

# Fairness and transparency for business users of online intermediation services

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.