

Fairness and transparency for business users of online intermediation services

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.