



Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2018/0112(COD) Procedure completed
Fairness and transparency for business users of online intermediation services	
Subject 2.40 Free movement of services, freedom to provide 3.30.25 International information networks and society, internet 3.45.05 Business policy, e-commerce, after-sales service, commercial distribution	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	IMCO Internal Market and Consumer Protection (Associated committee)	S&D SCHALDEMOSE Christel	19/06/2018
		Shadow rapporteur	
		PPE JUVIN Philippe	
		ECR DALTON Daniel	
		ALDE CHARANZOVÁ Dita	
	GUE/NGL DE JONG Dennis		
	Verts/ALE REDA Julia		
	EFDD ZULLO Marco		
	Committee for opinion	Rapporteur for opinion	Appointed
	ITRE Industry, Research and Energy		30/05/2018
		PPE ZÁBORSKÁ Anna	
	TRAN Transport and Tourism		10/08/2018
		S&D APARDEL Claudia	
	JURI Legal Affairs (Associated committee)		09/07/2018
		PPE ZAMMIT DIMECH Francis	
Council of the European Union	Council configuration	Meeting	Date
	Employment, Social Policy, Health and Consumer Affairs 3699		14/06/2019
	Competitiveness (Internal Market, Industry, Research and Space)	3655	29/11/2018
European Commission	Commission DG Communications Networks, Content and Technology	Commissioner GABRIEL Mariya	
European Economic and Social Committee European Committee of the Regions			

Key events			

26/04/2018	Legislative proposal published	COM(2018)0238	Summary
28/05/2018	Committee referral announced in Parliament, 1st reading/single reading		
13/09/2018	Referral to associated committees announced in Parliament		
06/12/2018	Vote in committee, 1st reading/single reading		
06/12/2018	Committee decision to open interinstitutional negotiations with report adopted in committee		
07/12/2018	Committee report tabled for plenary, 1st reading/single reading	A8-0444/2018	Summary
10/12/2018	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
12/12/2018	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)		
21/02/2019	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	GEDA/A/(2019)001752	
16/04/2019	Debate in Parliament		
17/04/2019	Results of vote in Parliament		
17/04/2019	Decision by Parliament, 1st reading/single reading	T8-0398/2019	Summary
14/06/2019	Act adopted by Council after Parliament's 1st reading		
20/06/2019	Final act signed		
20/06/2019	End of procedure in Parliament		
11/07/2019	Final act published in Official Journal		

Technical information

Procedure reference	2018/0112(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	Treaty on the Functioning of the EU TFEU 114
Mandatory consultation of other institutions	European Economic and Social Committee European Committee of the Regions
Stage reached in procedure	Procedure completed
Committee dossier	IMCO/8/13031

Documentation gateway

Coreper letter confirming interinstitutional agreement		GEDA/A/(2019)001752	20/02/2018	CSL	
Legislative proposal		COM(2018)0238	26/04/2018	EC	Summary

Document attached to the procedure		SWD(2018)0138	26/04/2018	EC	
Document attached to the procedure		SWD(2018)0139	26/04/2018	EC	
Committee draft report		PE627.635	10/09/2018	EP	
Economic and Social Committee: opinion, report		CES2619/2018	19/09/2018	ESC	
Amendments tabled in committee		PE628.476	08/10/2018	EP	
Amendments tabled in committee		PE628.584	08/10/2018	EP	
Amendments tabled in committee		PE628.585	08/10/2018	EP	
Committee opinion	TRAN	PE626.844	23/11/2018	EP	
Committee opinion	ITRE	PE627.047	23/11/2018	EP	
Committee opinion	JURI	PE628.386	27/11/2018	EP	
Committee report tabled for plenary, 1st reading/single reading		A8-0444/2018	07/12/2018	EP	Summary
Reasoned opinion	PT_PARLIAMENT	PE634.650	31/01/2019	NP	
Text adopted by Parliament, 1st reading/single reading		T8-0398/2019	17/04/2019	EP	Summary
Draft final act		00056/2019/LEX	20/06/2019	CSL	
Commission response to text adopted in plenary		SP(2019)440	08/08/2019	EC	

Additional information

Research document

[Briefing](#)

Final act

[Regulation 2019/1150](#)

[OJ L 186 11.07.2019, p. 0057](#) Summary

2018/0112(COD) - 26/04/2018 Legislative proposal

PURPOSE: to establish a fair, predictable, sustainable and trusted online business environment within the internal market.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: online platforms are key enablers of digital trade. At present, more than a million EU enterprises trade through online platforms in order to reach their customers, and it is estimated that around 60% of private consumption and 30% of public consumption of goods and services related to the total digital economy are transacted via online intermediaries.

The growing intermediation of transactions through online intermediation services, fuelled by strong data-driven indirect network effects, lead to an increased dependence of such business users, including micro, small and medium-sized enterprises, on those services in order for them to reach consumers.

The dependence of businesses on certain online services implies that the providers of such online intermediation services have a scope to engage in a number of potentially harmful trading practices which limit business users' sales through them and risk undermining their trust,

notably:

- unexplained changes in terms and conditions without prior notice;
- the delisting of goods or services and the suspension of accounts without a clear statement of reasons;
- lack of transparency related to the ranking of goods and services and of the undertakings offering them;
- unclear conditions for access to, and use of, data collected by providers.

Furthermore, online general search engines exhibit a dependency-enabled issue, specifically for potentially harmful ranking practices, which may affect business users.

Building on extensive stakeholder consultation, this initiative contributes to the objectives of the [digital single market strategy](#) by creating a clear, transparent and stable legal environment for online B2C service providers and their business users, in order to combat market fragmentation and ensure that businesses using online intermediation services have access to redress opportunities throughout the Union.

IMPACT ASSESSMENT: the optimal policy choice aims to provide legally binding transparency and redress obligations on the full range of potentially harmful trading practices identified as part of this initiative, including transparency for the issue of ranking in online general search. The Commission considers that the proposal should be capable of reversing a dampening effect on the online platform economy resulting from a lack of trust of business users amounting to at least between EUR 810 million and EUR 4 billion.

CONTENT: the proposed new Regulation:

- lays down obligations for providers of online intermediation services and, in certain respects, online search engines to provide business users and corporate website users, respectively, with appropriate transparency and to offer them certain redress possibilities ;
- obliges providers of online intermediation services to ensure that their terms and conditions: (i) are drafted in clear and unambiguous language; (ii) are easily available for business users; (iii) set out the objective grounds for decisions to suspend or terminate, in whole or in part, the provision of their online intermediation services to business users;
- establishes requirements for a statement of reasons from a provider of online intermediation services if it suspends or terminates the use by a business user of its intermediation services;
- establishes requirements for a description of the main parameters determining ranking of business users in search results, including a description where ranking is influenced by the business user giving direct or indirect remuneration to them, in the terms and conditions used by providers of online intermediation services;
- establishes a requirement to include a description of the access to personal data or other data which business users or consumers provide to online intermediation services or which are generated through those services, in the standard terms and conditions used by providers of online intermediation services;
- establishes a requirement for providers of online intermediation services to list in their terms and conditions one or more mediators with which the provider is willing to engage to reach an agreement out of court on a dispute, for instance where an issue has not been resolved by the internal complaint handling system;
- establishes a requirement for the Commission to encourage providers of online intermediation services to individually or jointly set up one or more independent mediator organisations to facilitate the settlement, out of court, of disputes that arise in the course of online intermediation services, particularly given their cross-border nature;
- establishes a right for judicial proceedings to be brought by representative organisations, associations or public bodies to stop or prohibit any non-compliance by providers of online intermediation services with the requirements contained in the Regulation.

2018/0112(COD) - 07/12/2018 Committee report tabled for plenary, 1st reading/single reading

The Committee on the Internal Market and Consumer Protection adopted the report by Christel SCHALDEMOSE (S&D, DK) on the proposal for a regulation of the European Parliament and of the Council on promoting fairness and transparency for business users of online intermediation services.

The Committee on Legal Affairs, exercising its prerogative as an associated committee in accordance with [Rule 54 of the Rules of Procedure](#), also gave its opinion on the report.

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission's proposal.

Subject matter: the proposed Regulation lays down rules to ensure that business users of online intermediation services and corporate website users in relation to online search engines are granted appropriate transparency, fairness, and effective redress possibilities.

Scope: Members stressed that a distinction between business users and non-business users of online intermediation services is important. They proposed that it should not be in the discretion of the provider of an online intermediation service to distinguish whether a user is a business user or a non-business user. Rather, the users of online intermediation services should have the possibility to express whether they are business users or not, and in the case of business users, fulfil their stricter obligations towards consumers.

The proposed Regulation shall not apply to online payment services or to online advertising serving tools or online advertising exchanges which are not provided with the aim of the facilitating the initiation of direct transactions and which do not involve a contractual relationship with consumers.

Terms and conditions: Members called for them to be fair and proportionate and drafted in plain and intelligible language; in cases where changes to the terms and conditions require the business user to make significant technical adjustments to their goods or services, the notice period should be at least 30 days instead of 15 days.

Providers of online intermediation services shall also ensure that the terms and conditions are easily available at all stages of the contractual relationship, including to prospective business users at the pre-contractual phase.

Suspension and termination: where a provider of online intermediation services decides to apply sanctions, such as suspend, de-list or terminate, in whole or in part, the provision of its online intermediation services to a given business user, it shall inform and provide the business user concerned, without undue delay, with a clear and coherent statement of reasons for that decision.

Ancillary goods and services: the amended text proposed to introduce the definition of ancillary goods and services to mean goods and services offered to the consumer in addition to and as complementary to the primary good or service offered by the business user through the platform. The purpose is to make sure that wherever goods and services are offered to consumers through platforms, the latter would be obliged to set out in their terms and conditions clearly and visibly to the consumer a description of the services, who provides them and under which terms and conditions.

More transparency on additional channels: providers of online intermediation services shall ensure transparency towards their business users regarding any additional channels and potential affiliate programmes that the online intermediation service may use to markets aid goods or services.

More transparency in the ranking parameters: Members stressed that providers of online intermediation services shall set out in their terms and conditions the parameters determining ranking and the reasons for the relative importance of those parameters. When displaying the results, the online intermediation service shall also disclose close to each ranking whether it has been influenced by differentiated treatment or by any direct or indirect remuneration, contractual or direct ownership relation.

Access to data: providers shall adequately inform the public whether in case of a breach of contractual obligations or in case of a market failure by the provider of online intermediation services, business users have the right to access and to retrieve the data, or some categories of data, that they have submitted to the provider.

Providers of online intermediation services shall grant each business user access to anonymised consumer data, in a machine readable commonly used and standardised format. The provider of the online intermediation service shall not for commercial purposes disclose to third parties, including within their corporate structure, data generated by the transactions of a business user without the explicit consent of the business user.

Mediation: providers of online intermediation services and business users shall engage in good faith in any attempt to reach an agreement through the mediation of any of the mediators which they identified, with a view to reaching an agreement on the settlement of the dispute.

Liability rules: online intermediation services and not business users shall be held liable for misleading information that business users have given to online intermediation services, if the business users have notified the online intermediation service about the misleading nature of the information provided. Online intermediation services shall also be liable if they are the authors of misleading statements regarding the business users or the goods and services offered by the business users.

The Platform Observatory and review of the regulation: Members considered that since the Platform Observatory shall be tasked with an important role in monitoring the developments in the online platform economy and the application of this regulation, it should be established as a body under this Regulation rather than as an expert group.

2018/0112(COD) - 17/04/2019 Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 632 votes to 22, with 3 abstentions, a legislative resolution on promoting fairness and transparency for business users of online intermediation services.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amended the Commission proposal as follows:

Subject-matter

The purpose of this Regulation is to contribute to the proper functioning of the internal market by laying down rules to ensure that business users of online intermediation services and corporate website users in relation to online search engines are granted appropriate transparency, fairness and effective redress possibilities.

This Regulation shall not apply to online payment services or to online advertising tools or online advertising exchanges, which are not provided with the aim of the facilitating the initiation of direct transactions and which do not involve a contractual relationship with consumers.

Terms and conditions

Providers of online intermediation services shall ensure that their terms and conditions:

- are drafted in plain and intelligible language;
- are easily available to business users at all stages of their commercial relationship with the provider of online intermediation services, including in the pre-contractual stage;
- set out the grounds for decisions to suspend or terminate or impose any other kind of restriction upon, in whole or in part, the provision of their online intermediation services to business users;
- include information on any additional distribution channels and potential affiliate programmes through which providers of online intermediation services might market goods and services offered by business users;
- include general information regarding the effects of the terms and conditions on the ownership and control of intellectual property rights of business users.

Providers of online intermediation services shall notify, on a durable medium, to the business users concerned any proposed changes of their terms and conditions.

The proposed changes shall not be implemented before the expiry of a notice period which is reasonable and proportionate to the nature and extent of the envisaged changes and to their consequences for the business user concerned. That notice period shall be at least 15 days from the date on which the provider of online intermediation services notifies the business users concerned about the proposed changes. Providers of online intermediation services shall grant longer notice periods when this is necessary to allow business users to make technical or commercial adaptations to comply with the changes.

The business user concerned shall have the right to terminate the contract with the provider of online intermediation services before the expiry of the notice period.

In general, submitting new goods or services, including software applications, to the online intermediation services should be considered to be clear affirmative action, resulting in the waiving, by the business user, of the notice period required for changes to the terms and conditions.

However, in cases where the reasonable and proportionate notice period is longer than 15 days because the changes to the terms and conditions require the business user to make significant technical adjustments to its goods or services, the notice period should not be considered to be automatically waived where the business user submits new goods and services.

Restriction, suspension and termination

Where a provider of online intermediation services decides to restrict or suspend the provision of its online intermediation services to a given business user in relation to individual goods or services offered by that business user, it shall provide the business user concerned, prior to or at the time of the restriction or suspension taking effect, with a statement of reasons for that decision on a durable medium.

Where a provider of online intermediation services decides to terminate the provision of the whole of its online intermediation services to a given business user, it shall provide the business user concerned, at least 30 days prior to the termination taking effect.

In the case of restriction, suspension or termination, the provider of online intermediation services shall give the business user the opportunity to clarify the facts and circumstances in the framework of the internal complaint-handling process referred to in Regulation.

Ranking of internet sites

Providers of online intermediation services shall set out in their terms and conditions the main parameters determining ranking and the reasons for the relative importance of those main parameters as opposed to other parameters. Where the main parameters include the possibility to influence ranking against any direct or indirect remuneration paid by business users or corporate website users to the respective provider, that provider shall also set out a description of those possibilities and of the effects of such remuneration on ranking.

Providers of online intermediation services and providers of online search engines shall not be required to disclose algorithms or any information that, with reasonable certainty, would result in the enabling of deception of consumers or consumer harm through the manipulation of search results.

Ancillary goods and services

A new article stipulates that where ancillary goods and services, including financial products, are offered to consumers through the online intermediation services, either by the provider of online intermediation services or by third parties, the provider of online intermediation services shall set out in its terms and conditions a description of the type of ancillary goods and services offered and a description of whether and under which conditions the business user is also allowed to offer its own ancillary goods and services through the online intermediation services.

Judicial proceedings by representative organisations or associations and by public bodies

The decision-making process of associations and bodies shall not be unduly influenced by any third party providers of financing, in particular by providers of online intermediation services or of online search engines. To this end, organisations or associations shall fully and publicly disclose information on their membership and source of financing.

The Commission shall encourage Member States to exchange best practices and information with other Member States, based on registries of unlawful acts which have been subject to injunction orders before national courts, where such registries are set up by relevant public bodies or authorities.

Control

The Commission, in close cooperation with Member States, shall closely monitor the impact of this Regulation on relationships between online intermediation services and their business users and between online search engines and corporate website users. Member States shall assist the Commission by providing, upon request, any relevant information gathered including about specific cases.

The Commission shall encourage the drawing up of codes of conduct by providers of online intermediation services and by organisations and associations representing them, together with business users, including SMEs and their representative organisations.

2018/0112(COD) - 11/07/2019 Final act

PURPOSE: to establish a fair, predictable, sustainable and trusted online business environment within the internal market.

LEGISLATIVE ACT: Regulation (EU) 2019/1150 of the European Parliament and of the Council on promoting fairness and transparency for business users of online intermediation services.

CONTENT: the Regulation establishes a legal framework to ensure the transparency of general terms and conditions for companies using online intermediation services and users of corporate websites in relation to search engines, as well as effective remedies where these general terms and conditions are not respected by online platforms.

Scope of application

This Regulation shall apply to online intermediation services and online search engines provided, or offered to be provided, to business users and corporate website users, respectively, that have their place of establishment or residence in the Union and that, through those online intermediation services or online search engines, offer goods or services to consumers located in the Union, irrespective of the place of establishment or residence of the providers of those services and irrespective of the law otherwise applicable.

This Regulation shall not apply to online payment services or to online advertising tools or online advertising exchanges, which are not provided with the aim of the facilitating the initiation of direct transactions and which do not involve a contractual relationship with consumers.

Transparency of the general conditions

Providers of online intermediation services shall ensure that their terms and conditions:

- are drafted in plain and intelligible language;
- are easily available to business users at all stages of their commercial relationship with the provider of online intermediation services, including in the pre-contractual stage;
- set out the grounds for decisions to suspend or terminate or impose any other kind of restriction upon, in whole or in part, the provision of their online intermediation services to business users;
- include information on any additional distribution channels and potential affiliate programmes through which providers of online intermediation services might market goods and services offered by business users;
- include general information regarding the effects of the terms and conditions on the ownership and control of intellectual property rights of business users.

Providers of online intermediation services shall notify, on a durable medium, to the business users concerned any proposed changes of their terms and conditions.

Restriction, suspension and termination

Where a provider of online intermediation services decides to restrict or suspend the provision of its online intermediation services to a given business user in relation to individual goods or services offered by that business user, it shall provide the business user concerned, prior to or at the time of the restriction or suspension taking effect, with a statement of reasons for that decision on a durable medium.

Where a provider of online intermediation services decides to terminate the provision of the whole of its online intermediation services to a given business user, it shall provide the business user concerned, at least 30 days prior to the termination taking effect, with a statement of reasons for that decision on a durable medium.

Ranking of internet sites

The Regulation obliges providers of online intermediation services shall set out in their terms and conditions the main parameters determining ranking and the reasons for the relative importance of those main parameters as opposed to other parameters.

Where the main parameters include the possibility to influence ranking against any direct or indirect remuneration paid by business users or corporate website users to the respective provider, that provider shall also set out a description of those possibilities and of the effects of such remuneration on ranking.

Providers of online intermediation services and providers of online search engines shall not be required to disclose algorithms or any information that, with reasonable certainty, would result in the enabling of deception of consumers or consumer harm through the manipulation of search results.

Differentiated treatment

Providers of online intermediation services shall include in their terms and conditions a description of any differentiated treatment which they give, or might give, in relation to goods or services offered to consumers through those online intermediation services by, on the one hand, either that provider itself or any business users which that provider controls and, on the other hand, other business users. That description shall refer to the main economic, commercial or legal considerations for such differentiated treatment.

Internal complaint-handling system

Providers of online intermediation services shall provide for an internal system for handling the complaints of business users. That internal complaint-handling system shall be easily accessible and free of charge for business users and shall ensure handling within a reasonable time frame. Information on the effectiveness of their internal complaints handling system shall be publicly available and verified at least once a year.

In addition, providers of online intermediation services shall indicate in their general terms and conditions two or more independent mediators with whom they are prepared to contact in order to reach an agreement with the user companies on the out-of-court settlement of any dispute between the supplier and a user company.

The Regulation also establishes the right for representative organisations and associations or public bodies to initiate judicial proceedings against providers of online intermediation services or of online search engines that do not comply with the requirements of the Regulation.

Organisations or associations shall fully and publicly disclose information on their membership and source of financing.

Control

The Commission, in close cooperation with Member States, shall closely monitor the impact of this Regulation on relationships between online intermediation services and their business users and between online search engines and corporate website users.

It shall encourage platforms to set up bodies composed of independent specialised mediators and the development of codes of conduct.

ENTRY INTO FORCE: 31.7.2019.

APPLICATION: from 12.7.2020.