

Fairness and transparency for business users of online intermediation services

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.