the holder of the intellectual property right that is allegedly infringed or is authorised to act on behalf of the holder of that right;***

## **Amendment 106**

### **Proposal for a regulation**

#### **Article 14 – paragraph 2 – point d**

*Text proposed by the Commission*

*Amendment*

(d) a statement confirming the good faith belief of the individual or entity submitting the notice that the information and allegations contained therein are accurate and complete.

(d) a statement confirming the good faith belief of the individual or entity submitting the notice that the information and allegations contained therein are accurate and complete ***as well as the relationship, economic or otherwise, if any, the individual or entity has with the notified entity.***

## **Amendment 107**

### **Proposal for a regulation**

#### **Article 14 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. Notices that include the elements referred to in paragraph 2 shall be considered to give rise to actual knowledge or awareness for the purposes of Article 5 in respect of the specific item of information concerned.

3. Notices that include the elements referred to in paragraph 2 shall be considered to give rise to actual knowledge or awareness for the purposes of Article 5 ***solely*** in respect of the specific item of information concerned, ***when the provider of hosting services can unequivocally identify the illegal nature of the content.***



## Amendment 108

### Proposal for a regulation Article 14 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

**4a.** *Upon receipt of the notice of alleged copyright infringement, the service provider shall notify the information providers, using available contact details, of the elements referred to in paragraph 2 and give them the opportunity to reply, within a minimum of 5 working days, before taking a decision and, if applicable, before disabling access to the referred content.*

## Amendment 109

### Proposal for a regulation Article 14 – paragraph 4 b (new)

*Text proposed by the Commission*

*Amendment*

**4b.** *The provider shall ensure that decisions on notices are taken by qualified staff provided with appropriate working conditions, including professional support, qualified psychological assistance and legal advice.*

## Amendment 110

### Proposal for a regulation Article 14 – paragraph 5

*Text proposed by the Commission*

*Amendment*

5. The provider shall also, without undue delay, notify that individual or entity of its decision in respect of the information to which the notice relates, providing information on the redress possibilities in respect of that decision.

5. The provider shall also, without undue delay, notify that individual or entity ***who submitted the notice and the information provider*** of its decision in respect of the information to which the notice relates, providing information on the redress possibilities in respect of that

decision.

## Amendment 111

### Proposal for a regulation Article 14 – paragraph 6

*Text proposed by the Commission*

6. Providers of hosting services shall process any notices that they receive under the mechanisms referred to in paragraph 1, and take their decisions in respect of the information to which the notices relate, in a timely, diligent and **objective** manner. Where they use automated means for that processing or decision-making, they shall include information on such use in the notification referred to in paragraph 4.

*Amendment*

6. Providers of hosting services shall process any notices that they receive under the mechanisms referred to in paragraph 1, and take their decisions in respect of the information to which the notices relate, in a timely, diligent, **fair** and **non-arbitrary** manner. Where they use automated means for that processing or decision-making, they shall include information on such use in the notification referred to in paragraph 4. ***That notification shall include information about the procedure followed, the technology used and the criteria and reasoning supporting the decision, as well as the logic involved in the automated decision-making***

## Amendment 112

### Proposal for a regulation Article 15 – paragraph 2 – point a

*Text proposed by the Commission*

(a) whether the decision entails either the removal of, or the disabling of access to, the information and, where relevant, the territorial scope of the disabling of access;

*Amendment*

(a) whether the decision entails either the removal of, or the disabling of access to, the information and, where relevant, the territorial scope **and the duration** of the disabling of access;

## Amendment 113

### Proposal for a regulation Article 15 – paragraph 2 – point d

*Text proposed by the Commission*

*Amendment*

(d) where the decision concerns allegedly illegal content, a reference to the legal ground relied on and explanations as to why the information is considered to be illegal content on that ground;

(d) where the decision concerns allegedly illegal content, a reference to the legal ground relied on and explanations as to why the information is considered to be illegal content on that ground ***including explanations in relation to the arguments submitted under Article 14(2)(a), where relevant;***

#### **Amendment 114**

##### **Proposal for a regulation**

##### **Article 15 – paragraph 2 – point e**

*Text proposed by the Commission*

(e) where the decision is based on the alleged incompatibility of the information with the terms and conditions of the provider, a reference to the contractual ground relied on and explanations as to why the information is considered to be incompatible with that ground;

*Amendment*

(e) where the decision is based on the alleged incompatibility of the information with the terms and conditions of the provider ***or incompatibility with fundamental rights***, a reference to the contractual ground relied on and explanations as to why the information is considered to be incompatible with that ground;

#### **Amendment 115**

##### **Proposal for a regulation**

##### **Article 15 – paragraph 2 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Where a provider of hosting services decides to not remove or disable access to specific items of information provided by the recipients of the service, detected through the mechanisms established in Article 14, it shall inform the user who notified the online platform of the content and where needed, the recipient of the decision without undue delay. The notification of such a decision can be done through automated means.***

#### **Amendment 116**

**Proposal for a regulation**  
**Article 15 – paragraph 3**

*Text proposed by the Commission*

3. The information provided by the providers of hosting services in accordance with this Article shall be clear and easily comprehensible and as precise and specific as reasonably possible under the given circumstances. The information shall, in particular, be such as to reasonably allow the recipient of the service concerned to effectively exercise the redress possibilities referred to in point (f) of paragraph 2.

*Amendment*

3. The information provided by the providers of hosting services in accordance with this Article shall be ***accessible, including for persons with disabilities,*** clear and easily comprehensible and as precise and specific as reasonably possible under the given circumstances. The information shall, in particular, be such as to reasonably allow the recipient of the service concerned to effectively exercise the redress possibilities referred to in point (f) of paragraph 2.

**Amendment 117**

**Proposal for a regulation**  
**Article 15 – paragraph 4**

*Text proposed by the Commission*

4. ***Providers of hosting services*** shall publish the decisions and the statements of reasons, referred to in paragraph 1 in a publicly accessible database managed by the Commission. That information shall not contain personal data.

*Amendment*

4. ***Very large online platforms*** shall publish the decisions and the statements of reasons, referred to in paragraph 1 in a publicly accessible, ***including for persons with disabilities, machine-readable and reusable*** database managed ***and published*** by the Commission. That information shall not contain personal data.

**Amendment 118**

**Proposal for a regulation**  
**Article 15 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4a. Micro and small enterprises within the meaning of the Annex to the Commission Recommendation 2003/361/EC shall be exempt from the obligations set out in points b, c and f of***

*paragraph 2 of this Article.*

## Amendment 119

### Proposal for a regulation

#### Article 16 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***The Commission and Digital Service Coordinators may work together on information and guidelines for the voluntary implementation of the provisions in this Regulation for micro or small enterprises within the meaning of the Annex to the Commission Recommendation 2003/361/EC.***

## Amendment 120

### Proposal for a regulation

#### Article 17 – paragraph 1 – introductory part

*Text proposed by the Commission*

*Amendment*

1. Online platforms shall provide recipients of the service, for a period of at least six months following the decision referred to in this paragraph, the access to an effective internal complaint-handling system, which enables the complaints to be lodged electronically and free of charge, against the following decisions taken by the online platform on the ground that the information provided by the recipients is illegal content or incompatible with its terms and conditions:

1. Online platforms shall provide ***to all*** recipients of the service ***and qualified entities as defined in Article 3, point (4) of Directive (EU) 2020/1828***, for a period of at least six months following the decision referred to in this paragraph, the access to an effective ***and user-friendly*** internal complaint-handling system, which enables the complaints to be lodged electronically and free of charge. ***Complaints can be lodged*** against the following decisions taken by the online platform on the ground that the information provided by the recipients is illegal content or incompatible with its terms and conditions:

## Amendment 121

### Proposal for a regulation

#### Article 17 – paragraph 1 – point a

*Text proposed by the Commission*

(a) decisions to remove **or** disable access to the information;

*Amendment*

(a) decisions to remove, disable, **restrict or in any other way modify** access to the information;

## **Amendment 122**

### **Proposal for a regulation**

#### **Article 17 – paragraph 1 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Complaints can also be lodged against decisions made by the online platform not to remove, not to disable, not to suspend and not to terminate access to accounts.***

## **Amendment 123**

### **Proposal for a regulation**

#### **Article 17 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. Online platforms shall ensure that their internal complaint-handling systems are easy to access, user-friendly and enable and facilitate the submission of sufficiently precise and adequately substantiated complaints.

2. Online platforms shall ensure that their internal complaint-handling systems are easy to access, user-friendly and enable and facilitate the submission of sufficiently precise and adequately substantiated complaints. ***Online platforms shall set out the rules of procedure for their internal complaint handling system in their terms and conditions in a clear, user-friendly and easily accessible manner, including for persons with disabilities.***

## **Amendment 124**

### **Proposal for a regulation**

#### **Article 17 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. Online platforms shall handle

3. Online platforms shall handle

complaints submitted through their internal complaint-handling system in a timely, diligent and *objective* manner. Where a complaint contains sufficient grounds for the online platform to consider that the information to which the complaint relates is not illegal and is not incompatible with its terms and conditions, or contains information indicating that the complainant's conduct does not warrant the suspension or termination of the service or the account, it shall reverse its decision referred to in paragraph 1 without undue delay.

complaints submitted through their internal complaint-handling system in a timely, diligent, *transparent* and *non-arbitrary* manner. Where a complaint contains sufficient grounds for the online platform to consider that the information to which the complaint relates is not illegal and is not incompatible with its terms and conditions, or contains information indicating that the complainant's conduct does not warrant the suspension or termination of the service or the account, it shall reverse its decision referred to in paragraph 1 without undue delay. ***If requested by the complainant, the online platform shall also publicly inform of the reversal of the decision. Without prejudice to horizontal laws, where the decision referred to in paragraph 1 is manifestly wrong and infringes the fundamental rights of the recipient of the service, the very large online platform shall provide financial compensation. When determining the amount of the financial compensation the very large online platform shall also take into account whether the decision referred to in paragraph 1 prevented the recipient of the service from benefitting from the use of the platform.***

## Amendment 125

### Proposal for a regulation Article 17 – paragraph 5

#### *Text proposed by the Commission*

5. Online platforms shall ensure that the decisions, referred to in paragraph 4, are not solely taken on the basis of automated means.

#### *Amendment*

5. Online platforms shall ensure that the decisions, referred to in paragraph 4, are not solely taken on the basis of automated means ***and are reviewed by qualified staff provided with appropriate working conditions, including professional support, qualified psychological assistance and legal advice.***



## Amendment 126

### Proposal for a regulation

#### Article 18 – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

Recipients of the service addressed by the decisions referred to in Article 17(1), shall be entitled to select any out-of-court dispute that has been certified in accordance with paragraph 2 in order to resolve disputes relating to those decisions, including complaints that could not be resolved by means of the internal complaint-handling system referred to in that Article. Online platforms shall engage, in good faith, with the body selected with a view to resolving the dispute and shall be bound by the decision taken by the body.

*Amendment*

Recipients of the service addressed by the decisions referred to in Article 17(1) **and qualified entities as defined in Article 3, point (4) of Directive (EU) 2020/1828**, shall be entitled to select any out-of-court dispute **settlement body** that has been certified in accordance with paragraph 2 in order to resolve disputes relating to those decisions, including complaints that could not be resolved by means of the internal complaint-handling system referred to in that Article. Online platforms shall engage, in good faith, with the body selected **by the recipient** with a view to resolving the dispute and shall be bound by the decision taken by the body.

## Amendment 127

### Proposal for a regulation

#### Article 18 – paragraph 2 – subparagraph 1 – point c

*Text proposed by the Commission*

(c) the dispute settlement is easily accessible through electronic communication technology;

*Amendment*

(c) the dispute settlement is easily accessible, **including for persons with disabilities**, through electronic communication technology;

## Amendment 128

### Proposal for a regulation

#### Article 18 – paragraph 2 – subparagraph 1 – point d

*Text proposed by the Commission*

(d) it is capable of settling dispute in a swift, efficient and cost-effective manner and **in at least one official language of the Union**;

*Amendment*

(d) it is capable of settling dispute in a swift, efficient and cost-effective manner and at least **in the language of the recipient to whom the decision referred to**

*in Article 17 is addressed;*

## **Amendment 129**

### **Proposal for a regulation**

#### **Article 18 – paragraph 2 – subparagraph 1 – point e**

*Text proposed by the Commission*

(e) the dispute settlement takes place in accordance with clear and fair rules of procedure.

*Amendment*

(e) the dispute settlement takes place in accordance with clear, ***transparent*** and fair rules of procedure.

## **Amendment 130**

### **Proposal for a regulation**

#### **Article 18 – paragraph 6**

*Text proposed by the Commission*

6. This Article is without prejudice to Directive 2013/11/EU and alternative dispute resolution procedures and entities for consumers established under that Directive.

*Amendment*

6. This Article is without prejudice to Directive 2013/11/EU and alternative dispute resolution procedures and entities for consumers established under that Directive, ***and also does not affect the recipient's right to settle disputes in court.***

## **Amendment 131**

### **Proposal for a regulation**

#### **Article 19 – paragraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) it is operationally independent from government and public authorities and it does not have conflict of interest related to the submission of these notices.***

## **Amendment 132**

### **Proposal for a regulation**

#### **Article 19 – paragraph 2 – point c b (new)**

*Text proposed by the Commission*

*Amendment*

***(cb) it publishes, at least once a year, a clear and easily comprehensible report on notices submitted in accordance with Article 14 during the relevant period covered by the report. The report shall contain:***

***- a summary of notices categorised by the identity of the provider of hosting services;***

***- the type of content notified;***

***- the specific legal provisions allegedly breached by the content notified;***

***- the action taken by the provider;***

***- any potential conflicts of interest and sources of funding; and***

***- an explanation of the procedures in place to ensure the trusted flagger maintains its independence.***

### **Amendment 133**

#### **Proposal for a regulation Article 19 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. Digital Services Coordinators ***shall communicate to the Commission*** and the Board the names, addresses and electronic mail addresses of the entities to which they have awarded the status of the trusted flagger in accordance with paragraph 2.

3. Digital Services Coordinators ***and*** the Board ***shall communicate*** the names, addresses and electronic mail addresses of the entities to which they have awarded the status of the trusted flagger in accordance with paragraph 2.

### **Amendment 134**

#### **Proposal for a regulation Article 19 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

4. The Commission shall publish the

4. The Commission shall publish the

information referred to in paragraph 3 in a publicly available database and keep the database updated.

information referred to in paragraph 3 in a publicly available database ***in an easily accessible, including for persons with disabilities, and machine-readable format*** and keep the database updated.

## Amendment 135

### Proposal for a regulation Article 19 – paragraph 5

#### *Text proposed by the Commission*

5. Where an online platform has information indicating that a trusted flagger submitted a significant number of insufficiently precise or inadequately substantiated notices through the mechanisms referred to in Article 14, including information gathered in connection to the processing of complaints through the internal complaint-handling systems referred to in Article 17(3), it shall communicate that information to the Digital Services Coordinator that awarded the status of trusted flagger to the entity concerned, providing the necessary explanations and supporting documents.

#### *Amendment*

5. Where an online platform has information indicating that a trusted flagger submitted a significant number of insufficiently precise or inadequately substantiated notices ***or notices regarding legal content*** through the mechanisms referred to in Article 14, including information gathered in connection to the processing of complaints through the internal complaint-handling systems referred to in Article 17(3), it shall communicate that information to the Digital Services Coordinator that awarded the status of trusted flagger to the entity concerned, providing the necessary explanations and supporting documents.

## Amendment 136

### Proposal for a regulation Article 20 – paragraph 1

#### *Text proposed by the Commission*

1. Online platforms shall suspend, for a reasonable period of time and after having issued a prior warning, the provision of their services to recipients of the service that frequently provide manifestly illegal content.

#### *Amendment*

1. Online platforms shall suspend, ***only*** for a reasonable ***short*** period of time and after having issued a prior warning ***and provided a comprehensive explanation***, the provision of their services to recipients of the service that frequently provide illegal content.

## Amendment 137

### Proposal for a regulation Article 20 – paragraph 3 – point a

*Text proposed by the Commission*

(a) the absolute numbers of items of ***manifestly*** illegal content or manifestly unfounded notices or complaints, submitted in the past year;

*Amendment*

(a) the absolute numbers of items of illegal content or manifestly unfounded notices or complaints, submitted in the past year;

## Amendment 138

### Proposal for a regulation Article 20 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

***3a. The provider shall ensure that the assessment is carried out by qualified staff provided with appropriate working conditions, including professional support, qualified psychological assistance and legal advice.***

## Amendment 139

### Proposal for a regulation Article 20 – paragraph 4

*Text proposed by the Commission*

4. Online platforms shall set out, in a clear and detailed manner, their policy in respect of the misuse referred to in paragraphs 1 and 2 in their terms and conditions, including as regards the facts and circumstances that they take into account when assessing whether certain behaviour constitutes misuse and the duration of the suspension.

*Amendment*

4. Online platforms shall set out, in a clear, ***accessible, including for persons with disabilities***, and detailed manner, their policy in respect of the misuse referred to in paragraphs 1 and 2 in their terms and conditions, including as regards the facts and circumstances that they take into account when assessing whether certain behaviour constitutes misuse and the duration of the suspension.

## Amendment 140

## Proposal for a regulation

### Article 21 – paragraph 2 – subparagraph 1

*Text proposed by the Commission*

Where the online platform cannot identify with reasonable certainty the Member State concerned, it shall inform the law enforcement authorities of the Member State in which it *is established or has* its legal representative *or inform* Europol.

*Amendment*

Where the online platform cannot identify with reasonable certainty the Member State concerned, it shall inform the law enforcement authorities of the Member State in which it *has its main establishment or* its legal representative *and also transmit the information to* Europol *for appropriate follow up*.

## Amendment 141

### Proposal for a regulation

#### Article 22 – paragraph 1 – introductory part

*Text proposed by the Commission*

1. Where an online platform allows consumers to conclude distance contracts with traders, it shall ensure that traders can only use its services to promote messages on or to offer products or services to consumers located in the Union if, prior to the use of its services, the *online platform has obtained* the following information:

*Amendment*

1. Where an online platform allows consumers to conclude distance contracts with traders *on the platform*, it shall ensure that traders can only use its services to promote messages on or to offer products or services to consumers located in the Union if, prior to the use of its services, the *trader has provided* the following information *to the online platform*:

## Amendment 142

### Proposal for a regulation

#### Article 22 – paragraph 1 – point b

*Text proposed by the Commission*

(b) a copy of the identification document of the trader or any other electronic identification as defined by Article 3 of Regulation (EU) No 910/2014 of the European Parliament and of the Council<sup>50</sup> ;

*Amendment*

(b) *a passport or* a copy of the identification document of the trader or any other electronic identification as defined by Article 3 of Regulation (EU) No 910/2014 of the European Parliament and of the Council<sup>50</sup> ;

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<sup>50</sup> Regulation (EU) No 910/2014 of the

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<sup>50</sup> Regulation (EU) No 910/2014 of the

European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC

European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC

## Amendment 143

### Proposal for a regulation

#### Article 22 – paragraph 1 – point d

*Text proposed by the Commission*

(d) the name, address, telephone number and electronic mail address of the economic operator, ***within the meaning of Article 3(13) and Article 4 of Regulation (EU) 2019/1020 of the European Parliament and the Council<sup>51</sup> or any relevant act of Union law;***

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<sup>51</sup> Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).

*Amendment*

(d) ***to the extent the contract relates to products that are subject to the Regulations listed in Article 4(5) of Regulation (EU) 2019/1020 of the European Parliament and the Council,*** the name, address, telephone number and electronic mail address of the economic operator ***established in the Union, referred to in Article 4(1) of Regulation (EU) 2019/1020 of the European Parliament and the Council<sup>51</sup>***

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<sup>51</sup> Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).

## Amendment 144

### Proposal for a regulation

#### Article 22 – paragraph 1 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***Further to point f, traders from within the Union and from third countries shall have the option to voluntarily upload the relevant documents certifying that their goods meet the consumer protection standards of the Union. Online platforms***



*that facilitate the sale of harmonised consumer goods by a seller in a third country to a consumer in the Union, shall make reasonable efforts to verify that the product bears the required conformity mark (CE mark) and that it has other relevant documents (e.g. EU declaration of conformity). Those provisions are without prejudice to Article 6 of Directive (EU) 2011/83, Article 7 of Directive (EU) 2005/29 and Article 4 of Regulation (EU) 2019/1020.*

## Amendment 145

### Proposal for a regulation Article 22 – paragraph 2

*Text proposed by the Commission*

2. The online platform shall, upon receiving that information, make reasonable efforts to assess whether the information referred to in points (a), (d) and (e) of paragraph 1 is reliable through the use of any freely accessible official online database or online interface made available by a Member States or the Union or through requests to the trader to provide supporting documents from reliable sources.

*Amendment*

2. The online platform shall, upon receiving that information, make reasonable efforts to assess whether the information referred to in points (a), (d) and (e) of paragraph 1 is reliable through the use of any freely accessible official online database or online interface made available by a Member States or the Union or through requests to the trader to provide supporting documents from reliable sources. ***Provided that the online platform has made reasonable efforts to assess the information in points (a), (d) and (e), online platform shall not be held liable for inaccurate information provided by the trader.***

## Amendment 146

### Proposal for a regulation Article 22 – paragraph 3 – subparagraph 1

*Text proposed by the Commission*

Where the online platform obtains indications that any item of information referred to in paragraph 1 obtained from

*Amendment*

Where the online platform obtains indications, ***through its reasonable efforts under paragraph 2 or through Member***

the trader concerned is inaccurate or incomplete, that platform shall request the trader to correct the information in so far as necessary to ensure that all information is accurate and complete, without delay or within the time period set by Union and national law.

*States' consumer authorities*, that any item of information referred to in paragraph 1 obtained from the trader concerned is inaccurate or incomplete, that platform shall request the trader to correct the information in so far as necessary to ensure that all information is accurate and complete, without delay or within the time period set by Union and national law.

#### **Amendment 147**

##### **Proposal for a regulation Article 22 – paragraph 4**

*Text proposed by the Commission*

4. The online platform shall store the information obtained pursuant to paragraph 1 and 2 in a secure manner for the duration of their contractual relationship with the trader concerned. They shall subsequently delete the information.

*Amendment*

4. The online platform shall store the information obtained pursuant to paragraph 1 and 2 in a secure manner for the duration of their contractual relationship, ***including the period for redress***, with the trader concerned. They shall subsequently delete the information.

#### **Amendment 148**

##### **Proposal for a regulation Article 23 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) the number of suspensions imposed pursuant to Article 20, distinguishing between suspensions enacted for the provision of ***manifestly*** illegal content, the submission of manifestly unfounded notices and the submission of manifestly unfounded complaints;

*Amendment*

(b) the number of suspensions imposed pursuant to Article 20, distinguishing between suspensions enacted for the provision of illegal content, the submission of manifestly unfounded notices and the submission of manifestly unfounded complaints;

#### **Amendment 149**

##### **Proposal for a regulation Article 23 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**3a. Online platforms shall clearly state how and for what purpose they collect data from users of the service and how, to whom and for what purpose they further disseminate the data collected.**

## **Amendment 150**

### **Proposal for a regulation**

#### **Article 24 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

Online platforms that display advertising on their online interfaces shall ensure that the recipients of the service can identify, for each specific advertisement displayed to each individual **recipient**, in a clear and unambiguous manner and in real time:

Online platforms that **directly or indirectly** display advertising on their online interfaces **or parts thereof** shall ensure that the recipients of the service can identify, for each specific advertisement displayed to each individual **consumer**, in a clear, **concise but meaningful, uniform** and unambiguous manner and in real time:

## **Amendment 151**

### **Proposal for a regulation**

#### **Article 24 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) that the information displayed is an advertisement;

(a) that the information displayed is an advertisement **and whether the advertisement is a result of an automated mechanism, such as an advertising exchange mechanism;**

## **Amendment 152**

### **Proposal for a regulation**

#### **Article 24 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

(b) the natural or legal person on

(b) the natural or legal person on

whose behalf the advertisement is displayed;

whose behalf the advertisement is displayed *and who directly or indirectly finances the advertisement;*

### Amendment 153

#### Proposal for a regulation

#### Article 24 – paragraph 1 – point b a (new)

*Text proposed by the Commission*

*Amendment*

*(ba) whether the advertising is based on any form of algorithmic targeting;*

### Amendment 154

#### Proposal for a regulation

#### Article 24 – paragraph 1 – point c

*Text proposed by the Commission*

*Amendment*

(c) meaningful information about the *main* parameters used to determine *the recipient to whom* the advertisement is displayed.

(c) meaningful information about the parameters used to *target and display the advertisement, which allows the consumer to* determine *why and how* the advertisement is *shown to him or her. That information shall also include an explanation on how to change those parameters;*

### Amendment 155

#### Proposal for a regulation

#### Article 24 – paragraph 1 – point c a (new)

*Text proposed by the Commission*

*Amendment*

*(ca) the remuneration that is given by the advertiser.*

### Amendment 156

#### Proposal for a regulation

#### Article 24 – paragraph 1 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***When the online platform is subleasing part of its online presentation to a third party, the platform shall ensure that all the transparency requirements set out in this Article are fulfilled.***

## **Amendment 157**

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

*Text proposed by the Commission*

*Amendment*

***Online platforms shall take steps to phase out collecting or processing personal data, as defined in Article 4, point (1), of Regulation (EU) 2016/679, for the purpose of targeting recipients for non-commercial and political advertising, in favour of contextual advertising. The same would apply to targeting people based on sensitive data, or to targeting minors. This Article is without prejudice to the regulation (EU) .../.... on greater transparency in political advertising.***

## **Amendment 158**

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

*Text proposed by the Commission*

*Amendment*

***For the purpose of targeting the recipients to whom advertisements for commercial purposes are displayed, online platforms shall offer users the possibility to easily opt-out from micro-targeted tracking and advertisements that are based on their behaviour data or other profiling techniques, within the meaning of Article 4(4) of Regulation (EU) 2016/679. Personal data used for online advertising shall be used in accordance with the***

## **Amendment 159**

### **Proposal for a regulation Article 25 – paragraph 1**

*Text proposed by the Commission*

1. This Section shall apply to online platforms which provide their services to a number of average monthly active recipients of the service in the Union equal to or higher than 45 million, calculated in accordance with the methodology set out in the delegated acts referred to in paragraph 3.

*Amendment*

1. This Section shall apply to online platforms which provide their services to a number of average monthly active recipients of the service in the Union equal to or higher than 45 million, calculated in accordance with the methodology set out in the delegated acts referred to in paragraph 3, **or if they exercise a dominant position in a specific market sector as defined in relevant Union law.**

## **Amendment 160**

### **Proposal for a regulation Article 26 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) the dissemination of illegal content through their services;

*Amendment*

(a) **details on** the dissemination of illegal content through their services **and impacted jurisdictions;**

## **Amendment 161**

### **Proposal for a regulation Article 26 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) any negative effects for the exercise of **the** fundamental rights to respect for private and family life, freedom of expression and information, the prohibition of discrimination and the rights of the child, as enshrined in **Articles 7, 11, 21 and**

*Amendment*

(b) any negative effects for the exercise of **any of the** fundamental **rights listed in the Charter, in particular the** rights to respect for private and family life, freedom of expression and information, the prohibition of discrimination and the rights of the child, as enshrined in the Charter

24 of the Charter *respectively*;

*respectively, including when these negative effects are caused by algorithmic bias*;

#### Amendment 162

##### Proposal for a regulation

##### Article 26 – paragraph 1 – point c

*Text proposed by the Commission*

(c) intentional manipulation of their service, including by means of ***inauthentic use or*** automated exploitation of the service, with an actual or foreseeable negative effect on ***the protection of public health, minors, civic discourse, or actual or foreseeable effects related to electoral processes and public security.***

*Amendment*

(c) ***malfunctioning or*** intentional manipulation of their service, including by means of automated exploitation of the service, with an actual or foreseeable negative effect on ***fundamental rights***;

#### Amendment 163

##### Proposal for a regulation

##### Article 26 – paragraph 1 – point c a (new)

*Text proposed by the Commission*

*Amendment*

(ca) ***impact on the economy and the competitiveness of each Member State or the relevant Union market.***

#### Amendment 164

##### Proposal for a regulation

##### Article 26 – paragraph 2

*Text proposed by the Commission*

2. When conducting risk assessments, very large online platforms shall take into account, in particular, ***how*** their content moderation systems, recommender systems and systems for selecting and displaying advertisement ***influence any of the systemic risks referred to in paragraph 1, including the potentially rapid and wide***

*Amendment*

2. When conducting risk assessments, very large online platforms shall take into account, in particular, ***the effects of*** their content moderation systems, recommender systems and systems for selecting and displaying advertisement.



*dissemination of illegal content and of information that is incompatible with their terms and conditions.*

#### **Amendment 165**

##### **Proposal for a regulation Article 26 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2a. To ensure a high level of public control and transparency, those yearly risk assessments should be made as transparent as possible, by means of open access data, without prejudice of Directive 2016/943 (trade secrets).**

#### **Amendment 166**

##### **Proposal for a regulation Article 26 – paragraph 2 b (new)**

*Text proposed by the Commission*

*Amendment*

**2b. The outcome of the risk assessment and the supporting documents shall be communicated to the Board and to the Digital Services Coordinator of establishment. A summary version of the risk assessment shall be made publicly available in an easily accessible format, including for persons with disabilities.**

#### **Amendment 167**

##### **Proposal for a regulation Article 27 – paragraph 1 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

**(aa) appropriate staffing to deal with notices and complaints, including where automatic systems are used;**

## Amendment 168

### Proposal for a regulation Article 27 – paragraph 1 – point c

*Text proposed by the Commission*

(c) reinforcing the internal processes or supervision of any of their activities in particular as regards detection of systemic risk;

*Amendment*

(c) reinforcing the internal processes, ***not solely based on automated systems***, or supervision of any of their activities in particular as regards detection of systemic risk;

## Amendment 169

### Proposal for a regulation Article 27 – paragraph 1 – point e a (new)

*Text proposed by the Commission*

*Amendment*

***(ea) targeted measures aimed at reducing electricity and water consumption, heat production and CO2 emissions related to the provision of the service and to the technical infrastructure.***

## Amendment 170

### Proposal for a regulation Article 27 – paragraph 2 – point a

*Text proposed by the Commission*

(a) identification and assessment of the most prominent and recurrent systemic risks reported by very large online platforms or identified through other information sources, in particular those provided in compliance with Article 31 and 33;

*Amendment*

(a) identification and assessment of the most prominent and recurrent systemic risks reported by very large online platforms or identified through other information sources, in particular those provided in compliance with Article 31 and 33 ***and taking note of their real or likely economic and competitive consequences, if any;***

## Amendment 171

### Proposal for a regulation

#### Article 27 – paragraph 2 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***Those reports shall be disseminated to the general public, free of charge, and with due regard to business secrets, include standardised, open data describing the systemic risks, especially risks to fundamental rights and socioeconomic ones.***

## Amendment 172

### Proposal for a regulation

#### Article 27 – paragraph 3

*Text proposed by the Commission*

*Amendment*

3. The Commission, in cooperation with the Digital Services Coordinators, may issue general ***guidelines*** on the application of paragraph 1 in relation to specific risks, in particular to present best practices and recommend possible measures, having due regard to the possible consequences of the measures on fundamental rights enshrined in the Charter of all parties involved. When preparing those ***guidelines*** the Commission shall organise public consultations.

3. The Commission, in cooperation with the Digital Services Coordinators, may issue general ***recommendations*** on the application of paragraph 1 in relation to specific risks, in particular to present best practices and recommend possible measures, having due regard to the possible consequences of the measures on fundamental rights enshrined in the Charter of all parties involved. When preparing those ***recommendations*** the Commission shall organise public consultations.

## Amendment 173

### Proposal for a regulation

#### Article 28 – paragraph 1 – introductory part

*Text proposed by the Commission*

*Amendment*

1. Very large online platforms shall be subject, at their own expense and at least once a year, to audits to assess compliance with the following:

1. Very large online platforms shall be subject, at their own expense and at least once a year, to ***independent*** audits to assess compliance with the following:

## Amendment 174

### Proposal for a regulation Article 28 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. Audits should be performed on at least:***

***(a) the clarity, coherence and predictable enforcement of terms of service with particular regard to the applicable fundamental rights as enshrined in the Charter;***

***(b) the completeness, methodology and consistency of the transparency reporting obligations as set out in Articles 13, 23, 24 and 30 as well as on respect for the highest possible transparency reporting standards;***

***(c) accuracy, predictability and clarity of the provider's follow-up for recipients of the service and notice providers to notices of illegal content and violations of terms of service and the accuracy of classification (illegal or violation of terms and conditions) of removed information;***

***(d) internal and third-party complaint handling mechanisms;***

***(e) interaction with trusted flaggers and independent assessment of accuracy, response times, efficiency and whether there are indications of abuse;***

***(f) diligence with regard to verification of the traceability of traders;***

***(g) the effectiveness of and compliance with codes of conduct;***

***(h) data sufficiency, aiming to reduce data generation, in general, and traffic, wherever possible, including, in particular, the reduction of associated electricity consumption and resources from data centres, as referred to in Article***

27;

(i) *readiness to participate in the crisis protocols referred to in Article 37.*

*Audits on the subjects referred to in points (a) to (g) may be combined where the organisation performing the audits has subject-specific expertise in the relevant area.*

## Amendment 175

### Proposal for a regulation Article 28 – paragraph 1 b (new)

*Text proposed by the Commission*

*Amendment*

***1b. Digital Services Coordinators shall provide very large online platforms under their jurisdiction with an annual audit plan outlining the key areas of focus for the upcoming audit cycle.***

## Amendment 176

### Proposal for a regulation Article 28 – paragraph 2 – introductory part

*Text proposed by the Commission*

*Amendment*

2. Audits performed pursuant to ***paragraph 1*** shall be performed by organisations which:

2. Audits performed pursuant to ***the paragraphs above*** shall be performed by organisations which:

## Amendment 177

### Proposal for a regulation Article 28 – paragraph 2 – point a

*Text proposed by the Commission*

*Amendment*

(a) are independent from the very large online platform concerned;

(a) are independent from the very large online platform concerned ***and have not provided any other service to the platform in the previous 12 months;***

## Amendment 178

### Proposal for a regulation

#### Article 28 – paragraph 2 – point c a (new)

*Text proposed by the Commission*

*Amendment*

***(ca) have not provided an audit to the same very large online platform for more than three consecutive years.***

## Amendment 179

### Proposal for a regulation

#### Article 28 – paragraph 3 – point f

*Text proposed by the Commission*

*Amendment*

(f) where the audit opinion is not positive, operational recommendations on specific measures to achieve compliance.

(f) where the audit opinion is not positive, operational recommendations on specific measures to achieve compliance ***and risk-based remediation timelines with a focus on rectifying issues that have the potential of causing most harm to users of the service as a priority;***

## Amendment 180

### Proposal for a regulation

#### Article 28 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

***4a. The audits should be submitted to the Digital Services Coordinators, the European Union Agency for Fundamental Rights and to the Commission immediately after their completion. Audit findings, that do not include sensitive information, shall be made public. Digital Services Coordinators, European Union Agency for Fundamental Rights and the Commission may provide a public comment on the audits.***

## Amendment 181

### Proposal for a regulation Article 29 – paragraph 1

*Text proposed by the Commission*

1. **Very large** online platforms that use recommender systems shall set out in their terms and conditions, in a clear, accessible and easily comprehensible manner, the **main** parameters used in their recommender systems, as well as any options for the recipients of the service to modify or influence those main parameters that they may have made available, **including** at least one option which is not based on profiling, within the meaning of Article 4 (4) of Regulation (EU) 2016/679.

*Amendment*

1. Online platforms that use recommender systems shall set out in their terms and conditions, in a clear, accessible and easily comprehensible manner, the parameters used in their recommender systems, as well as any options for the recipients of the service to modify or influence those main parameters that they may have made available. **Very large online platform shall include** at least one option which is not based on profiling, within the meaning of Article 4 (4) of Regulation (EU) 2016/679, **as well as keep a log of all the significant changes implemented to the recommender system.**

## Amendment 182

### Proposal for a regulation Article 30 – paragraph 2 – point b

*Text proposed by the Commission*

(b) the natural or legal person on whose behalf the advertisement is displayed;

*Amendment*

(b) the natural or legal person on whose behalf the advertisement is displayed **and who directly or indirectly financed the advertisement;**

## Amendment 183

### Proposal for a regulation Article 30 – paragraph 2 – point b a (new)

*Text proposed by the Commission*

*Amendment*

**(ba) the pricing methods used to determine the size of financial compensation that will be received by the platform for the dissemination of each advertisement;**



## Amendment 184

### Proposal for a regulation Article 31 – paragraph 1

*Text proposed by the Commission*

1. Very large online platforms shall provide the Digital Services Coordinator of establishment or the Commission, upon their reasoned request and within a reasonable period, specified in the request, access to data that are necessary to monitor and assess compliance with this Regulation. ***That Digital Services Coordinator and the Commission shall only use that data for those purposes.***

*Amendment*

1. Very large online platforms shall provide the Digital Services Coordinator of establishment or the Commission, upon their reasoned request and within a reasonable period, specified in the request, access to data that are necessary to monitor and assess compliance with this Regulation.

## Amendment 185

### Proposal for a regulation Article 31 – paragraph 2

*Text proposed by the Commission*

2. Upon a reasoned request from the Digital Services Coordinator of establishment or the Commission, very large online platforms shall, within a reasonable period, as specified in the request, provide access to data to vetted researchers who meet the requirements in paragraphs 4 of this Article, ***for the sole purpose of conducting research that contributes to the identification and understanding of systemic risks as set out in Article 26(1).***

*Amendment*

2. Upon a reasoned request from the Digital Services Coordinator of establishment or the Commission, very large online platforms shall, within a reasonable period, as specified in the request, provide access to data to vetted researchers who meet the requirements in paragraphs 4 of this Article.

## Amendment 186

### Proposal for a regulation Article 31 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**2a.** *Upon reasoned request, very large online platforms shall provide access to data, in particular aggregated and anonymised data, to vetted researchers, who meet the requirements set out in paragraph 4, for the purposes of scientific and academic research. Very large online platforms may deny access to the data if such access would compromise trade secrets or the security of the service. Such denial shall be duly justified.*

### **Amendment 187**

#### **Proposal for a regulation Article 31 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. Very large online platforms shall provide access to data pursuant to paragraphs 1 and 2 through online databases or application programming interfaces, as appropriate.

3. Very large online platforms shall provide access to data pursuant to paragraphs 1 and 2 through online databases or application programming interfaces, as appropriate. ***That shall include personal data only where it is lawfully accessible to the public.***

### **Amendment 188**

#### **Proposal for a regulation Article 31 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

4. In order to be vetted, researchers shall be affiliated with academic institutions, be independent from commercial interests, have proven records of ***expertise*** in the fields related to the ***risks investigated or related research methodologies***, and shall commit ***and be in a capacity*** to preserve the specific data security and confidentiality requirements

4. In order to be vetted, researchers shall be affiliated with academic institutions, be independent from commercial interests, have proven records of ***knowledge*** in the fields related to the ***investigations***, and shall commit to preserve the specific data security and confidentiality requirements corresponding to each request.

corresponding to each request.

## Amendment 189

### Proposal for a regulation Article 31 – paragraph 5

#### *Text proposed by the Commission*

5. The Commission shall, after consulting the Board, adopt delegated acts laying down the technical conditions under which very large online platforms are to share data pursuant to paragraphs 1 and 2 and the purposes for which the data may be used. Those delegated acts shall lay down the specific conditions under which such sharing of data with vetted researchers can take place in compliance with Regulation (EU) 2016/679, taking into account the rights and interests of the very large online platforms and the recipients of the service concerned, including the protection of confidential information, in particular trade secrets, and maintaining the security of their service.

#### *Amendment*

5. The Commission shall, after consulting the Board, adopt delegated acts laying down the technical conditions under which very large online platforms are to share data pursuant to paragraphs 1 and 2 and the purposes for which the data may be used. ***The delegated acts should also lay out the technical conditions needed to ensure confidentiality and security of information by the vetted researchers once they acquire access to the data.*** Those delegated acts shall lay down the specific conditions under which such sharing of data with vetted researchers can take place in compliance with Regulation (EU) 2016/679, taking into account the rights and interests of the very large online platforms and the recipients of the service concerned, including the protection of confidential information, in particular trade secrets, and maintaining the security of their service.

## Amendment 190

### Proposal for a regulation Article 31 – paragraph 6 – introductory part

#### *Text proposed by the Commission*

6. Within 15 days following receipt of a request as referred to in ***paragraph*** 1 and 2, a very large online platform may request the Digital Services Coordinator of establishment or the Commission, as applicable, to amend the request, where it considers that it is unable to give access to the data requested because one of

#### *Amendment*

6. Within 15 days following receipt of a request as referred to in ***paragraphs*** 1 and 2, a very large online platform may request the Digital Services Coordinator of establishment or the Commission ***or the vetted researchers***, as applicable, to amend the request, where it considers that it is unable to give access to the data requested

following two reasons:

because one of following two reasons:

#### **Amendment 191**

##### **Proposal for a regulation**

##### **Article 31 – paragraph 7 – subparagraph 2**

###### *Text proposed by the Commission*

The Digital Services Coordinator of establishment or the Commission shall decide upon the request for amendment within 15 days and communicate to the very large online platform its decision and, where relevant, the amended request and the new time period to comply with the request.

###### *Amendment*

The Digital Services Coordinator of establishment or the Commission ***or the vetted researchers*** shall decide upon the request for amendment within 15 days and communicate to the very large online platform its decision and, where relevant, the amended request and the new time period to comply with the request.

#### **Amendment 192**

##### **Proposal for a regulation**

##### **Article 31 – paragraph 7 a (new)**

###### *Text proposed by the Commission*

###### *Amendment*

***7a. Research conducted under that regime should always be built on open access principles, without prejudice to copyright rules, and use standardised data sets to ensure a high level of transparency and accountability with regard to the proper use of provided data.***

#### **Amendment 193**

##### **Proposal for a regulation**

##### **Article 31 – paragraph 7 b (new)**

###### *Text proposed by the Commission*

###### *Amendment*

***7b. Upon completion of their research, the vetted researchers that have been granted access to data shall publish their findings without disclosing personal data and without prejudice to Directive***

## Amendment 194

### Proposal for a regulation Article 33 – paragraph 1

*Text proposed by the Commission*

1. Very large online platforms shall publish the reports referred to in Article 13 within six months from the date of application referred to in Article 25(4), and thereafter every **six** months.

*Amendment*

1. Very large online platforms shall publish the reports referred to in Article 13 within six months from the date of application referred to in Article 25(4), and thereafter every **three** months, ***in a standardised, machine-readable and accessible format, including for persons with disabilities.***

## Amendment 195

### Proposal for a regulation Article 33 a (new)

*Text proposed by the Commission*

*Amendment*

#### ***Article 33a***

##### ***Interoperability***

1. ***Very large online platforms shall make at least ancillary services and, where possible, core functionalities of their services interoperable with other online platforms to enable cross-platform communication to the extent technically possible. That obligation shall not limit, hinder or delay their ability to solve security issues and shall be in compliance with all their responsibilities, especially regarding fundamental rights, protection of privacy and data, intellectual property rights, security and safety.***

2. ***Very large online platforms shall publicly document all application programming interfaces they make available and update them continuously.***

**3. Very large online platforms shall take steps towards enabling third parties to audit their recommender systems and make operational recommendations on how to better prevent the dissemination of illegal content. Such audits shall have the utmost regard to security and privacy of users. Access to third party recommender systems shall be temporarily limited in cases of demonstrable abuse by the third party provider or when justified by an immediate requirement to address technical problems such as serious security vulnerability.**

**4. The Commission shall adopt implementing measures specifying the nature and scope of the obligations set out in paragraphs 1 and 2, taking into account, not only the individual cases of different very large online providers, but also the diversity and complexity of the market as a whole.**

## **Amendment 196**

### **Proposal for a regulation Article 34 – paragraph 1 – point f a (new)**

*Text proposed by the Commission*

*Amendment*

**(fa) interoperability of the core functions of very large online platforms pursuant to Article 33a.**

## **Amendment 197**

### **Proposal for a regulation Article 35 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. The Commission and the Board shall encourage and facilitate the drawing up of codes of conduct at Union level to contribute to the proper application of this Regulation, taking into account in

1. The Commission and the Board shall encourage and facilitate the drawing up of codes of conduct at Union level to contribute to the proper application of this Regulation, taking into account in

particular the specific challenges of tackling different types of **illegal content** **and** systemic risks, in accordance with Union law, in particular on competition and the protection of personal data.

particular the specific challenges of tackling different types of systemic risks, in accordance with Union law, in particular on competition and the protection of personal data.

## Amendment 198

### Proposal for a regulation

#### Article 36 – paragraph 2 – point b a (new)

*Text proposed by the Commission*

*Amendment*

**(ba) the different types of data that can be used.**

## Amendment 199

### Proposal for a regulation

#### Article 37 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. The Board may recommend the Commission to initiate the drawing up, in accordance with paragraphs 2, 3 and 4, of crisis protocols for addressing crisis situations strictly limited to extraordinary circumstances affecting public security or public health.

1. The Board may recommend the Commission to initiate the drawing up, in accordance with paragraphs 2, 3 and 4, of crisis protocols for addressing crisis situations strictly limited to extraordinary circumstances affecting public security, **the economy** or public health. **The Commission shall be responsible for drafting, implementing and scrutinising the crisis protocols and shall annually report on them to the European Parliament.**

## Amendment 200

### Proposal for a regulation

#### Article 37 – paragraph 2 – introductory part

*Text proposed by the Commission*

*Amendment*

2. The Commission shall encourage and facilitate very large online platforms and, where appropriate, other online

2. The Commission shall encourage and facilitate very large online platforms and, where appropriate, other online



platforms, with the involvement of the Commission, to participate in the drawing up, testing and application of those crisis protocols, which include one or more of the following measures:

platforms, *especially those exercising a dominant position*, with the involvement of the Commission, to participate in the drawing up, testing and application of those crisis protocols, which include one or more of the following measures:

#### **Amendment 201**

##### **Proposal for a regulation Article 37 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

**5a. All crisis protocols are to be subjected to scrutiny by the appropriate committees of the European Parliament.**

#### **Amendment 202**

##### **Proposal for a regulation Article 37 – paragraph 5 b (new)**

*Text proposed by the Commission*

*Amendment*

**5b. Readiness to participate in already existing crisis protocols should be assessed in a risk assessment outlined in Article 26.**

#### **Amendment 203**

##### **Proposal for a regulation Article 39 – paragraph 1 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

**Member States shall designate the status of Digital Services Coordinator based on the following criteria:**

**(a) the authority has particular expertise and competence for the purposes of detecting, identifying and notifying illegal content;**

*(b) it represents collective interests and is independent from any online platform;*

*(c) it has the capacity to carry out its activities in a timely, diligent and objective manner.*

## Amendment 204

### Proposal for a regulation Article 39 – paragraph 3

#### *Text proposed by the Commission*

3. Paragraph 2 is without prejudice to the tasks of Digital Services Coordinators within the system of supervision and enforcement provided for in this Regulation and the cooperation with other competent authorities in accordance with Article 38(2). Paragraph 2 shall not prevent supervision of the authorities concerned in accordance with national constitutional law.

#### *Amendment*

3. Paragraph 2 is without prejudice to the tasks of Digital Services Coordinators within the system of supervision and enforcement provided for in this Regulation and the cooperation with other competent authorities in accordance with Article 38(2). Paragraph 2 shall not prevent supervision of the authorities concerned in accordance with national constitutional law. ***Digital Services Coordinators shall draw up a report and publish it in the information sharing system pursuant to Article 67 and present it to the European Parliament.***

## Amendment 205

### Proposal for a regulation Article 44 – paragraph 1

#### *Text proposed by the Commission*

1. Digital Services Coordinators shall draw up an annual report on their activities under this Regulation. They shall make the annual reports available to the public, and shall communicate them to the Commission and to the Board.

#### *Amendment*

1. Digital Services Coordinators shall draw up an annual reports on their activities under this Regulation. They shall make the annual reports available to the public ***in a standardised, machine-readable and accessible format, including for persons with disabilities***, and shall communicate them to the Commission and to the Board.

## Amendment 206

### Proposal for a regulation

#### Article 44 – paragraph 2 – point b a (new)

*Text proposed by the Commission*

*Amendment*

***(ba) an assessment of the interpretation of the Country of Origin principle in the supervisory and enforcement activities of the Digital Services Coordinators, especially with regard to Article 45.***

## Amendment 207

### Proposal for a regulation

#### Article 44 – paragraph 2 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***These reports shall give due consideration to highly sensitive information and business secrets;***

## Amendment 208

### Proposal for a regulation

#### Article 45 – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

Where a Digital Services Coordinator has reasons to suspect that a provider of an intermediary service, not under the jurisdiction of the Member State concerned, infringed this Regulation, it shall request the Digital Services Coordinator of establishment to assess the matter and take the necessary investigatory and enforcement measures to ensure compliance with this Regulation.

Where a Digital Services Coordinator has reasons to suspect that a provider of an intermediary service, not under the jurisdiction of the Member State concerned, infringed this Regulation, it shall request the Digital Services Coordinator of establishment to assess the matter and take the necessary investigatory and enforcement measures to ensure compliance with this Regulation. ***The Digital Services Coordinator of establishment shall acknowledge the receipt of the request and confirm that it will assess the matter and take the necessary investigatory and enforcement measures within 10 working days..***

***Where the Digital Services Coordinator of establishment initiates proceedings, it shall share with the requesting Digital Services Coordinator all the information gathered during the proceedings related to the case.***

## **Amendment 209**

### **Proposal for a regulation Article 45 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. The Digital Service Coordinator of establishment shall make available to any Digital Services Coordinator in the territory where the service provider operates, the data collected for the purpose of the supervision of that provider and which relates to the territory of the Digital Service Coordinator.***

## **Amendment 210**

### **Proposal for a regulation Article 45 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. The Digital Services Coordinator of establishment shall take into utmost account the request or recommendation pursuant to paragraph 1. Where it considers that it has insufficient information to act upon the request or recommendation and has reasons to consider that the Digital Services Coordinator that sent the request, or the Board, could provide additional information, it may request such information. ***The time period laid down in paragraph 4 shall be suspended until that additional information is provided.***

3. The Digital Services Coordinator of establishment shall take into utmost account the request or recommendation pursuant to paragraph 1. Where it considers that it has insufficient information to act upon the request or recommendation and has reasons to consider that the Digital Services Coordinator that sent the request, or the Board, could provide additional information, it may request such information.

## Amendment 211

### Proposal for a regulation Article 45 – paragraph 4

*Text proposed by the Commission*

4. The Digital Services Coordinator of establishment shall, without undue delay and in any event not later than two months following receipt of the request or recommendation, communicate to the Digital Services Coordinator that sent the request, or the Board, its assessment of the suspected infringement, or that of any other competent authority pursuant to national law where relevant, and an explanation of any investigatory or enforcement measures taken or envisaged in relation thereto to ensure compliance with this Regulation.

*Amendment*

4. The Digital Services Coordinator of establishment shall, without undue delay and in any event not later than two months following receipt of the request or recommendation, communicate to the Digital Services Coordinator that sent the request, or the Board, its assessment of the suspected infringement, or that of any other competent authority pursuant to national law where relevant, and an explanation of any investigatory or enforcement measures taken or envisaged in relation thereto to ensure compliance with this Regulation, ***or where appropriate the reasons why it considers that the case should not be investigated.***

## Amendment 212

### Proposal for a regulation Article 47 – paragraph 1

*Text proposed by the Commission*

1. An independent advisory group of Digital Services Coordinators on the supervision of providers of intermediary services named ‘European Board for Digital Services’ (the ‘Board’) is established.

*Amendment*

1. An independent advisory ***and coordination*** group of Digital Services Coordinators on the supervision of providers of intermediary services named ‘European Board for Digital Services’ (the ‘Board’) is established.

## Amendment 213

### Proposal for a regulation Article 47 – paragraph 2 – point c a (new)

*Text proposed by the Commission*

*Amendment*

***(ca) facilitating communication between multiple Digital Service***

## **Amendment 214**

### **Proposal for a regulation Article 48 – paragraph 3**

*Text proposed by the Commission*

3. The Board shall be chaired by *the Commission*. *The Commission* shall convene the meetings and prepare the agenda in accordance the tasks of the Board pursuant to this Regulation and with its rules of procedure.

*Amendment*

3. The Board shall be chaired by *a president elected from among its members*. *The chair of the Board shall not be allowed to lead any national regulatory office in a Member State at the same time. The mandate of the chair shall be limited to a maximum of three years, renewable once. The chair of the Board* shall convene the meetings and prepare the agenda in accordance the tasks of the Board pursuant to this Regulation and with its rules of procedure.

## **Amendment 215**

### **Proposal for a regulation Article 48 – paragraph 6**

*Text proposed by the Commission*

6. The Board shall adopt its rules of procedure, *following the consent of the Commission*.

*Amendment*

6. The Board shall adopt its rules of procedure, *by a two-thirds majority of its members and shall organise its own operational arrangements*.

## **Amendment 216**

### **Proposal for a regulation Article 50 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

The Commission acting on its own initiative, or the Board acting on its own initiative or upon request of at least three Digital Services Coordinators of

*Amendment*

The Commission acting on its own initiative, or the Board acting on its own initiative or upon request of at least three Digital Services Coordinators of

destination, may, where **it has** reasons to suspect that a very large online platform infringed any of those provisions, recommend the Digital Services Coordinator of establishment to investigate the suspected infringement with a view to that Digital Services Coordinator adopting such a decision within a reasonable time period.

destination, may, where **there are** reasons to suspect that a very large online platform infringed any of those provisions, recommend the Digital Services Coordinator of establishment to investigate the suspected infringement with a view to that Digital Services Coordinator adopting such a decision within a reasonable time period.

## **Amendment 217**

### **Proposal for a regulation Article 51 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 51 a**

##### **Requirements for the Commission**

- 1. The Commission shall perform its tasks under this Regulation in an impartial, transparent and timely manner. The Commission shall ensure that its units given responsibility for this Regulation have the adequate technical, financial and human resources to carry out their tasks.**
- 2. When carrying out its tasks and exercising its powers in accordance with this Regulation, the Commission shall act with complete independence. It shall remain free from any direct or indirect external influence and shall neither seek nor take instructions from any other public authority or any private party.**

## **Amendment 218**

### **Proposal for a regulation Article 52 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

- 4a. Upon request, the Commission shall transmit the information obtained to**

## **Amendment 219**

### **Proposal for a regulation Article 55 – paragraph 2**

*Text proposed by the Commission*

2. A decision under paragraph 1 shall apply for a specified period of time and may be renewed in so far this is necessary and appropriate.

*Amendment*

2. A decision under paragraph 1 shall apply for a specified period of time and may be renewed in so far this is necessary and appropriate. ***When adopting such a decision, the Commission shall immediately inform the Board and the Digital Service Coordinator of establishment.***

## **Amendment 220**

### **Proposal for a regulation Article 57 – paragraph 1**

*Text proposed by the Commission*

1. For the purposes of carrying out the tasks assigned to it under this Section, the Commission may take the necessary actions to monitor the effective implementation and compliance with this Regulation by the very large online platform concerned. The Commission may also order that platform to provide access to, and explanations relating to, its databases and algorithms.

*Amendment*

1. For the purposes of carrying out the tasks assigned to it under this Section, the Commission may take the necessary actions to monitor the effective implementation and compliance with this Regulation by the very large online platform concerned. The Commission may also order that platform to provide access to, and explanations relating to, its databases and algorithms, ***without prejudice to Directive (EU) 2016/943 on trade secrets.***

## **Amendment 221**

### **Proposal for a regulation Article 58 – paragraph 2**



*Text proposed by the Commission*

2. Before adopting the decision pursuant to paragraph 1, the Commission shall communicate its preliminary findings to the very large online platform concerned. In the preliminary findings, the Commission shall explain the measures that it considers taking, or that it considers that the very large online platform concerned should take, in order to effectively address the preliminary findings.

*Amendment*

2. Before adopting the decision pursuant to paragraph 1, the Commission shall communicate its preliminary findings to the very large online platform concerned, ***to the Board and to the Digital Service Coordinator of establishment***. In the preliminary findings, the Commission shall explain the measures that it considers taking, or that it considers that the very large online platform concerned should take, in order to effectively address the preliminary findings.

**Amendment 222**

**Proposal for a regulation  
Article 58 – paragraph 5**

*Text proposed by the Commission*

5. Where the Commission finds that the conditions of paragraph 1 are not met, it shall close the investigation by a decision.

*Amendment*

5. Where the Commission finds that the conditions of paragraph 1 are not met, it shall close the investigation by a decision ***and inform the Board and the Digital Service Coordinator of establishment***.

**Amendment 223**

**Proposal for a regulation  
Article 67 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. Relevant committees of the European Parliament shall be given access to that information sharing system to provide democratic oversight.***

**Amendment 224**

**Proposal for a regulation  
Article 73 – paragraph 1**

*Text proposed by the Commission*

1. By **five** years after the entry into force of this Regulation at the latest, and every **five** years thereafter, the Commission shall evaluate this Regulation and report to the European Parliament, the Council and the European Economic and Social Committee.

*Amendment*

1. By **three** years after the entry into force of this Regulation at the latest, and every **three** years thereafter, the Commission shall evaluate this Regulation and report to the European Parliament, the Council and the European Economic and Social Committee.

## PROCEDURE – COMMITTEE ASKED FOR OPINION

|   |  |
|---|--|
| <b>Title</b>  | Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC  |
| <b>References</b>   | COM(2020)0825 – C9-0418/2020 – 2020/0361(COD)  |
| <b>Committee responsible</b><br>Date announced in plenary | IMCO<br>8.2.2021   |
| <b>Opinion by</b><br>Date announced in plenary            | ECON<br>8.2.2021   |
| <b>Rapporteur for the opinion</b><br>Date appointed       | Mikuláš Peksa<br>10.5.2021   |
| <b>Discussed in committee</b>                             | 1.9.2021   |
| <b>Date adopted</b>                                       | 26.10.2021   |
| <b>Result of final vote</b>                               | +: 52<br>–: 5<br>0: 3  |
| <b>Members present for the final vote</b>                 | Gerolf Annemans, Gunnar Beck, Marek Belka, Isabel Benjumea Benjumea, Lars Patrick Berg, Stefan Berger, Gilles Boyer, Engin Eroglu, Markus Ferber, Jonás Fernández, Raffaele Fitto, Frances Fitzgerald, Luis Garicano, Sven Giegold, Valentino Grant, Claude Gruffat, José Gusmão, Enikő Győri, Eero Heinäluoma, Michiel Hoogeveen, Danuta Maria Hübner, Stasys Jakeliūnas, France Jamet, Othmar Karas, Billy Kelleher, Ondřej Kovařík, Georgios Kyrtzos, Aurore Lalucq, Aušra Maldeikienė, Pedro Marques, Costas Mavrides, Jörg Meuthen, Csaba Molnár, Siegfried Mureşan, Caroline Nagtegaal, Luděk Niedermayer, Lefteris Nikolaou-Alavanos, Piernicola Pedicini, Lídia Pereira, Kira Marie Peter-Hansen, Sirpa Pietikäinen, Dragoş Pîslaru, Evelyn Regner, Antonio Maria Rinaldi, Alfred Sant, Martin Schirdewan, Joachim Schuster, Ralf Seekatz, Pedro Silva Pereira, Paul Tang, Irene Tinagli, Ernest Urtasun, Inese Vaidere, Johan Van Oortveldt, Stéphanie Yon-Courtin, Marco Zanni, Roberts Zīle |
| <b>Substitutes present for the final vote</b>             | Janusz Lewandowski, Mikuláš Peksa, Mick Wallace  |

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

| 52        | +  |
|-----------|--|
| ECR       | Lars Patrick Berg, Raffaele Fitto, Michiel Hoogeveen, Johan Van Overtveldt, Roberts Zīle   |
| ID        | Valentino Grant, Antonio Maria Rinaldi, Marco Zanni  |
| NI        | Enikő Győri  |
| PPE       | Isabel Benjumea Benjumea, Stefan Berger, Markus Ferber, Frances Fitzgerald, Danuta Maria Hübner, Othmar Karas, Georgios Kyrtos, Janusz Lewandowski, Aušra Maldeikienė, Siegfried Mureşan, Luděk Niedermayer, Lídia Pereira, Sirpa Pietikäinen, Ralf Seekatz, Inese Vaidere |
| Renew     | Gilles Boyer, Engin Eroglu, Luis Garicano, Billy Kelleher, Ondřej Kovařík, Caroline Nagtegaal, Dragoş Pîslaru, Stéphanie Yon-Courtin   |
| S&D       | Marek Belka, Jonás Fernández, Eero Heinäluoma, Aurore Lalucq, Pedro Marques, Costas Mavrides, Csaba Molnár, Evelyn Regner, Alfred Sant, Joachim Schuster, Pedro Silva Pereira, Paul Tang, Irene Tinagli  |
| Verts/ALE | Sven Giegold, Claude Gruffat, Stasys Jakeliūnas, Piernicola Pedicini, Mikuláš Peksa, Kira Marie Peter-Hansen, Ernest Urtaşun   |

| 5        | -                          |
|----------|----------------------------|
| ID       | Gunnar Beck, Jörg Meuthen  |
| NI       | Lefteris Nikolaou-Alavanos |
| The Left | José Gusmão, Mick Wallace  |

| 3        | 0                             |
|----------|-------------------------------|
| ID       | Gerolf Annemans, France Jamet |
| The Left | Martin Schirdewan             |

Key to symbols:

+ : in favour

- : against

0 : abstention