

Digital Services Act COM (2020) 825 final

Recitals

Rec (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 provision of illegal services such as accommodation services on short-term rental platforms non-compliant with Union or national law***, 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.

Rec (XX) (new)

This Regulation does not seek to lay down rules on specific sectors, nor does it prejudice the development of Union legislation. It does however state that specific sectors are particularly affected by online platform providing intermediary services, i.e. in the area of short-term rentals, which has led to a structurally induced increase in housing shortages and an increase in rents, which can be observed in many cities throughout the European Union.

Rec (XX) (new)

This Regulation does not seek to lay down rules on SME definitions on Union level, nor does it prejudice the development of Union legislation. It does however state, considering the nature of digital services and platforms, that the current Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises, which is referred to in this Regulation, does not reflect real circumstances and necessities, as e.g. online platforms do not require the same amount of human resources as traditional enterprises do.

Rec (XX) (new)

This Regulation does not seek to lay down rules on platform workers, nor does it prejudice the development of Union legislation on the aspects of platform workers. It does, however, state that it is important to address the increasingly blurred lines between end users and workers in the digital sphere. Social and

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workers protection must be provided for and safeguarded and precarious working conditions must be put to an end.

Rec (XX) (new)

This Regulation does not seek to lay down rules on tax obligations, nor does it prejudice the development of Union legislation on the tax aspects. It does, however, state that it is important to ensure that digital platforms recognise Union, national or regional tax laws or powers of local regulatory and competent authorities or local control mechanisms for the purpose of proper taxation and pay a fair share of taxes.

Rec (XX) (new)

It has been particularly evident during the on-going COVID-19 crisis that the sudden rush towards technological and digital solutions has further aggravated the gap in information asymmetry between gatekeepers and business and end users. A need to build up digital resilience in Europe has presented itself. To this end, collected fines and periodic penalty payment should be considered to be reinvested to strengthen European digital resilience and be used as funding opportunities for projects such as the European Public Sphere or Gaia-X.

Recital (XX)

The COVID-19 pandemic made it particularly clear that many day-to-day interactions were resolved and enhanced by digital possibilities. Since the objective of this Regulation is to ensure a safe, predictable and trusted online environment, the underlying principle of “what is illegal offline is illegal online” shall apply.

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Articles

Justification Article 1(2)(c):

The COVID-19 pandemic made it particularly clear that the state of the digital economy in Europe was insufficient to deal with the increased demand for digital solutions. Efforts in creating a European platform economy shall be increased by the means of this Regulation.

The European Public Sphere is an alternative to the big non-European providers to regain the sphere of influence. Europe shall strengthen its digital sovereignty by developing a digital ecosystem whose technical design is specifically geared to European values such as diversity and openness. In order to realize these goals, the digital infrastructure must be understood as a component of public services of general interest. This is because a digital space requires a freely accessible infrastructure that is state-supported and subject to European regulation. In this respect, a key task of the European Public Sphere is to incorporate values such as security, democracy, openness, privacy, solidarity, self-determination, plurality, sustainability, justice and human dignity into technology design. The overall EPS technology strategy aims to implement open and easily reusable standards that can be further developed in a decentralized manner and enter into combinations with other technologies. A digital strategy along these lines enables a diverse range of platforms, products and business models independent of sectors and industries.

Additionally, to further build up digital resilience within the European Union it must be ensured that data from European critical infrastructure is maintained within the bounds of the Union, as data from e.g. the public sector or the health sector, are important resources that must be handled with great care.

Subject matter and scope Article 1(2)(c) (new)	Subject matter and scope Article 1(2)(c) (new)
	<i>Establish a foundation that allows the creation of a European platform economy and facilitates the build-up of digital resilience within the European Union.</i>

Justification Article 2(f) (subparagraph 4):

One major problem of platform's activities is the unclear definition of the service that a platform is factually providing. By simply "connecting supply and demand" platforms often refer to the provision of a "hosting service" pursuant to Article 2 and therefore cannot be held liable for illegal content stored. However, the provision of ancillary services such as the provision of social housing listings in the field of short-term holiday rental, implies that they indeed are aware of the illegality of the content, but still cannot

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be held liable. Therefore, related services such as accommodation services shall not be deemed as “intermediary services” pursuant to Article 2.

Definitions Article 2(f) (subparagraph 4) (new)	Definitions Article 2(f) (subparagraph 4) (new)
<p>‘intermediary service’ means one of the following services:</p> <ul style="list-style-type: none"> – a ‘mere conduit’ service that consists of the transmission in a communication network of information provided by a recipient of the service, or the provision of access to a communication network; – a ‘caching’ service that consists of the transmission in a communication network of information provided by a recipient of the service, involving the automatic, intermediate and temporary storage of that information, for the sole purpose of making more efficient the information's onward transmission to other recipients upon their request; – a ‘hosting’ service that consists of the storage of information provided by, and at the request of, a recipient of the service; 	<p>‘intermediary service’ means one of the following services:</p> <ul style="list-style-type: none"> – a ‘mere conduit’ service that consists of the transmission in a communication network of information provided by a recipient of the service, or the provision of access to a communication network; – a ‘caching’ service that consists of the transmission in a communication network of information provided by a recipient of the service, involving the automatic, intermediate and temporary storage of that information, for the sole purpose of making more efficient the information's onward transmission to other recipients upon their request; – a ‘hosting’ service that consists of the storage of information provided by, and at the request of, a recipient of the service; – <i>a ‘related service’ is any up- or downstream service, ultimately linked with an intermediary service and shall not be deemed as such. Legal provisions of the Member State, where the connected service is provided, shall apply and social and environmental principles in line with Union standards shall be upheld.</i>

Justification Articles 2(r) and (s):

Although a harmonised and unifying approach is welcomed, Member States’ administrations and competent authorities know best, what is needed for the fulfilment of respective national needs, e.g. when it comes to the allocation of public resources and the safeguard of public interest especially on a local and regional level. Hence we argue for the inclusion of “overriding reasons of public interest”, that allows Member States to interfere when they see certain boundaries overstepped in order to address specific issues. Moreover, the inclusion of “competent authorities” is vital as the inclusion of those are vital for managing any potential additional administrative burden as they provide specific expertise in certain particular fields.

Definitions Article 2(r) (new)	Definitions Article 2(r) (new)

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	<p><i>'overriding reasons of public interest' means reasons recognised as such in the case law of the Court of Justice, including the following grounds: public policy; public security; public safety; public health; preserving the financial equilibrium of the social security system; the protection of consumers, recipients of services and workers; the protection of youth; fairness of trade transactions; combating fraud; the protection of the environment and the urban environment; the health of animals; intellectual property; the conservation of the national historic and artistic heritage; social policy objectives and cultural policy objectives; housing.</i></p>
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Definitions Article 2(s) (new)	Definitions Article 2(s) (new)
	<p><i>,'competent authority' is any Member States' legal and natural person that is designated by the Member States in accordance with their national law to carry out tasks which include tackling illegal content online, including law enforcement authorities and administrative authorities charged with enforcing law, irrespective of the nature or specific subject matter of that law, applicable in certain particular fields.¹</i></p>

Justification Article 5(1)(b):

Considering the fact that most business models of information services providers including platforms are driven by data and information, we believe that it is reasonable to set a timeframe in which a platform is obliged to act. We do not believe that terms like “expeditiously” or “in a timely manner” sufficiently express the urgency when it comes to handling illegal content or the provision of requested information.

Hosting Article 5(1)(b)	Hosting Article 5(1)(b)
Where an information society service is provided that consists of the storage of information provided by a recipient of the	Where an information society service is provided that consists of the storage of information provided by a recipient of the

¹ cf. <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020SC0348&from=EN>

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<p>service the service provider shall not be liable for the information stored at the request of a recipient of the service on condition that the provider:</p> <p>(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</p> <p>(b) upon obtaining such knowledge or awareness, acts expeditiously to remove or to disable access to the illegal content.</p>	<p>service the service provider shall not be liable for the information stored at the request of a recipient of the service on condition that the provider:</p> <p>(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</p> <p>(b) upon obtaining such knowledge or awareness, acts <i>without undue delay and in any event within one month</i> to remove or to disable access to the illegal content.</p> <p><i>That period may be extended by two further months, upon reasoned request, where necessary, taking into account the complexity of the illegal content.</i></p>
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Justification Article 5(3)(bis), Article 5 (bis) and Article (6) (subparagraph):

One major problem of platform’s activities is the unclear definition of the service that a platform is factually providing. By simply “connecting supply and demand” platforms often refer to the provision of a “hosting service” pursuant to Article 2 and therefore cannot be held liable for illegal content stored. However, the provision of ancillary services such as the provision of social housing listings in the field of short-term holiday rental, implies that they indeed are aware of the illegality of the content, but still cannot be held liable. Therefore, related services such as accommodation services shall not be deemed as “intermediary services” pursuant to Article 2. If however a platform is generating profit by a service that is not an intermediary service pursuant to Articles 3, 4 or 5, this shall be seen as an implication for that service not being applicable for liability exemption pursuant Articles 3, 4 or 5 and national provisions shall apply in this regard.

If the platform finds itself eligible for liability exemption due to voluntary own-initiative investigation, findings of said investigation shall be put on record and presented in front of the Digital Services Coordinators and the Board.

Hosting Article 5(3)(bis) (new)	Hosting Article 5(3)(bis) (new)
	<i>Paragraph 1 shall not apply to related services pursuant to Article 2(f) linked with the intermediary service consisting of the storage of information provided by a recipient of the service. If a service is connected</i>

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	<i>to a service pursuant to paragraph 1, Member States' national provisions for further regulation shall apply for overriding reasons of public interest pursuant to Article 2(r).</i>
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Liability of intermediary service providers Article 5(bis) (new)	Liability of intermediary service providers Article 5(bis) (new)
	<i>Where an intermediary service pursuant to Articles 3, 4 and 5 of this Regulation is provided, and income is generated by a related service pursuant to Article 2(f), paragraph 1 of Articles 3, 4 and 5, respectively, shall not apply. Member States' national provisions for further regulation should apply for overriding reasons of public interest pursuant to Article 2(r).</i>

Voluntary own-initiative investigations and legal compliance Article 6 (subparagraph) (new)	Voluntary own-initiative investigations and legal compliance Article 6 (subparagraph) (new)
Providers of intermediary services shall not be deemed ineligible for the exemptions from liability referred to in Articles 3, 4 and 5 solely because they carry out voluntary own-initiative investigations or other activities aimed at detecting, identifying and removing, or disabling of access to, illegal content, or take the necessary measures to comply with the requirements of Union law, including those set out in this Regulation.	Providers of intermediary services shall not be deemed ineligible for the exemptions from liability referred to in Articles 3, 4 and 5 solely because they carry out voluntary own-initiative investigations or other activities aimed at detecting, identifying and removing, or disabling of access to, illegal content, or take the necessary measures to comply with the requirements of Union law, including those set out in this Regulation. <i>Findings gathered as a result of a voluntary own-initiative investigation shall be put on record and presented to the Digital Services Coordinator and the European Board of Digital Services.</i>

Justification Article 8(2)(c) and Article 9(2)(c):

To avoid and prevent inconvenient circumstances and additional administrative burden for Member States' administrations and/or competent authorities, the language of any order to act against illegal content and any order to provide information shall be declared by the authority issuing the order.

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Orders to act against illegal content Article 8(2) (c)	Orders to act against illegal content Article 8(2) (c)
<p>Member States shall ensure that the orders referred to in paragraph 1 meet the following conditions:</p> <p>(a) the orders contains the following elements:</p> <ul style="list-style-type: none"> – a statement of reasons explaining why the information is illegal content, by reference to the specific provision of Union or national law infringed; – one or more exact uniform resource locators and, where necessary, additional information enabling the identification of the illegal content concerned; – information about redress available to the provider of the service and to the recipient of the service who provided the content; <p>(b) the territorial scope of the order, on the basis of the applicable rules of Union and national law, including the Charter, and, where relevant, general principles of international law, does not exceed what is strictly necessary to achieve its objective;</p> <p>(c) the order is drafted in the language declared by the provider and is sent to the point of contact, appointed by the provider, in accordance with Article 10.</p>	<p>Member States shall ensure that the orders referred to in paragraph 1 meet the following conditions:</p> <p>(a) the orders contains the following elements:</p> <ul style="list-style-type: none"> – a statement of reasons explaining why the information is illegal content, by reference to the specific provision of Union or national law infringed; – one or more exact uniform resource locators and, where necessary, additional information enabling the identification of the illegal content concerned; – information about redress available to the provider of the service and to the recipient of the service who provided the content; <p>(b) the territorial scope of the order, on the basis of the applicable rules of Union and national law, including the Charter, and, where relevant, general principles of international law, does not exceed what is strictly necessary to achieve its objective;</p> <p>(c) the order is drafted in the language declared by the authority issuing the order and is sent to the point of contact, appointed by the provider, in accordance with Article 10.</p>

Orders to provide information Article 9(2)(c)	Orders to provide information Article 9(2)(c)
<p>Member States shall ensure that orders referred to in paragraph 1 meet the following conditions:</p> <p>(a) the order contains the following elements:</p> <ul style="list-style-type: none"> – a statement of reasons explaining the objective for which the information is required and why the requirement to provide the information is necessary and proportionate to determine compliance by the recipients of the intermediary services with applicable Union or national rules, unless such a statement cannot be provided for reasons related to 	<p>Member States shall ensure that orders referred to in paragraph 1 meet the following conditions:</p> <p>(a) the order contains the following elements:</p> <ul style="list-style-type: none"> – a statement of reasons explaining the objective for which the information is required and why the requirement to provide the information is necessary and proportionate to determine compliance by the recipients of the intermediary services with applicable Union or national rules, unless such a statement cannot be provided for reasons related to

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<p>the prevention, investigation, detection and prosecution of criminal offences; – information about redress available to the provider and to the recipients of the service concerned; (b) the order only requires the provider to provide information already collected for the purposes of providing the service and which lies within its control; (c) the order is drafted in the language declared by the provider and is sent to the point of contact appointed by that provider, in accordance with Article 10;</p>	<p>the prevention, investigation, detection and prosecution of criminal offences; – information about redress available to the provider and to the recipients of the service concerned; (b) the order only requires the provider to provide information already collected for the purposes of providing the service and which lies within its control; (c) the order is drafted in the language declared by the authority issuing the order and is sent to the point of contact appointed by that provider, in accordance with Article 10;</p>
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Justification Article 8(4) and Article 9(4):

Since public administrations act on the municipal/regional level in the area of administrative (criminal) proceedings it would be ill-advised to solely focus on requirements under national criminal procedural law. To this end, conditions and requirements laid down in Article 8(4) and 9(4), respectively, shall be without prejudice to requirements under national civil procedural law as well.

Orders to act against illegal content Article 8(4)	Orders to act against illegal content Article 8(4)
The conditions and requirements laid down in this article shall be without prejudice to requirements under national criminal procedural law in conformity with Union law.	The conditions and requirements laid down in this article shall be without prejudice to requirements under national criminal and national civil procedural law in conformity with Union law.

Orders to provide information Article 9(4)	Orders to provide information Article 9(4)
The conditions and requirements laid down in this article shall be without prejudice to requirements under national criminal procedural law in conformity with Union law.	The conditions and requirements laid down in this article shall be without prejudice to requirements under national criminal and national civil procedural law in conformity with Union law.

Justification Article 10(2):

Considering the fact that most business models of information services providers including platforms are driven by data and information, we believe that it is reasonable to set a timeframe in which a platform is obliged to act.

Points of contact Article 10(2)	Points of contact Article 10(2)
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Providers of intermediary services shall make public the information necessary to easily identify and communicate with their single points of contact.	Providers of intermediary services shall <i>without undue delay</i> make public the information necessary to easily identify and communicate with their single points of contact.
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Justification Article 10(3) (subparagraph) (new)

The addressing of the single point of contact appointed by providers of intermediary services shall not be complicated or discouraged by the specified language of communication. The language specified shall avoid and prevent inconvenient circumstances and additional administrative burden for any natural or legal person addressing the single point of contact.

Points of contact Article 10(3) (subparagraph) (new)	Points of contact Article 10(3) (subparagraph) (new)
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.	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. <i>However, the language specified in paragraph 2 shall not lead to additional administrative burden for the natural or legal person addressing the single point of contact pursuant to paragraph 1.</i>

Justification Article 12(1)

Subscribing to a core platform service is easy. In contrast to unsubscribing, where the option to do so is in many cases hidden far away in the realm of the provider’s platform. The gatekeepers have to ensure that the access to these options are the same

Terms and conditions Article 12(1)	Terms and conditions Article 12(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,	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,

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<p>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.</p>	<p>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.</p> <p><i>This includes measures to ensure the possibility for a recipient of a service to unsubscribe from intermediary services, whereas the subscription is easily facilitated. In practice, both processes shall be equally demanding for any recipient of a service.</i></p>
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Trusted flaggers Article 19(2) (subparagraph) (new)	Trusted flaggers Article 19(2) (subparagraph) (new)
<p>The status of trusted flaggers under this Regulation shall be awarded, upon application by any entities, by the Digital Services Coordinator of the Member State in which the applicant is established, where the applicant has demonstrated to meet all of the following conditions:</p> <p>(a) it has particular expertise and competence for the purposes of detecting, identifying and notifying illegal content;</p> <p>(b) it represents collective interests and is independent from any online platform;</p> <p>(c) it carries out its activities for the purposes of submitting notices in a timely, diligent and objective manner.</p>	<p>The status of trusted flaggers under this Regulation shall be awarded, upon application by any entities, by the Digital Services Coordinator of the Member State in which the applicant is established, where the applicant has demonstrated to meet all of the following conditions:</p> <p>(a) it has particular expertise and competence for the purposes of detecting, identifying and notifying illegal content;</p> <p>(b) it represents collective interests and is independent from any online platform;</p> <p>(c) it carries out its activities for the purposes of submitting notices in a timely, diligent and objective manner.</p> <p><i>The status of trusted flaggers under this Regulation shall be awarded, upon application by any entities, by the Digital Services Coordinator of the Member State in which the applicant is established, where the applicant acts as a competent authority pursuant to Article 2(s) of this Regulation.</i></p>

Justification Article 24 (bis):

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In order to effectively meet national and local needs, it is important to allow Member States to assess compliance not only with this Regulation but also with national legal provisions if the public interest is at stake. To this end, online platforms regardless of their size shall provide the Digital Services Coordinator with the information needed, upon request, for overriding reasons of public interest.

Data access Article 24(bis)	Data access Article 24(bis)
	<i>Online platforms regardless of their size shall provide the Digital Services Coordinator of establishment or the Commission, upon their reasoned request, such as overriding reasons of public interest pursuant to Article 2(r) 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.</i>

Justification Article 25(1) and (2):

For the purpose of application of this Regulation, we believe that lowering the thresholds to 31 million recipients of a service (translating to roughly 7% of the EU's population) is sufficient. The higher the threshold is, the less online platforms are grasped by the means of this Regulation. Furthermore, to avoid any possible loopholes, the number of average monthly active users should include any linked enterprises or undertakings of an online platform providing the service.

Very large online platforms Article 25(1)	Very large online platforms Article 25(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.	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 31 million, calculated in accordance with the methodology set out in the delegated acts referred to in paragraph 3. <i>In any case, without prejudice to the methodology set out in the delegated acts referred to in paragraph 3, the number of average monthly active recipients shall include the online platform providing the service and all</i>

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	<i>linked enterprises and connected undertakings that form a group through the direct or indirect control of an enterprise or undertaking and that are engaged in economic activity, regardless of their legal status and the way in which they are financed.</i>
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Very large online platforms Article 25(2)	Very large online platforms Article 25(2)
The Commission shall adopt delegated acts in accordance with Article 69 to adjust the number of average monthly recipients of a service in the Union referred to in paragraph 1, where the Union's population increases or decreases at least with 5% in relation to its population in 2020. In that case, it shall adjust the number so that it corresponds to 10% of the Union's population in the year in which it adopts the delegated act, rounded up or down to allow the number to be expressed in millions.	The Commission shall adopt delegated acts in accordance with Article 69 to adjust the number of average monthly recipients of a service in the Union referred to in paragraph 1, where the Union's population increases or decreases at least with 5% in relation to its population in 2020. In that case, it shall adjust the number so that it corresponds to 7% of the Union's population in the year in which it adopts the delegated act, rounded down to allow the number to be expressed in millions.

Justification Article 26(3):

For the means of transparency and enforcement of this Regulation, it is vital to re-evaluate the risk assessment.

Risk assessment Article 26(3) (new)	Risk assessment Article 26(3) (new)
	<i>Findings and conclusions of the risk assessment shall be drafted in a written report which is to be passed onto the Commission and the Board. The Commission and the Board shall reassess the report and evaluate the risk assessment and refer their decision of the validity of this report to the very large online platform within three months.</i>

Mitigation of risks Article 27(3)	Mitigation of risks Article 27(3)
The Commission, in cooperation with the Digital Services Coordinators, may issue general guidelines on the application of	The Commission, in cooperation with the Digital Services Coordinators, shall issue general guidelines on the

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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.	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.
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Mitigation of risks Article 27(4) (new)	Mitigation of risks Article 27(4) (new)
	<i>Information included in the risk assessment report pursuant to Article 26, shall be utilised for the annual report pursuant to paragraph 2 of this Article and should be used for the deduction of general guidelines pursuant of paragraph 3 of this Article.</i>

Justification Article 28(2):

To ensure accountability and transparency we suggest a way of certifying organisations performing independent audits.

Independent audit Article 28(2) (subparagraph) (new)	Independent audit Article 28(2) (subparagraph) (new)
Audits performed pursuant to paragraph 1 shall be performed by organisations which: (a) are independent from the very large online platform concerned; (b) have proven expertise in the area of risk management, technical competence and capabilities; (c) have proven objectivity and professional ethics, based in particular on adherence to codes of practice or appropriate standards.	Audits performed pursuant to paragraph 1 shall be performed by organisations which: (a) are independent from the very large online platform concerned; (b) have proven expertise in the area of risk management, technical competence and capabilities; (c) have proven objectivity and professional ethics, based in particular on adherence to codes of practice or appropriate standards. <i>If all the requirements pursuant to paragraph 2 of this Article are met, organisations performing audits pursuant to paragraph 1, shall be deemed certified by the Board.</i>

Justification Article 31(1):

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Considering the fact that most business models of information services providers including platforms are driven by data and information, we believe that it is reasonable to set a timeframe in which a platform is obliged to act.

Data access and scrutiny Article 31(1)	Data access and scrutiny Article 31(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.	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, <i>in any case no longer than 72 hours</i> , 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.

Justification Article 36(2)(c):

To adequately address the disproportionate relation between business users and online platforms, this matter shall be included in the codes of conduct for online advertising. E.g. platforms often list a business users' product, but at the same time the business user has to pay for advertising in order for their product to be promoted and listed higher.

Codes of conduct for online advertising Article 36(2)(c) (new)	Codes of conduct for online advertising Article 36(2)(c) (new)
The Commission shall aim to ensure that the codes of conduct pursue an effective transmission of information, in full respect for the rights and interests of all parties involved, and a competitive, transparent and fair environment in online advertising, in accordance with Union and national law, in particular on competition and the protection of personal data. The Commission shall aim to ensure that the codes of conduct address at least: (a) the transmission of information held by providers of online advertising intermediaries to recipients of the service with regard to requirements set in points (b) and (c) of Article 24; (b) the transmission of information held by providers of online advertising intermediaries to the repositories pursuant to Article 30.	The Commission shall aim to ensure that the codes of conduct pursue an effective transmission of information, in full respect for the rights and interests of all parties involved, and a competitive, transparent and fair environment in online advertising, in accordance with Union and national law, in particular on competition and the protection of personal data. The Commission shall aim to ensure that the codes of conduct address at least: (a) the transmission of information held by providers of online advertising intermediaries to recipients of the service with regard to requirements set in points (b) and (c) of Article 24; (b) the transmission of information held by providers of online advertising intermediaries to the repositories pursuant to Article 30;

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	<i>(c) the increasingly disproportionate information asymmetry between very large online platforms and recipients of a service, especially with regard to the relation between business users of an intermediary service and the providers of an intermediary services.</i>
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Justification Article 39(3)(subparagraph):

We recommend documenting the Digital Services Coordinators carried-out tasks and exercised power for transparency reasons.

Requirements for Digital Services Coordinators Article 39(3)(subparagraph) (new)	Requirements for Digital Services Coordinators Article 39(3)(subparagraph) (new)
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.	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. <i>To this end, Digital Services Coordinators shall protocol their carried-out tasks and exercised power in form of a report, which is to be published in the information sharing system pursuant to Article 67 of this Regulation and present it to the European Parliament.</i>

Justification Article 41(1)(a):

Considering the fact that most business models of information services providers including platforms are driven by data and information, we believe that it is reasonable to set a timeframe in which a platform is obliged to act.

Powers of Digital Services Coordinators Article 41(1)(a)	Powers of Digital Services Coordinators Article 41(1)(a)
Where needed for carrying out their tasks, Digital Services Coordinators shall have at least the following powers of investigation, in respect of conduct by providers of intermediary services under the jurisdiction of their Member State:	Where needed for carrying out their tasks, Digital Services Coordinators shall have at least the following powers of investigation, in respect of conduct by providers of intermediary services under the jurisdiction of their Member State:

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<p>(a) the power to require those providers, as well as any other persons acting for purposes related to their trade, business, craft or profession that may reasonably be aware of information relating to a suspected infringement of this Regulation, including, organisations performing the audits referred to in Articles 28 and 50(3), to provide such information within a reasonable time period;</p>	<p>(a) the power to require those providers, as well as any other persons acting for purposes related to their trade, business, craft or profession that may reasonably be aware of information relating to a suspected infringement of this Regulation, including, organisations performing the audits referred to in Articles 28 and 50(3), to provide such information within a reasonable time period <i>in any case no longer than 72 hours</i>;</p>
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Justification Article 41(4):

Member States' administrations and competent authorities know best, what is needed for the fulfilment of respective national needs, e.g. when it comes to the allocation of public resources and the safeguard of public interest especially on a local and regional level. Hence we argue for the inclusion of "overriding reasons of public interest", that allows Member States to interfere when they see certain boundaries overstepped in order to address specific issues.

Powers of Digital Services Coordinators Article 41(4)	Powers of Digital Services Coordinators Article 41(4)
<p>The powers listed in paragraphs 1, 2 and 3 are without prejudice to Section 3.</p>	<p>The powers listed in paragraphs 1, 2 and 3 are without prejudice to Section 3 <i>and are exercisable by Member States competent authorities for overriding reasons of public interest pursuant to Article 2(r)</i>.</p>

Justification Article 42(5):

The COVID-19 pandemic made it particularly clear that the state of the digital economy in Europe was insufficient to deal with the increased demand for digital solutions. Efforts in creating a European platform economy shall be increased by the means of this Regulation.

Penalties Article 42(5) (new)	Penalties Article 42(5) (new)
	<p><i>Penalties collected pursuant to paragraph 3 and 4 shall be used in order to strengthen the digital resilience within the European Union.</i></p>

Justification Article 45(1),(2),(3), (8) and Article 46(1) and (2):

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To further include Member States administrations and allow them to address their respective needs, the cross-border cooperation set out in this article should be tighter formulated and made more binding and enforceable.

Cross-border cooperation among Digital Services Coordinators Article 45(1)(subparagraph 1)	Cross-border cooperation among Digital Services Coordinators Article 45(1)(subparagraph 1)
Where the Board has reasons to suspect that a provider of intermediary services infringed this Regulation in a manner involving at least three Member States, it may recommend 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 the Board has reasons to suspect that a provider of intermediary services infringed this Regulation in a manner involving at least three Member States, 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.

Cross-border cooperation among Digital Services Coordinators Article 45(2)	Cross-border cooperation among Digital Services Coordinators Article 45(2)
A request or recommendation pursuant to paragraph 1 shall at least indicate: (a) the point of contact of the provider of the intermediary services concerned as provided for in Article 10; (b) a description of the relevant facts, the provisions of this Regulation concerned and the reasons why the Digital Services Coordinator that sent the request, or the Board, suspects that the provider infringed this Regulation; (c) any other information that the Digital Services Coordinator that sent the request, or the Board, considers relevant, including, where appropriate, information gathered on its own initiative or suggestions for specific investigatory or enforcement measures to be taken, including interim measures.	A request or recommendation pursuant to paragraph 1 shall at least indicate: (a) the point of contact of the provider of the intermediary services concerned as provided for in Article 10; (b) a description of the relevant facts, the provisions of this Regulation concerned and the reasons why the Digital Services Coordinator that sent the request, or the Board, suspects that the provider infringed this Regulation; (c) any other information that the Digital Services Coordinator that sent the request, or the Board, considers relevant, including, where appropriate, information gathered on its own initiative or suggestions for specific investigatory or enforcement measures to be taken, including interim measures.

Cross-border cooperation among Digital Services Coordinators Article 45(3)	Cross-border cooperation among Digital Services Coordinators Article 45(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	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

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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.	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.
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Cross-border cooperation among Digital Services Coordinators Article 45(8) (new)	Cross-border cooperation among Digital Services Coordinators Article 45(8) (new)
	<i>If the Digital Services Coordinator of establishment has not taken the necessary investigatory or enforcement measures to ensure compliance with this Regulation the matter shall be referred to the European Court of Justice.</i>

Joint investigations and requests for Commission intervention Article 46(1)	Joint investigations and requests for Commission intervention Article 46(1)
Digital Services Coordinators may participate in joint investigations, which may be coordinated with the support of the Board, with regard to matters covered by this Regulation, concerning providers of intermediary services operating in several Member States. Such joint investigations are without prejudice to the tasks and powers of the participating Digital Coordinators and the requirements applicable to the performance of those tasks and exercise of those powers provided in this Regulation. The participating Digital Services Coordinators shall make the results of the joint investigations available to other Digital Services Coordinators, the Commission and the Board through the system provided for in Article 67 for the fulfilment of their respective tasks under this Regulation.	Digital Services Coordinators shall participate in joint investigations, which may be coordinated with the support of the Board, with regard to matters covered by this Regulation, concerning providers of intermediary services operating in several Member States. Such joint investigations are without prejudice to the tasks and powers of the participating Digital Coordinators and the requirements applicable to the performance of those tasks and exercise of those powers provided in this Regulation. The participating Digital Services Coordinators shall make the results of the joint investigations available to other Digital Services Coordinators, the Commission and the Board through the system provided for in Article 67 for the fulfilment of their respective tasks under this Regulation.

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Joint investigations and requests for Commission intervention Article 46(2)	Joint investigations and requests for Commission intervention Article 46(2)
Where a Digital Services Coordinator of establishment has reasons to suspect that a very large online platform infringed this Regulation, it may request the Commission to take the necessary investigatory and enforcement measures to ensure compliance with this Regulation in accordance with Section 3. Such a request shall contain all information listed in Article 45(2) and set out the reasons for requesting the Commission to intervene.	Where a Digital Services Coordinator of establishment or the Digital Services Coordinators of at least three Member States have reasons to suspect that a very large online platform infringed this Regulation, it shall request the Commission to take the necessary investigatory and enforcement measures to ensure compliance with this Regulation in accordance with Section 3. Such a request shall contain all information listed in Article 45(2) and set out the reasons for requesting the Commission to intervene.

Justification Article 46(bis):

Persons should be encouraged to report breaches of Union law and shall be put under protection, if they do so.

Joint investigations and requests for Commission intervention Article 46(bis) (new)	Joint investigations and requests for Commission intervention Article 46(bis) (new)
	<i>For the effective enforcement of this Regulation, Directive (EU) 2019/1937 of the Parliament and of the Council on the protection of persons who report breaches of Union law shall apply. To this end, persons pursuant to Article 4 of Directive (EU) 2019/1937 shall be encouraged to report breaches of Union law to a competent national authority, which shall transmit it to the Commission and the European Board for Digital Services. The reported transgression shall be assessed and enforced within three months of transmission to the Commission and the European Board for Digital Services.</i>

Justification Article 47(2)(d):

In order to combine a harmonised approach with the fulfilment of Member States' respective needs, common standards need to be agreed on by the Board.

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European Board for Digital Services Article 47(2)(d) (new)	European Board for Digital Services Article 47(2)(d) (new)
<p>The Board shall advise the Digital Services Coordinators and the Commission in accordance with this Regulation to achieve the following objectives:</p> <p>(a) Contributing to the consistent application of this Regulation and effective cooperation of the Digital Services Coordinators and the Commission with regard to matters covered by this Regulation;</p> <p>(b) coordinating and contributing to guidance and analysis of the Commission and Digital Services Coordinators and other competent authorities on emerging issues across the internal market with regard to matters covered by this Regulation;</p> <p>(c) assisting the Digital Services Coordinators and the Commission in the supervision of very large online platforms.</p>	<p>The Board shall advise the Digital Services Coordinators and the Commission in accordance with this Regulation to achieve the following objectives:</p> <p>(a) Contributing to the consistent application of this Regulation and effective cooperation of the Digital Services Coordinators and the Commission with regard to matters covered by this Regulation;</p> <p>(b) coordinating and contributing to guidance and analysis of the Commission and Digital Services Coordinators and other competent authorities on emerging issues across the internal market with regard to matters covered by this Regulation;</p> <p>(c) assisting the Digital Services Coordinators and the Commission in the supervision of very large online platforms;</p> <p>(d) providing common standards in coordination with Member States' administrations and competent authorities to present a harmonised set of requirements needed for effective enforcement of this Regulation.</p>

Justification Article 48(1) and (5):

The Board should be encouraged to invite national authorities and experts to meetings, in order to provide for the adequate enforcement of this Regulation.

Structure of the Board Article 48(1)	Structure of the Board Article 48(1)
<p>The Board shall be composed of the Digital Services Coordinators, who shall be represented by high-level officials. Where provided for by national law, other competent authorities entrusted with specific operational responsibilities for the application and enforcement of this Regulation alongside the Digital Services Coordinator shall participate in the Board. Other national authorities may be</p>	<p>The Board shall be composed of the Digital Services Coordinators, who shall be represented by high-level officials. Where provided for by national law, other competent authorities entrusted with specific operational responsibilities for the application and enforcement of this Regulation alongside the Digital Services Coordinator shall participate in the Board. Other national authorities shall be invited to the meetings, where the</p>

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invited to the meetings, where the issues discussed are of relevance for them.	issues discussed are of relevance for them.
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Structure of the Board Article 48(5)	Structure of the Board Article 48(5)
The Board may invite experts and observers to attend its meetings, and may cooperate with other Union bodies, offices, agencies and advisory groups, as well as external experts as appropriate. The Board shall make the results of this cooperation publicly available.	The Board shall invite experts and observers to attend its meetings, and may cooperate with other Union bodies, offices, agencies and advisory groups, as well as external experts as appropriate. The Board shall make the results of this cooperation publicly available.

Structure of the Board Article 48(7) (new)	Structure of the Board Article 48(7) (new)
	<i>The composition of the Board shall fulfil the quota of at least 40% of women.</i>

Justification Article 50(1)(subparagraph 2) and Article 50(3)(subparagraph 2)

Where there is reason to suspect an infringement has occurred, the Digital Services Coordinators of destination shall request an investigation.

Enhanced supervision for very large online platforms Article 50(1)(subparagraph 2)	Enhanced supervision for very large online platforms Article 50(1)(subparagraph 2)
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.	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, shall , where it has reasons to suspect that a very large online platform infringed any of those provisions, request 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.

Enhanced supervision for very large online platforms Article 50(3)(subparagraph 2)	Enhanced supervision for very large online platforms Article 50(3)(subparagraph 2)
Where the Digital Services Coordinator of establishment has concerns on the	Where the Digital Services Coordinator of establishment has concerns on the

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<p>ability of the measures to terminate or remedy the infringement, it may request the very large online platform concerned to subject itself to an additional, independent audit to assess the effectiveness of those measures in terminating or remedying the infringement. In that case, that platform shall send the audit report to that Digital Services Coordinator, the Commission and the Board within four months from the decision referred to in the first subparagraph. When requesting such an additional audit, the Digital Services Coordinator may specify a particular audit organisation that is to carry out the audit, at the expense of the platform concerned, selected on the basis of criteria set out in Article 28(2).</p>	<p>ability of the measures to terminate or remedy the infringement, it shall request the very large online platform concerned to subject itself to an additional, independent audit to assess the effectiveness of those measures in terminating or remedying the infringement. In that case, that platform shall send the audit report to that Digital Services Coordinator, the Commission and the Board within four months from the decision referred to in the first subparagraph. When requesting such an additional audit, the Digital Services Coordinator may specify a particular audit organisation that is to carry out the audit, at the expense of the platform concerned, selected on the basis of criteria set out in Article 28(2).</p>
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Justification Article 58(3)

As “reasonable time period” is not specified enough, a reasonable time has to be defined - as mentioned here: within one month:

Non-compliance Article 58(3)	Non-compliance Article 58(3)
<p>In the decision adopted pursuant to paragraph 1 the Commission shall order the very large online platform concerned to take the necessary measures to ensure compliance with the decision pursuant to paragraph 1 within a reasonable time period and to provide information on the measures that that platform intends to take to comply with the decision.</p>	<p>In the decision adopted pursuant to paragraph 1 the Commission shall order the very large online platform concerned to take the necessary measures to ensure compliance with the decision pursuant to paragraph 1 without undue delay and in any event within one month and to provide information on the measures that that platform intends to take to comply with the decision.</p>

Justification Article 59(5) and Article 60(3)

The COVID-19 pandemic made it particularly clear that the state of the digital economy in Europe was insufficient to deal with the increased demand for digital solutions. Efforts in creating a European platform economy shall be increased by the means of this Regulation.

The European Public Sphere is an alternative to the big non-European providers to regain the sphere of influence. Europe shall strengthen its digital sovereignty by developing a digital ecosystem whose technical design is specifically geared to

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European values such as diversity and openness. In order to realize these goals, the digital infrastructure must be understood as a component of public services of general interest. This is because a digital space requires a freely accessible infrastructure that is state-supported and subject to European regulation. In this respect, a key task of the European Public Sphere is to incorporate values such as security, democracy, openness, privacy, solidarity, self-determination, plurality, sustainability, justice and human dignity into technology design. The overall EPS technology strategy aims to implement open and easily reusable standards that can be further developed in a decentralized manner and enter into combinations with other technologies. A digital strategy along these lines enables a diverse range of platforms, products and business models independent of sectors and industries.

Additionally, to further build up digital resilience within the European Union it must be ensured that data from European critical infrastructure is maintained within the bounds of the Union, as data from e.g. the public sector or the health sector, are important resources that must be handled with great care.

Fines Article 59(5) (new)	Fines Article 59(5) (new)
<i>Fines collected pursuant to paragraph 1 shall be used in order to strengthen the digital resilience within the European Union.</i>	<i>Fines collected pursuant to paragraph 1 shall be used in order to strengthen the digital resilience within the European Union.</i>

Periodic penalty payments Article 60(3) (new)	Periodic penalty payments Article 60(3) (new)
<i>Periodic penalty payments collected pursuant to paragraph 1 shall be used in order to strengthen the digital resilience within the European Union.</i>	<i>Periodic penalty payments collected pursuant to paragraph 1 shall be used in order to strengthen the digital resilience within the European Union.</i>

Information sharing system Article 67(4) (new)	Information sharing system Article 67(4) (new)
<i>Information gathered pursuant to paragraph 1 of this Article shall be included in a written report, at least once a year, and shall be presented to and discussed with the European Parliament.</i>	<i>Information gathered pursuant to paragraph 1 of this Article shall be included in a written report, at least once a year, and shall be presented to and discussed with the European Parliament.</i>