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NOTE

From:	Presidency
To:	Working Party on Competitiveness and Growth (Internal Market - Attachés) Working Party on Competitiveness and Growth (Internal Market)
Subject:	Digital Services Act: Consolidated comments on Chapter 3 and respective recitals

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COMMISSION PROPOSAL	**Drafting**	**Comments**
GENERAL COMMENTS	**FI**: Finland wishes to emphasize that Digital Services Act proposal needs to be processed in the Finnish parliament. Therefore, we do not have an official position until the proposal has been discussed in our national parliament. **SK**: ***SK*** *maintains a general scrutiny reservation on all comments within this proposal.* **HR**: **HR** is not in favour to support requests to enlarge the scope of this Regulation to harmful content. We are aware that this is a very important topic, but we believe that it should not be addressed through the DSA. This is a very delicate issue which is closely related to the protection of freedom of expression. Additionally, we believe that the attempt to reach an agreement on the definition of harmful content on the EU level would only prolong the discussion on the DSA, and at the end, we are not sure that the compromise definition would really solve the problems in practice. **EL**: **Greece at this point has a general scrutiny reservation for the whole legislative proposal and the following comments are only preliminary in nature and not bounding. We reserve our right to follow up with new comments and suggestions. Thank you very much for your efforts.** **NL**: **NL** appreciates the opportunity provided for by the Portuguese Presidency to submit input on Chapter III of the Digital Services Act (hereinafter DSA), as well as its corresponding recitals. Please note that the drafting suggestions and/or comments provided below are inexhaustive: the NL comments below hone in on issues considered to be most pertinent. **NL** wishes to reserve the right to amend the drafting suggestions and comments submitted below, in the context of a recently held general election and, at the time of writing, the ongoing formation of a new government. Nevertheless, the positions expressed in this 'general comments' section and for the individual provisions in the table below reflect the NL direction of travel and build on the official Government mandate, as confirmed in the Government's communication on the DSA to the national Parliament on 12 February 2021.[1]	

[1] The official government position on the DSA (in Dutch) is available here: https://www.rijksoverheid.nl/documenten/richtlijnen/2020/12/15/fiche-2-verordening-inzake-digitale-diensten-en-wijziging-richtlijn-2000-31-eg-digital-services-act. An English translation of the relevant parts can be found here: https://www.permanentrepresentations.nl/permanent-representations/pr-eu-brussels/documents/publications/2021/02/17/dutch-position-on-the-proposal-for-the-digital-services-act

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	As a general remark, **NL** is still assessing whether the DSA proposal as it currently stands adequately encourages the industry to take responsibility in restricting the dissemination of illegal content online. In this context, the so-called "Good Samaritan" Clause in Article 6 may be a necessary, but not sufficient step in stimulating the relevant parties to take their responsibility. To this end, **NL** is contemplating the suitability of additional incentives in the DSA proposal, such as a **duty of care standard that could be considered for example in Chapter III, Section 2. However, the question as to which Chapter of the proposal may be best suited to incorporate a duty of care standard is still subject to ongoing internal discussions.** The introduction of a duty of care standard could be an interesting tool to furthering the two-pronged objective of the DSA proposal, namely the (i) deepening of the internal market for digital (specifically intermediary) services, and (ii) promoting a safer online environment for EU citizens. In our view, a duty of care standard should be construed as a *reasonable effort* requirement by HSPs/platforms to restrict the dissemination of illegal content online through their services. Such a duty of care standard should be faithfully interpreted and applied by courts with a certain degree of leniency. The focus should be on the *effort* undertaken by HSPs/platforms, i.e. scrutiny over the *conduct* rather than the individual *content* moderation decisions made. When assessing whether HSPs/platforms fulfil the duty of care standard, relevant contemporary circumstances – which may naturally evolve over time – such as (but not limited to) the availability and effectiveness of automated technologies, the size and the technical abilities of HSPs/platforms and reach and means, should be taken into account. This ensures the duty of care standard remains flexible and future proof. A duty of care standard should of course respect confidentiality, privacy and cybersecurity standards and remain within the limits set forth by the rules of the DSA proposal, such as the ban on general monitoring in Article 7. A clarification on the delineation between general and specific monitoring in this respect would therefore be welcomed. How and to what extent HSPs/online platforms could *concretely* fulfil their duty of care standards is still a topic of internal discussion. We would welcome and invite the Working Party and Member States to discuss the merits of a duty of care standard in greater detail in the forthcoming	

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	discussions. **FR:** Les amendements proposés à ce stade par les autorités françaises ne préjugent pas de ceux qu'elles pourraient soumettre ultérieurement au Conseil. The drafting suggestions and comments submitted by the French authorities at this stage do not prejudge the amendments they may submit to the Council at a later stage	
2020/0361 (COD)	**NL** *(Drafting)*: Please note that where drafting suggestions have been made, they are indicated in ***bold, italic, underlined*** font, in order to mark the difference as compared to the original text in the outer-left column	
Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC		
(Text with EEA relevance)		
Whereas:		
(34) In order to achieve the objectives of this Regulation, and in particular to improve the functioning of the internal market and ensure a safe and transparent online environment, it is necessary to establish a clear and balanced set of harmonised due diligence obligations for providers of intermediary services. Those	**FR** *(Drafting)*: (34) In order to achieve the objectives of this Regulation, and in particular to improve the functioning of the internal market and ensure a safe and transparent online environment, it is necessary to establish a clear and balanced set of	**FR** *(Comments)*: While the European Commission explains that the due diligence obligations build on –and therefore add to- the current system of liability provided by the ECD and that the conditions of exemption of liability are not modified by the

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COMMISSION PROPOSAL	**Drafting**	**Comments**
obligations should aim in particular to guarantee different public policy objectives such as the safety and trust of the recipients of the service, including minors and vulnerable users, protect the relevant fundamental rights enshrined in the Charter, to ensure meaningful accountability of those providers and to empower recipients and other affected parties, whilst facilitating the necessary oversight by competent authorities.	harmonised due diligence obligations for providers of intermediary services. Those obligations should aim in particular to guarantee different public policy objectives such as the safety and trust of the recipients of the service, including minors and vulnerable users, protect the relevant fundamental rights enshrined in the Charter, to ensure meaningful accountability of those providers and to empower recipients and other affected parties, whilst facilitating the necessary oversight by competent authorities. For the avoidance of doubt, it should be clarified that due diligence obligations established by this instrument are separate from the question of liability exemptions and should not affect the conditions under which intermediary services may benefit from said exemptions from liability. For example, compliance with the due diligence obligation to put in place a notice and action mechanism and take decisions in respect of the information to which the notices relate, in a timely, diligent and objective manner, as provided for in article 14, should not be interpreted as modifying the condition for a liability exemption requiring the provider to act expeditiously in removing or disabling access to an illegal content upon obtaining knowledge. **DE** *(Drafting)*: […] Those obligations should aim in particular	DSA, the DSA proposal itself fails in making this point clear. The French authorities hence want to make it clear that, where under the current ECD regime today it is possible to hold the liability of a platform with respect to a particular illegal content, it will still be the case after the DSA is adopted, in accordance with conditions that will remain the same. **DE** *(Comments)*: We suggest naming further public policy objectives, particularly such related to transactional platforms and services, e.g. environmental and climate protection, sustainable consumption. This recital tilts towards interaction-based uses of digital services.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	to guarantee different public policy objectives such as the safety and trust of the recipients of the service, including minors and vulnerable users, **the protection of common goods such as the environment and climate**, protect the relevant fundamental rights enshrined in the Charter, […].	
(35) In that regard, it is important that the due diligence obligations are adapted to the type and nature of the intermediary service concerned. This Regulation therefore sets out basic obligations applicable to all providers of intermediary services, as well as additional obligations for providers of hosting services and, more specifically, online platforms and very large online platforms. To the extent that providers of intermediary services may fall within those different categories in view of the nature of their services and their size, they should comply with all of the corresponding obligations of this Regulation. Those harmonised due diligence obligations, which should be reasonable and non-arbitrary, are needed to achieve the identified public policy concerns, such as safeguarding the legitimate interests of the recipients of the service, addressing illegal practices and protecting	**AT** *(Drafting)*: (35) In that regard, it is important that the due diligence obligations are adapted to the type and nature of the intermediary service concerned. This Regulation therefore sets out basic obligations applicable to all providers of intermediary services, **with the exception of those which are provided to a strictly limited number of business clients with no third party effects**, as well as additional obligations for providers of hosting services and, more specifically, online platforms and very large online platforms. To the extent that providers of intermediary services may fall within those different categories in view of the nature of their services and their size, they should comply with all of the corresponding obligations of this Regulation. Those harmonised due diligence obligations, which should be reasonable and non-arbitrary, are needed to achieve the	**AT** *(Comments)*: See the proposed new Art. 9a. **HU** *(Comments)*: In our view, it would be useful to mention here also, that due diligence obligations should be adapted also to the size of the intermediary service.

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fundamental rights online.	identified public policy concerns, such as safeguarding the legitimate interests of the recipients of the service, addressing illegal practices and protecting fundamental rights online. **HU** *(Drafting)*: In that regard, it is important that the due diligence obligations are adapted to the type, **size** and nature of the intermediary service concerned.	
(36) In order to facilitate smooth and efficient communications relating to matters covered by this Regulation, providers of intermediary services should be required to establish a single point of contact and to publish relevant information relating to their point of contact, including the languages to be used in such communications. The point of contact can also be used by trusted flaggers and by professional entities which are under a specific relationship with the provider of intermediary services. In contrast to the legal representative, the point of contact should serve operational purposes and should not necessarily have to have a physical location .		

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COMMISSION PROPOSAL	**Drafting**	**Comments**
(37) Providers of intermediary services that are established in a third country that offer services in the Union should designate a sufficiently mandated legal representative in the Union and provide information relating to their legal representatives, so as to allow for the effective oversight and, where necessary, enforcement of this Regulation in relation to those providers. It should be possible for the legal representative to also function as point of contact, provided the relevant requirements of this Regulation are complied with.	**HU** *(Drafting)*: It should be possible for the legal representative to also function as point of contact, provided the relevant requirements of this Regulation are complied with. **In this case, the legal representative should have a physical location, in contrast to the point of contact who is not a legal representative.**	**HU** *(Comments)*: In our view, it is important to highlight that the legal representative when functioning as a point of contact needs to have a physical location in the Union. **EL** *(Comments)*: *As stated at the 26th.1.21 meeting, it is possible for two or more providers to designate the same representative. We regard that this should be clarified in the text of the recital (and also in the article 11), especially if the providers are very large online platforms*
(38) Whilst the freedom of contract of providers of intermediary services should in principle be respected, it is appropriate to set certain rules on the content, application and enforcement of the terms and conditions of those providers in the interests of transparency, the protection of recipients of the service and the avoidance of unfair or arbitrary outcomes.	**AT** *(Drafting)*: (38) Whilst the freedom of contract of providers of intermediary services should in principle be respected, it is appropriate to set certain rules on the content, application and enforcement of the terms and conditions of those providers in the interests of transparency, the protection of recipients of the service and the avoidance of unfair or arbitrary outcomes. **Rules on terms and conditions in other pieces of Union law, like those in Regulation (EU) 2019/1150 and in the Proposal on contestable and fair markets in the digital sector (Digital Markets Act) COM/2020/842 final should remain**	

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	unaffected. **DE** *(Drafting)*: […]. **When determining whether a specific item of content complies with the terms and conditions, account should be taken of the freedom of expression and information, including the freedom and pluralism of the media, and the freedom of the arts and sciences. The expression of radical, polemic or controversial views in the public debate on sensitive political questions should not generally be considered inadmissible.**	
(39) To ensure an adequate level of transparency and accountability, providers of intermediary services should annually report, in accordance with the harmonised requirements contained in this Regulation, on the content moderation they engage in, including the measures taken as a result of the application and enforcement of their terms and conditions. However, so as to avoid disproportionate burdens, those transparency reporting obligations should not apply to providers that are micro- or small enterprises as defined in Commission Recommendation 2003/361/EC.[2]		**DK** *(Comments)*: The recital could advantageously address *where* such reports should be published. **LV** *(Comments)*: The production and publication of annual transparency reports imposes additional administrative burdens on intermediary service providers, and it is important to stipulate in Article 13 the purpose of such transparency reports. At least recital 39 needs to further explain why such a requirement has been introduced and how the authorities will be able

[2] Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

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		to use these transparency reports in the performance of their duties. In addition, it should be made clear where such a transparency report is published and how authorities and end-users will be able to access it.
(40) Providers of hosting services play a particularly important role in tackling illegal content online, as they store information provided by and at the request of the recipients of the service and typically give other recipients access thereto, sometimes on a large scale. It is important that all providers of hosting services, regardless of their size, put in place user-friendly notice and action mechanisms that facilitate the notification of specific items of information that the notifying party considers to be illegal content to the provider of hosting services concerned ('notice'), pursuant to which that provider can decide whether or not it agrees with that assessment and wishes to remove or disable access to that content ('action'). Provided the requirements on notices are met, it should be possible for individuals or entities to notify multiple specific items of allegedly illegal content through a single notice. The obligation to put in place notice and action mechanisms	**AT** *(Drafting)*: (40) Providers of hosting services play a particularly important role […]. It is important that all providers of hosting services, regardless of their size, put in place user-friendly notice and action mechanisms that facilitate the notification of specific items of information that the notifying party considers to be illegal content to the provider of hosting services concerned ('notice'), pursuant to which that provider can decide whether or not it agrees with that assessment and wishes to remove or disable access to that content ('action'). **Whereas a justified notice including all elements listed in Article 14(2) shall be considered to give rise to actual knowledge of illegal activity or illegal content for the purpose of Article 5 in any case, the actual knowledge of a provider based on notices lacking single elements of Article 14(2) has to be assessed on a case-by-case basis.** Provided the requirements on notices	**AT** *(Comments)*: It should be clarified that the absence of an element does not automatically exclude the possibility that a notice gives rise to actual knowledge under Article 5. **BE** *(Comments)*: Art. 28b, 3., d) AVMS directive also refers to a notice and action system, to be installed by the video-sharing platform provider… Member states will have to assess the appropriateness of this system according to art. 28b.5 AVMS directive. The N&A procedure will in certain cases have to comply with art. 14 and 15 DSA. What is the role of member states in this case? Just check if art. 14 and 15 DSA are respected? **DK** *(Comments)*: It is important that the notification mechanisms in art 14 are easy to access and user friendly. We find that the terms “easy to access” and “user

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should apply, for instance, to file storage and sharing services, web hosting services, advertising servers and paste bins, in as far as they qualify as providers of hosting services covered by this Regulation.	are met, it should be possible for individuals or entities to notify multiple specific items of allegedly illegal content through a single notice. The obligation to put in place notice and action mechanisms should apply, for instance, to file storage and sharing services, web hosting services, advertising servers and paste bins, in as far as they qualify as providers of hosting services covered by this Regulation.	friendly" should be specified (i.e. in the recitals) with inspiration from behavioral science and user experience design. It is important that the responsibility to act on illegal content corresponds to the kind of measures a service has at its disposal. Hence, those services that do not have the technical means to take down individual (illegal) content should not be subjected to notice and action requirements in accordance with article 14. For instance, domain name administrators cannot take down individual content, but can solely suspend or delete an entire website's domain name (meaning that the website can no longer be accessed through said domain name, and email adresses with said domain name will cease to function). Currently, it is unclear whether a domain name administrator would be considered a hosting service or solely a provider of an intermediary service (see our comment to the section on requirements for hosting services). **ES** *(Comments)*: The recital provides for notification of multiple specific items of illegal content through a single notice so as not to overburden the notifying parties. However, it would be desirable to include this provision in Article 14.

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(41) The rules on such notice and action mechanisms should be harmonised at Union level, so as to provide for the timely, diligent and objective processing of notices on the basis of rules that are uniform, transparent and clear and that provide for robust safeguards to protect the right and legitimate interests of all affected parties, in particular their fundamental rights guaranteed by the Charter, irrespective of the Member State in which those parties are established or reside and of the field of law at issue. The fundamental rights include, as the case may be, the right to freedom of expression and information, the right to respect for private and family life, the right to protection of personal data, the right to non-discrimination and the right to an effective remedy of the recipients of the service; the freedom to conduct a business, including the freedom of contract, of service providers; as well as the right to human dignity, the rights of the child, the right to protection of property, including intellectual property, and the right to non-discrimination of parties affected by illegal content.	**SE** *(Drafting)*: The rules on such notice and action mechanisms should be harmonised at Union level, so as to provide for the timely, diligent and objective processing of notices on the basis of rules that are uniform, transparent and clear and that provide for robust safeguards to protect the right and legitimate interests of all affected parties, in particular their fundamental rights guaranteed by the Charter, irrespective of the Member State in which those parties are established or reside and of the field of law at issue. The fundamental rights include but are not limited to, as the case may be, the right to freedom of expression and information, the right to respect for private and family life, the right to protection of personal data, the right to non-discrimination, the right to gender equality and the right to an effective remedy of the recipients of the service; the freedom to conduct a business, including the freedom of contract, of service providers; as well as the right to human dignity, the rights of the child, the right to protection of property, including intellectual property, and the right to non-discrimination of parties affected by illegal content.	**BG** *(Comments)*: Подкрепяме мнението на Словакия за необходимост от изясняване на термините „своевременно, надлежно и обективно обработване на сигналите“ и как евентуално би било оценено спазването на това изискване. Поставяме въпроса и в частност по отношение на доставчиците на хостинг услуги. We support Slovakia's view on the need to clarify the terms "timely, diligent and objective processing of notices" and how compliance with this requirement could be assessed. We also raise the issue in particular with regard to Providers of hosting services. **SE** *(Comments)*: **SE** is of the view that article 23 of the Charter should be emphasized, i.e. that equality between women and men (namely gender equality) must be ensured.
(42) Where a hosting service provider decides	**AT** *(Drafting)*:	**AT** *(Comments)*:

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to remove or disable information provided by a recipient of the service, for instance following receipt of a notice or acting on its own initiative, including through the use of automated means, that provider should inform the recipient of its decision, the reasons for its decision and the available redress possibilities to contest the decision, in view of the negative consequences that such decisions may have for the recipient, including as regards the exercise of its fundamental right to freedom of expression. That obligation should apply irrespective of the reasons for the decision, in particular whether the action has been taken because the information notified is considered to be illegal content or incompatible with the applicable terms and conditions. Available recourses to challenge the decision of the hosting service provider should always include judicial redress.	(42) Where a hosting service provider decides to remove or disable information provided by a recipient of the service, for instance following receipt of a notice or acting on its own initiative, including through the use of automated means, that provider should inform the recipient **which has entered a contract with the platform** of its decision, the reasons for its decision and the available redress possibilities to contest the decision, in view of the negative consequences that such decisions may have for the recipient, including as regards the exercise of its fundamental right to freedom of expression. That obligation should apply irrespective of the reasons for the decision, in particular whether the action has been taken because the information notified is considered to be illegal content or incompatible with the applicable terms and conditions. ~~**Available recourses to challenge the decision of the hosting service provider should always include judicial redress.**~~ **HU** *(Drafting)*: Where a hosting service provider decides to remove or disable information provided by a recipient of the service, for instance following receipt of a notice or acting on its own initiative, including through the use of automated means, that provider should inform **in a clear and**	The last sentence should be deleted, since it would introduce a right of everybody to disseminate their thoughts on every platform. Such right does not exist in every Member State; it would be in conflict with the freedom of the platform to contract, if it has to carry every expression by whomever. Even traditional media do not have to publish every thought anybody whishes to express. **BE** *(Comments)*: For clarity, it should be repeated in the Recitals that in application of article 14.5, the provider of hosting services shall also inform the notifying party of its decision in respect of the information to which the notice relates. **HU** *(Comments)*: In order to highly protect the rights of the recipient of the server, it is important that the provided information by the hosting service provider should be easily understandable and clear. **ES** *(Comments)*: Wording regarding stay-down obligations should be added in recital 42, in correspondence with Article 14 (same for art. 8 in relation to orders) **FI** *(Comments)*:

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	understandable way the recipient of its decision, the reasons for its decision and the available redress possibilities to contest the decision in view of the negative consequences that such decisions may have for the recipient, including as regards the exercise of its fundamental right to freedom of expression. **FI** *(Drafting)*: (42) Where a hosting service provider decides to remove or disable information provided by a recipient of the service, for instance following receipt of a notice or acting on its own initiative, including through the use of automated means, that provider should inform the recipient of its decision, the reasons for its decision and the available redress possibilities to contest the decision, in view of the negative consequences that such decisions may have for the recipient, including as regards the exercise of its fundamental right to freedom of expression. That obligation should apply irrespective of the reasons for the decision, in particular whether the action has been taken because the information notified is considered to be illegal content or incompatible with the applicable terms and conditions. Available recourses to challenge the decision of the hosting service provider should always include the possibility to start judicial proceedings ~~judicial redress~~.	The last sentence of recital 42 is problematic as in Finland it is not possible to seek judicial redress on a decision of a hosting service provider. There is no possibility to appeal a decision of a service provider to a court of law. **EL** *(Comments)*: *Regarding the use of automated means in removal or disabling information provided by a recipient, it should be better clarified whether the removal or disabling is based solely on the use of such means or is followed by a human review (see also Art. 12).* **NL** *(Comments)*: It is unclear why hosting service providers are only obliged to inform a recipient of their decision when they decide to remove or disable information, and not also when they decide to *not* remove or disable information (so-called "must carry" decisions). See also our comment with regards to article 15 **FR** *(Comments)*: Nécessité de prévoir la possibilité de reporter l'information de l'utilisateur visée à l'article 15, lorsqu'une telle information pourrait être de nature à compromettre une enquête pénale en cours. The French authorities consider that it is necessary to include the possibility of

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	FR *(Drafting)*: (42) Where a hosting service provider decides to remove or disable information provided by a recipient of the service, for instance following receipt of a notice or acting on its own initiative, including through the use of automated means, that provider should inform the recipient of its decision, the reasons for its decision and the available redress possibilities to contest the decision, in view of the negative consequences that such decisions may have for the recipient, including as regards the exercise of its fundamental right to freedom of expression. That obligation should apply irrespective of the reasons for the decision, in particular whether the action has been taken because the information notified is considered to be illegal content or incompatible with the applicable terms and conditions. However, under certain conditions, for a limited list of illegal contents, and in order not to interfere with potential ongoing criminal investigations, the information of the recipient should be postponed by a minimum period of six weeks. Such a limited postponement is justified by the need to safeguard public order. Available recourses to challenge the decision of the hosting service provider should always include judicial redress.	postponing the information to the user referred to in Article 15, when such information could be of a nature to compromise an ongoing criminal investigation

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COMMISSION PROPOSAL	**Drafting**	**Comments**
(43) To avoid disproportionate burdens, the additional obligations imposed on online platforms under this Regulation should not apply to micro or small enterprises as defined in Recommendation 2003/361/EC of the Commission,[3] unless their reach and impact is such that they meet the criteria to qualify as very large online platforms under this Regulation. The consolidation rules laid down in that Recommendation help ensure that any circumvention of those additional obligations is prevented. The exemption of micro- and small enterprises from those additional obligations should not be understood as affecting their ability to set up, on a voluntary basis, a system that complies with one or more of those obligations.		**NL** *(Comments)*: We are unsure if the criteria from Recommendation 2003/361/EC are the right criteria for excluding enterprises. If reach is the criterium for defining when an enterprise becomes a very large online platform with the rationale that reach determines influence and therefore responsibilities, then why not extend this logic to the lower end when excluding enterprises? At the same time, we are mindful of the possible effects setting thresholds (based on number of users) may have on small businesses' incentives to grow and scale up. We reserve the right to return to this issue at a later stage and suggest possible concrete text suggestions to safeguard innovation in Europe, whilst at the same time promoting a safer online environment. **DE** *(Comments)*: The exemption for small or micro enterprises should not lead to a 'safe haven' for illegal content like the illicit trafficking of illegal products.

3 Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

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COMMISSION PROPOSAL	**Drafting**	**Comments**
(44) Recipients of the service should be able to easily and effectively contest certain decisions of online platforms that negatively affect them. Therefore, online platforms should be required to provide for internal complaint-handling systems, which meet certain conditions aimed at ensuring that the systems are easily accessible and lead to swift and fair outcomes. In addition, provision should be made for the possibility of out-of-court dispute settlement of disputes, including those that could not be resolved in satisfactory manner through the internal complaint-handling systems, by certified bodies that have the requisite independence, means and expertise to carry out their activities in a fair, swift and cost-effective manner. The possibilities to contest decisions of online platforms thus created should complement, yet leave unaffected in all respects, the possibility to seek judicial redress in accordance with the laws of the Member State concerned.	**DK** *(Drafting)*: Recipients of the service should be able to easily and effectively contest certain decisions of online platforms that negatively affect them. Therefore, online platforms should be required to provide for internal complaint-handling systems, which meet certain conditions aimed at ensuring that the systems are easily accessible and lead to swift and fair outcomes. **Such systems shall enable all users to lodge a complaint and shall not set up formalistic requirements such as referral to specific, relevant legal provisions or elaborate legal explanations. In** addition, provision should be made for the possibility of out-of-court dispute settlement of disputes, including those that could not be resolved in satisfactory manner through the internal complaint-handling systems, by certified bodies that have the requisite independence, means and expertise to carry out their activities in a fair, swift and cost-effective manner. The possibilities to contest decisions of online platforms thus created should complement, yet leave unaffected in all respects, the possibility to seek judicial redress in accordance with the laws of the Member State concerned.	**DK** *(Comments)*: We also support the requirement in article 17 (2), that the complaint-handling system shall enable and facilitate submission of sufficiently precise and adequately substantiated complaints. However, it is important that the system enables all users to lodge a complaint and does not set up formalistic requirements such as referral to specific, relevant legal provisions or elaborate explanations. This should be pointed out in the recitals. **BG** *(Comments)*: Коментарът по това съображение е даден при чл. 18. The comment on this recital is included in the section on art. 18. **FI** *(Comments)*: The Digital Services Coordinator of the Member State shall, at the request of the body, certify the body as an out-of-court dispute settlement body. Member States **should not be obliged to establish** an out-of-court dispute settlement body. **CZ** *(Comments)*: The recipient of service, who has used the notification system for a notification of illegal

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	FI *(Drafting)*: (44) Recipients of the service should be able to easily and effectively contest certain decisions of online platforms that negatively affect them. Therefore, online platforms should be required to provide for internal complaint-handling systems, which meet certain conditions aimed at ensuring that the systems are easily accessible and lead to swift and fair outcomes. In addition, provision should be made for the possibility of out-of-court dispute settlement of disputes, including those that could not be resolved in satisfactory manner through the internal complaint-handling systems, by certified bodies that have the requisite independence, means and expertise to carry out their activities in a fair, swift and cost-effective manner. The possibilities to contest decisions of online platforms thus created should complement, yet leave unaffected in all respects, the possibility to start judicial proceedings ~~to seek judicial redress~~ in accordance with the laws of the Member State concerned. If a Member State considers it necessary, it may establish out-of court dispute settlement body. **CZ** *(Drafting)*: Recipients of the service should be able to easily and effectively contest certain decisions of online platforms that negatively affect them.	content, should also have the right to challenge the decision of a platform. **NL** *(Comments)*: We support the Commission's approach in terms of providing two non-exhaustive, and non-mutually exclusive mechanisms that recipients may avail themselves in the event they seek to remedy content moderation decisions made by platforms. The fact that the Commission explicitly stipulates these redress mechanisms be without prejudice to the possibility of judicial redress, is vital for the health of our democracies, and consistent with the rule of law tradition in Europe.

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	This should apply both to recipients of service, whose content has been removed or disabled, and also on recipients of service, who used a notification system and their notification was rejected by the intermediary. Therefore, online platforms should be required to provide for internal complaint-handling systems, which meet certain conditions aimed at ensuring that the systems are easily accessible and lead to swift and fair outcomes. In addition, provision should be made for the possibility of out-of-court dispute settlement of disputes, including those that could not be resolved in satisfactory manner through the internal complaint-handling systems, by certified bodies that have the requisite independence, means and expertise to carry out their activities in a fair, swift and cost-effective manner. The possibilities to contest decisions of online platforms thus created should complement, yet leave unaffected in all respects, the possibility to seek judicial redress in accordance with the laws of the Member State concerned.	
(45) For contractual consumer-to-business disputes over the purchase of goods or services,		**BG** *(Comments)*: Считаме за удачно да се направи ясно

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COMMISSION PROPOSAL	**Drafting**	**Comments**
Directive 2013/11/EU of the European Parliament and of the Council[4] ensures that Union consumers and businesses in the Union have access to quality-certified alternative dispute resolution entities. In this regard, it should be clarified that the rules of this Regulation on out-of-court dispute settlement are without prejudice to that Directive, including the right of consumers under that Directive to withdraw from the procedure at any stage if they are dissatisfied with the performance or the operation of the procedure.		разграничение между посочените в това съображение сертифицирани органи и тези от съображение 44. We consider it appropriate to make a clear distinction between the quality-certified alternative entities mentioned in this recital and those under recital 44.

[4] Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (OJ L 165, 18.6.2013, p. 63).

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COMMISSION PROPOSAL	**Drafting**	**Comments**
(46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content, that they represent collective interests and that they work in a diligent and objective manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation ('Europol') or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, organisations of industry and of right-holders could be awarded trusted flagger	**HU** *(Drafting)*: Such trusted flagger status should only be awarded to ~~entities~~ **legal persons**, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content, that they represent collective interests and that they work in a diligent and objective manner. **HR** *(Drafting)*: (46) Action against illegal content can be taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content, that they represent collective interests and that they work in a diligent and objective manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the	**BE** *(Comments)*: Could you please clarify what is meant by "semi-public body"? **HU** *(Comments)*: In our view, the expression "*by any entities*" can be understood in a broad sense which may give rise to misunderstandings. In order to be consistent with the text, we hold the same opinion about Article 19 as well. **ES** *(Comments)*: It is positively valued that organisations of industry and of right-holders could be awarded trusted flagger status, as well as those that are part of the INHOPE network reporting child sexual abuse material. However, it should be clarified that 'representing collective interests' does not only include organizations that represent a particular collective interest, such as the protection of intellectual property rights, but also those that defend general interests of users/consumers. **HR** *(Comments)*: European Consumer Centres Network (ECC-NET) should be added in the text as one of the entities that may be designated as "trusted flaggers" in accordance with the Regulation proposal. Namely, the ECC-Net consists of

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COMMISSION PROPOSAL	**Drafting**	**Comments**
status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council.[5]	European Union Agency for Law Enforcement Cooperation ('Europol') or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online and European Consumer Centres Network (ECC-Net) for conumer protection. For intellectual property rights, organisations of industry and of right-holders could be awarded trusted flagger status, where they have demonstrated that they meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council. **FR** *(Drafting)*: (46) Action against illegal content can be	national Centres located in each EU Member State, Norway, Iceland and United Kingdom, specialized in solving cross-border consumer disputes. Due to the fact that national European consumer Centres operate EU-wide, have significant impact and expertise in the area of consumer protection and have the necessary experience in detecting violations as described in this Regulation, adding national European Consumer Centres as "national flaggers" would serve the purpose of tackling the issue of reporting illegal content more quickly and reliably. Additionally, it is important to point out that ECC-Net has already been explicitly stated as one of the entities that may be designated as "external alert mechanism" in accordance with Regulation (EU) 2017/2394 (CPC Regulation), with a similar role as the one that "trusted flaggers" have according to the Regulation proposal – they have the power to issue external alerts to the competent authorities of the relevant Member States and the Commission of suspected infringements covered by aforementioned Regulation and to provide the necessary information available to them. **EL** *(Comments)*:

[5] Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA, OJ L 135, 24.5.2016, p. 53

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	taken more quickly and reliably where online platforms take the necessary measures to ensure that notices submitted by trusted flaggers through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and objective manner. Such trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content~~, that they represent collective interests~~ and that they work in a diligent and objective manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation ('Europol') or they can be non-governmental organisations and semi-public bodies, such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. For intellectual property rights, organisations of industry and of right-holders could be awarded trusted flagger status, where they have demonstrated that they	*It should be clarified in the wording of recital 46, that a trusted flagger can also be from the private sector (based on the presentation of the E. Commission, document no. WK 2032/2021).* **NL** *(Comments)*: Although the last part of this recital tries to clarify that existing trusted flagger schemes can be kept in place, we have received various questions and comments from the relevant industry actors on this topic. We reserve the right to provide drafting suggestions to this consideration in the future with the aim of creating more legal certainty on this topic for businesses and users alike. **PL** *(Comments):* On the basis of recital 46 it is understood that law enforcement authorities will be treated as trusted flaggers, and Article 19 provides that it is the Digital Services Coordinator who is to grant such status, inter alia, if the applicant demonstrates that it has the expertise to detect illegal content. Such provision should obviously not apply in relation to law enforcement bodies, e.g. the Police. Therefore, Poland would like to raise doubts as to the wording of recital 46, which seems to suggest that in terms of trusted flaggers status, law enforcement bodies - empowered under national legislation to protect

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	meet the applicable conditions. The rules of this Regulation on trusted flaggers should not be understood to prevent online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council, and from giving prior treatment to orders issued by national judicial or administrative authorities, as in accordance with Article 8.	public security and order – should be treated equally with other non-public entities, such as NGOs. **FR** *(Comments)*: Les autorités françaises estiment nécessaire de clarifier que ce dispositif des « signaleurs de confiance » ne saurait être interprété comme affectant ou conditionnant d'une façon ou d'une autre les prérogatives propres aux autorités publiques dûment habilitées, à intervenir directement auprès des plateformes conformément à leurs lois nationales pour demander le blocage, le retrait ou le déréférencement de certains contenus. Aux yeux des autorités françaises, l'article 19 du règlement est donc parfaitement indépendant du régime de l'article 8 relatif aux « orders ». Elles souhaitent à ce titre que soit levée l'ambiguïté du considérant 46, qui évoque la possibilité d'accorder un statut de signaleur de confiance à des entités publiques telles qu'Europol. Elles rappellent qu'elles demandent, s'agissant du point de contact, que ces entités publiques disposent d'un canal de communication qui leur soit dédié. Elles souhaitent également que la rédaction de l'article 19 soit mise en conformité avec la partie du considérant qui précise qu'un ayant droit peut être reconnu signaleur de confiance ; à cet effet,

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		elles souhaitent la suppression de l'exigence systématique d'un intérêt collectif pour être signaleur de confiance. French authorities proposed to clarify that the "trusted flaggers" system should not be interpreted as affecting or conditioning in any way the prerogatives of judicial or administrative authorities to act directly on platforms, in accordance with their national laws, to request the blocking, removal or delisting of certain content. In the view of the French authorities, Article 19 of the DSA is therefore perfectly independent of Article 8 (*Orders to act against illegal content*).In this respect, the French authorities want to remove the ambiguity of recital 46, which refers to the possibility of granting trusted flagger status to public entities such as Europol. Moreover the French authorities request, in Article 10 "point of contact", that these authorities have a dedicated communication channel. They also request the deletion of the systematic requirement of a collective interest to be a trusted flaggers (see Article 19).
(47) The misuse of services of online platforms by frequently providing manifestly illegal content or by frequently submitting		**IT** *(Comments)*: Italy asks if the Commission could provide examples of what is to be understood under

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manifestly unfounded notices or complaints under the mechanisms and systems, respectively, established under this Regulation undermines trust and harms the rights and legitimate interests of the parties concerned. Therefore, there is a need to put in place appropriate and proportionate safeguards against such misuse. Information should be considered to be manifestly illegal content and notices or complaints should be considered manifestly unfounded where it is evident to a layperson, without any substantive analysis, that the content is illegal respectively that the notices or complaints are unfounded. Under certain conditions, online platforms should temporarily suspend their relevant activities in respect of the person engaged in abusive behaviour. This is without prejudice to the freedom by online platforms to determine their terms and conditions and establish stricter measures in the case of manifestly illegal content related to serious crimes. For reasons of transparency, this possibility should be set out, clearly and in sufficiently detail, in the terms and conditions of the online platforms. Redress should always be open to the decisions taken in this regard by online platforms and they should be subject to oversight by the competent Digital Services Coordinator. The rules of this Regulation on		*serious crimes*. Are such crimes only those against people? If any reference to EU legal provisions in this regard is available, it would be useful to include them. **EL** *(Comments)*: *Regarding the redress mechanisms (article 17,18 and courts), they should be referred to this recital or to article 20, as they are also stated in Presentation wk-2032/21 by the Commission.* **NL** *(Comments)*: We are studying the option of introducing liability for systematic abuse of notice and action procedures by complainants and reserve the right to request an amendment of the proposal to arrange this. Because we also don't yet know where the proposal should be amended to ensure this we've made the comment here for the time being. **DE** *(Comments)*: Why should the test be that of a layperson explicitly "without any substantive analysis"? This might be rather an incentive of large platforms not to check notices properly. Reference to such a general statement ("substantive analysis" not necessary) should rather be deleted. In addition, this cannot be the standard if a decision of a provider is challenged.

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misuse should not prevent online platforms from taking other measures to address the provision of illegal content by recipients of their service or other misuse of their services, in accordance with the applicable Union and national law. Those rules are without prejudice to any possibility to hold the persons engaged in misuse liable, including for damages, provided for in Union or national law.		What is meant by the "freedom of the provider to establish stricter measures in the case of manifestly illegal content related to serious crimes"? What kind of stricter measures are envisaged here? Why is there no strict framework which ensures that such a serious measure has to be counter-checked by possibly a third party before its implementation. The reference to the freedom of platforms to determine their terms and conditions seems too unclear in this recital. According to general principles of contract law, unilateral determination of the terms of use is not possible; the user has to agree to such general terms. What kind of requirements exist, if online platforms suspend their services on the basis of Community Standards but not because the recipient frequently provides manifestly illegal content (requirement of art. 20 sec 1)?
(48) An online platform may in some instances become aware, such as through a notice by a notifying party or through its own voluntary measures, of information relating to certain activity of a recipient of the service, such as the provision of certain types of illegal content, that reasonably justify, having regard to all relevant circumstances of which the online	**HU** *(Drafting)*: In such instances, the online platform should inform without delay the competent law enforcement authorities of such **reasonable** suspicion, providing all relevant information available to it, including where relevant the content in question and an explanation of its suspicion.	**BG** *(Comments)*: Подкрепяме становището на Италия за допълнително разяснение дали тази разпоредба, предполага, че в случай че няма сериозно престъпление, включващо заплаха за живота или безопасността на дадено лице, платформата няма задължение да информира компетентните правоприлагащи органи?

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platform is aware, the suspicion that the recipient may have committed, may be committing or is likely to commit a serious criminal offence involving a threat to the life or safety of person, such as offences specified in Directive 2011/93/EU of the European Parliament and of the Council[6]. In such instances, the online platform should inform without delay the competent law enforcement authorities of such suspicion, providing all relevant information available to it, including where relevant the content in question and an explanation of its suspicion. This Regulation does not provide the legal basis for profiling of recipients of the services with a view to the possible identification of criminal offences by online platforms. Online platforms should also respect other applicable rules of Union or national law for the protection of the rights and freedoms of individuals when informing law enforcement authorities.	**LU** *(Drafting)*: (48) An online platform may in some instances become aware, such as through a notice by a notifying party or through its own voluntary measures, of information relating to certain activity of a recipient of the service, such as the provision of certain types of illegal content, that reasonably justify, having regard to all relevant circumstances of which the online platform is aware, the suspicion that the recipient may have committed, may be committing or is likely to commit a serious criminal offence involving a threat to the life or safety of person, such as offences specified in Directive 2011/93/EU of the European Parliament and of the Council[7]. **Criminal offences shall not be treated as illegal content as defined in this Regulation.** In such instances, the online platform should inform without delay the competent law enforcement authorities of such suspicion, providing all relevant information available to it, including where relevant the content in question and an explanation of its suspicion. This Regulation does not provide the legal basis for profiling of	В допълнение, като тежко престъпление може ли да се счита и заплахата за здравето на хората, педофилията и др. подобни. Тази бележка е валидна и за текста на чл. 21 We support Italy's request to further clarify whether this provision implies that the platform has no obligation to inform the competent law enforcement authorities, if no serious criminal offence is commited involving a threat to the life or safety of a person? In addition, we would also like to receive a clarification if a threat to human health, pedophilia, etc. Is to be considered a serious crime? This comment is also valid for art. 21. **HU** *(Comments)*: In our view, it is important to highlight that the suspicion of the online platform should be truly reasonable, since all this can have serious consequences. **LU** *(Comments)*: Luxembourg wants to clarify that "illegal content" as defined in Article 2(g) is different

6 Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 335, 17.12.2011, p. 1).

7 Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 335, 17.12.2011, p. 1).

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	recipients of the services with a view to the possible identification of criminal offences by online platforms. Online platforms should also respect other applicable rules of Union or national law for the protection of the rights and freedoms of individuals when informing law enforcement authorities. **CZ** *(Drafting)*: An online platform may in some instances become aware, such as through a notice by a notifying party or through its own voluntary measures, of information relating to certain activity of a recipient of the service, such as the provision of certain types of illegal content, that reasonably justify, having regard to all relevant circumstances of which the online platform is aware, the suspicion that the recipient may have committed, may be committing or is likely to commit a serious criminal offence involving a threat to the life or safety of person, such as offences specified in Directive 2011/93/EU of the European Parliament and of the Council[8]. In such instances, the online platform should inform without delay the competent law enforcement authorities of such suspicion, providing all relevant information available to it,	than "criminal offence", and that provisions in the DSA relating to illegal content do not apply for criminal offences. The notion of "by its reference to an activity" therefore needs to be clarified in the definition of "illegal content". See also comment regarding Article 21. **CZ** *(Comments)*: Online platforms should keep statistics about this kind of cooperation between them and law enforcement agencies and these statistics should be included in publicly accessible reports. **CZ** would welcome to include this addition. At the same time, we are open to possible contrary explanations from the Commission. **IT** *(Comments)*: Italy asks whether this provision imply that in case there is no serious criminal offence involving a threat to the life or safety of a person, there is no obligation for the platform to inform enforcement authorities. Also, Italy questions if reference to Directive 2011/93/EU on combating the sexual abuse is included in order to provide just an example of serious crimes, or it is to be understood that this provision applies only to such a criminal threat.

[8] Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 335, 17.12.2011, p. 1).

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	including where relevant the content in question and an explanation of its suspicion. This Regulation does not provide the legal basis for profiling of recipients of the services with a view to the possible identification of criminal offences by online platforms. Online platforms should also respect other applicable rules of Union or national law for the protection of the rights and freedoms of individuals when informing law enforcement authorities. **Online platforms should keep statistics about this kind of cooperation between them and law enforcement agencies and these statistics should be included in publicly accessible reports.** **NL** *(Drafting)*: (48) An online platform may in some instances become aware, such as through a notice by a notifying party or through its own voluntary measures, of information relating to certain activity of a recipient of the service, such as the provision of certain types of illegal content, that reasonably justify, having regard to all relevant circumstances of which the online platform is aware, the suspicion that the recipient may have committed, may be committing or is likely to commit a serious criminal offence involving a threat to the life or safety of ***an individual or persons ~~person~~***, such	The translation into Italian may lead to conclude that this is not an example. **NL** *(Comments)*: **NL** would like to ensure the corresponding Article (see Article 21) covers instances where serious criminal offences can threaten the life or safety of both an individual and multiple persons. **FR** *(Comments)*: See article 21 *infra*. **DE** *(Comments)*: Reference to "serious" crimes should be further elaborated. In addition, MS should remain in a position to define which crimes should lead to a reporting requirement. Insofar as this recital states that online platforms should respect other applicable rules of Union or national law for the protection of the rights and freedoms of individuals when informing law enforcement authorities, it remains unclear which rules of Union or national law from which area are being referred to. In its current form the sentence seems redundant. Examples, particularly in regard to Union law, would be helpful.

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	as offences specified in Directive 2011/93/EU of the European Parliament and of the Council[9]. In such instances, the online platform should inform without delay the competent law enforcement authorities of such suspicion, providing all relevant information available to it, including where relevant the content in question and an explanation of its suspicion. This Regulation does not provide the legal basis for profiling of recipients of the services with a view to the possible identification of criminal offences by online platforms. Online platforms should also **FR** *(Drafting)*: (48) ~~An online platform~~ A provider of hosting service may in some instances become aware, such as through a notice by a notifying party or through its own voluntary measures, of information relating to certain activity of a recipient of the service, such as the provision of certain types of illegal content, that reasonably justify, having regard to all relevant circumstances of which the ~~online platform~~ provider is aware, the suspicion that the recipient may have committed, may be committing or is likely to commit a serious	

[9] Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 335, 17.12.2011, p. 1).

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	criminal offence involving a threat to the life or safety of person, such as offences specified in Directive 2011/93/EU of the European Parliament and of the Council, in Directive 2011/36/UE of the European Parliament and of the Council, or in Council Framework Decision 2008/913/JHA. In such instances, the ~~online platform~~ provider should inform without delay the competent law enforcement or judicial authorities of such suspicion, providing all relevant information available to it, including where relevant the content in question and an explanation of its suspicion. ~~This Regulation does not provide the legal basis for profiling of recipients of the services with a view to the possible identification of criminal offences by online platforms. Online platforms~~ Providers of hosting services should also respect other applicable rules of Union or national law for the protection of the rights and freedoms of individuals when informing law enforcement authorities.	
(49) In order to contribute to a safe, trustworthy and transparent online environment for consumers, as well as for other interested parties such as competing traders and holders of intellectual property rights, and to deter traders		**DE** *(Comments)*: The recital implicates that online platforms are required to also store personal data in order to fulfil requests for access to this data by public authorities and private parties. We therefore

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from selling products or services in violation of the applicable rules, online platforms allowing consumers to conclude distance contracts with traders should ensure that such traders are traceable. The trader should therefore be required to provide certain essential information to the online platform, including for purposes of promoting messages on or offering products. That requirement should also be applicable to traders that promote messages on products or services on behalf of brands, based on underlying agreements. Those online platforms should store all information in a secure manner for a reasonable period of time that does not exceed what is necessary, so that it can be accessed, in accordance with the applicable law, including on the protection of personal data, by public authorities and private parties with a legitimate interest, including through the orders to provide information referred to in this Regulation.		recommend to define within this regulation which specific personal data has to be stored by the online platforms.
(50) To ensure an efficient and adequate application of that obligation, without imposing any disproportionate burdens, the online platforms covered should make reasonable efforts to verify the reliability of the information provided by the traders concerned, in particular	**DE** *(Drafting)*: […] in particular by using freely available **or moderately priced** official online databases and online interfaces, such as national trade registers **or central, commercial and companies registers** and the	**BG** *(Comments)*: Подкрепяме становището на Испания за необходимост от прецизиране на освобождаването от отговорност на платформите по отношение на точността на информацията, която следва да се осигурява

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by using freely available official online databases and online interfaces, such as national trade registers and the VAT Information Exchange System[10], or by requesting the traders concerned to provide trustworthy supporting documents, such as copies of identity documents, certified bank statements, company certificates and trade register certificates. They may also use other sources, available for use at a distance, which offer a similar degree of reliability for the purpose of complying with this obligation. However, the online platforms covered should not be required to engage in excessive or costly online fact-finding exercises or to carry out verifications on the spot. Nor should such online platforms, which have made the reasonable efforts required by this Regulation, be understood as guaranteeing the reliability of the information towards consumer or other interested parties. Such online platforms should also design and organise their online interface in a way that enables traders to comply with their obligations under Union law, in particular the requirements set out in Articles 6 and 8 of Directive 2011/83/EU of the European Parliament and of the Council[11], Article 7 of	VAT Information Exchange System[14], or by requesting the traders concerned to provide trustworthy supporting documents, such as copies of identity documents, certified bank statements, company certificates and ~~trade register certificates~~ **certified extracts from trade, central, commercial or companies register, as applicable**. […]	на потребителите. We support Spain's view on the need to clarify the exception from liability of platforms as regards the accuracy of the information to be provided to users. **ES** *(Comments)*: Greater obligations should be imposed to marketplaces, including evaluating their liability for making available third party unlawful products, or imposing certain requirements so that a reliable identity verification is performed before a trader is included in the marketplace. This verification should also apply to advertisers. Recital 50 is perhaps too lax, since it frees marketplaces from all liability. **NL** *(Comments)*: We are concerned about the individual traders who operate from their homes (and do not have a physical office address), thereby providing sensitive personal data to the online platform, such as a copy of identity documents. **NL** requests minimum safeguards in these case when such data is disclosed to third parties,

[10] https://ec.europa.eu/taxation_customs/vies/vieshome.do?selectedLanguage=en

[11] Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council

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Directive 2005/29/EC of the European Parliament and of the Council[12] and Article 3 of Directive 98/6/EC of the European Parliament and of the Council[13].		including safeguards regarding the storage of this information. **DE** *(Comments)*: The terminology for trade registers should be aligned with other EU legislation on such registers where companies are registered, in particular the company law directive (2017/1132) as revised by the digitalization directive (2019/1151), where such registers are referred to as "central, commercial or companies registers" (cf. Art. 16(1) Directive EU 2019/1151).
(51) In view of the particular responsibilities and obligations of online platforms, they should be made subject to transparency reporting obligations, which apply in addition to the transparency reporting obligations applicable to all providers of intermediary services under this Regulation. For the purposes of determining whether online platforms may be very large online platforms that are subject to certain		

14 **https://ec.europa.eu/taxation_customs/vies/vieshome.do?selectedLanguage=en**

12 Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive')

13 Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers

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additional obligations under this Regulation, the transparency reporting obligations for online platforms should include certain obligations relating to the publication and communication of information on the average monthly active recipients of the service in the Union.		
(52) Online advertisement plays an important role in the online environment, including in relation to the provision of the services of online platforms. However, online advertisement can contribute to significant risks, ranging from advertisement that is itself illegal content, to contributing to financial incentives for the publication or amplification of illegal or otherwise harmful content and activities online, or the discriminatory display of advertising with an impact on the equal treatment and opportunities of citizens. In addition to the requirements resulting from Article 6 of Directive 2000/31/EC, online platforms should therefore be required to ensure that the recipients of the service have certain individualised information necessary for them to understand when and on whose behalf the advertisement is displayed. In addition, recipients of the service should have information on the main parameters used for determining that specific advertising is	**FR** *(Drafting)*: (52) Online advertisement plays an important role in the online environment, including in relation to the provision of the services of online platforms. However, online advertisement can contribute to significant risks, ranging from advertisement that is itself illegal content, to contributing to financial incentives for the publication or amplification of illegal or otherwise harmful content and activities online, or the discriminatory display of advertising with an impact on the equal treatment and opportunities of citizens. In addition to the requirements resulting from Article 6 of Directive 2000/31/EC, online platforms should therefore be required to ensure that the recipients of the service have certain individualised information necessary for them to understand when and on whose behalf the advertisement is displayed. In addition, recipients of the service should have information on the main parameters used for determining that specific advertising is to be displayed to them, providing meaningful explanations of the logic	**FR** *(Comments)*: See below article 24. **PL** *(Comments)*: Users should be provided with the same information that is available for advertisers in the online platforms' advertising interface. It is also crucial that the explanation provided to users includes both the parameters used by advertisers (selected via the online platforms' advertising interface) and by the platform itself, particularly when it comes to the process of algorithmic ad delivery and lookalike targeting. In both of these processes the platform and its machine-learning algorithms play a key role in determining the actual recipients of the advertisement from a larger group of all users who fulfil the advertiser's parameters.

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to be displayed to them, providing meaningful explanations of the logic used to that end, including when this is based on profiling. The requirements of this Regulation on the provision of information relating to advertisement is without prejudice to the application of the relevant provisions of Regulation (EU) 2016/679, in particular those regarding the right to object, automated individual decision-making, including profiling and specifically the need to obtain consent of the data subject prior to the processing of personal data for targeted advertising. Similarly, it is without prejudice to the provisions laid down in Directive 2002/58/EC in particular those regarding the storage of information in terminal equipment and the access to information stored therein.	used to that end, including when this is based on profiling. In that respect, online platforms should provide information on the method used [contextual, behavioural, geo-adapted, personalised], processes used [contextual adaptation, cookies, IP address, geo-location, etc.], data processed, members of the processing chain, *etc* **LU** *(Drafting)*: (52) Online advertisement plays an important role in the online environment, including in relation to the provision of the services of online platforms. However, online advertisement can contribute to significant risks, ranging from advertisement that is itself illegal content, to contributing to financial incentives for the publication or amplification of illegal or otherwise harmful content and activities online, or the discriminatory display of advertising with an impact on the equal treatment and opportunities of citizens. In addition to the requirements resulting from Article 6 of Directive 2000/31/EC, online platforms should therefore be required to ensure that the recipients of the service have certain individualised information necessary for them to understand when and on whose behalf the advertisement is displayed. In addition, recipients of the service should have information on the main parameters	

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	used for determining that specific advertising is to be displayed to them, providing meaningful explanations of the logic used to that end, including when this is based on profiling. The parameters shall include, if applicable, the optimisation goal selected by the advertiser, information on the use of custom lists and in such case – the category and source of personal data uploaded to the online platform and the legal basis for uploading this personal data pursuant to Regulation (EU) 2016/679, information on the use of lookalike audiences and in such case – relevant information on the seed audience and an explanation why the recipient of the advertisement has been determined to be part of the lookalike audience, meaningful information about the online platform's algorithms or other tools used to optimise the delivery of the advertisement, including a specification of the optimisation goal and a meaningful explanation of reasons why the online platform has decided that the optimisation goal can be achieved by displaying the advertisement to this recipient. The requirements of this Regulation on the provision of information relating to advertisement is without prejudice to the application of the relevant provisions of Regulation (EU) 2016/679, in particular those	

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	regarding the right to object, automated individual decision-making, including profiling and specifically the need to obtain consent of the data subject prior to the processing of personal data for targeted advertising. Similarly, it is without prejudice to the provisions laid down in Directive 2002/58/EC in particular those regarding the storage of information in terminal equipment and the access to information stored therein.	
(53) Given the importance of very large online platforms, due to their reach, in particular as expressed in number of recipients of the service, in facilitating public debate, economic transactions and the dissemination of information, opinions and ideas and in influencing how recipients obtain and communicate information online, it is necessary to impose specific obligations on those platforms, in addition to the obligations applicable to all online platforms. Those additional obligations on very large online platforms are necessary to address those public policy concerns, there being no alternative and less restrictive measures that would effectively achieve the same result.	**DE** *(Drafting)*: […] in influencing how recipients obtain and communicate information online **and what products they consume**, it is necessary […]	**DE** *(Comments)*: The impact on consumption by very large online platforms should also be mentioned (e.g. relating to the risk that they encourage consumption of products that are not in line with environmental regulation).

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(54) Very large online platforms may cause societal risks, different in scope and impact from those caused by smaller platforms. Once the number of recipients of a platform reaches a significant share of the Union population, the systemic risks the platform poses have a disproportionately negative impact in the Union. Such significant reach should be considered to exist where the number of recipients exceeds an operational threshold set at 45 million, that is, a number equivalent to 10% of the Union population. The operational threshold should be kept up to date through amendments enacted by delegated acts, where necessary. Such very large online platforms should therefore bear the highest standard of due diligence obligations, proportionate to their societal impact and means.	**SE** *(Drafting)*: Once the number of recipients of a platform reaches a significant share of the Union population, the systemic risks the platform poses may have a disproportionate~~ly negative~~ impact in the Union. **NL** *(Drafting)*: Very large online platforms may cause societal risks, different in scope and impact from those caused by smaller platforms. Once the number of recipients of a platform reaches a significant share of the Union population, the systemic risks the platform poses ***can*** have a disproportionately negative impact in the Union. Such significant reach should be considered to exist where the number of recipients exceeds an operational threshold set at 45 million, that is, a number equivalent to 10% of the Union population. The operational threshold should be kept up to date through amendments enacted by delegated acts, where necessary. Such very large online platforms should therefore bear the highest standard of due diligence obligations, proportionate to their societal impact and means	**SE** *(Comments)*: Sweden suggests a clarification in this recital, as very large onlineplatforms do not exclusively have negative impacts (although those are the ones addressed in this regulation). **NL** *(Comments)*: It is not a given that once a platform reaches a certain size it will have a negative impact. The drafting suggestion is merely meant to clarify this. We do not (yet) support defining the method for determining the amount of users via a delegated act. Before we will consider this further we want more guidance from the Commission about the way it envisions defining what a monthly active recipient is, and how it will determine an average, for example **DE** *(Comments)*: In our view, the reference only to very large platforms is too narrow. There are a lot of upcoming “niche platforms” that do have a heavy impact at least on specific areas (bubbles) without having 45 million. monthly active recipients in the EU already.

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(55) In view of the network effects characterising the platform economy, the user base of an online platform may quickly expand and reach the dimension of a very large online platform, with the related impact on the internal market. This may be the case in the event of exponential growth experienced in short periods of time, or by a large global presence and turnover allowing the online platform to fully exploit network effects and economies of scale and of scope. A high annual turnover or market capitalisation can in particular be an indication of fast scalability in terms of user reach. In those cases, the Digital Services Coordinator should be able to request more frequent reporting from the platform on the user base to be able to timely identify the moment at which that platform should be designated as a very large online platform for the purposes of this Regulation.	**HU** *(Drafting)*: In those cases, the Digital Services Coordinator should be able to request more frequent reporting from the platform on the user base to be able to timely identify the moment at which that platform should be designated as a very large online platform for the purposes of this Regulation. **The platform shall share these reports with the Digital Services Coordinator.**	**HU** *(Comments)*: In our view, it is needed to mention here, that the platform needs to be cooperative with the Digital Services Coordinator.
(56) Very large online platforms are used in a way that strongly influences safety online, the shaping of public opinion and discourse, as well as on online trade. The way they design their services is generally optimised to benefit their often advertising-driven business models and can cause societal concerns. In the absence of effective regulation and enforcement, they can	**SE** *(Drafting)*: Very large online platforms **can be** ~~are~~ used in a way that **affects** ~~strongly influences~~ **the enjoyment of fundamental rights**, safety ~~online~~, the shaping of public opinion and discourse, as well as ~~on~~ online trade. The**IR** ~~way they~~ design ~~their services~~ is generally optimised to benefit ~~their often~~ advertising-driven business	**SE** *(Comments)*: Sweden insists that we express this in a more balanced and neutral manner. **FR** *(Comments)*: Les autorités françaises souhaite indiquer que l'examen des risques, prévue au moins une fois par an, doit également se faire en cas d'atteinte

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set the rules of the game, without effectively identifying and mitigating the risks and the societal and economic harm they can cause. Under this Regulation, very large online platforms should therefore assess the systemic risks stemming from the functioning and use of their service, as well as by potential misuses by the recipients of the service, and take appropriate mitigating measures.	models and can cause societal concerns. ~~In the absence of e~~ **E**ffective **and human rights based** regulation and enforcement~~, they can set the rules of the game, without~~ **is necessary in order to** effectively identify~~ing~~ and mitigat**E**~~ing~~ the risks and the societal and economic harm **that may arise** ~~they can cause~~. Under this Regulation, very large online platforms should therefore assess the systemic risks stemming from the functioning and use of their service, as well as by potential misuses by the recipients of the service, and take appropriate mitigating measures. **FR** *(Drafting)*: (56) Very large online platforms are used in a way that strongly influences safety online, the shaping of public opinion and discourse, as well as on online trade. The way they design their services is generally optimised to benefit their often advertising-driven business models and can cause societal concerns. In the absence of effective regulation and enforcement, they can set the rules of the game, without effectively identifying and mitigating the risks and the societal and economic harm they can cause. Under this Regulation, very large online platforms should therefore assess the systemic risks stemming from the functioning and use of their service, as well as by potential misuses by	potentiellement rapide et à grande échelle à la sécurité des utilisateurs, pour prendre en compte certains phénomènes. The French authorities would like to point out that the risk assessment, which is to be carried out at least once a year, must also be carried out in the event of a potentially rapid and wide threat to the online safety of recipients of the service, public opinion and discourse, as well as on online trade, in order to take certain phenomena into account. **DE** *(Comments)*: The environment should also be mentioned (e.g. in regard to products sold on platforms that offer transactions). In our view it cannot be left primarily to the very large online platforms to assess systemic risks stemming from the functioning and use of their service and take appropriate mitigating measures. It is the task of the legislator and government authorities to identify risks for the society and individuals and decide on the appropriate action. The draft lacks provisions in this regard and leaves too much room for decision making with the platforms.

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	the recipients of the service, and take appropriate mitigating measures. This risk assessment must be carried out at least once a year and as soon as there is a potentially rapid and wide threat to the online safety of recipients of the service, public opinion and discourse, as well as on online trade. **DE** *(Drafting)*: […] the shaping of public opinion and discourse, **the environment**, as well as […]	
(57) Three categories of systemic risks should be assessed in-depth. A first category concerns the risks associated with the misuse of their service through the dissemination of illegal content, such as the dissemination of child sexual abuse material or illegal hate speech, and the conduct of illegal activities, such as the sale of products or services prohibited by Union or national law, including counterfeit products. For example, and without prejudice to the personal responsibility of the recipient of the service of very large online platforms for possible illegality of his or her activity under the applicable law, such dissemination or activities may constitute a significant systematic risk where access to such content may be amplified through accounts with a particularly wide reach. A second category	**AT** *(Drafting)*: (57) Three categories of systemic risks should be assessed in-depth. A first category concerns the risks associated with the misuse of their service through the dissemination of illegal content, […]. For example, and without prejudice to the personal responsibility of the recipient of the service of very large online platforms for possible illegality of his or her activity under the applicable law, […]. A second category concerns the impact of the service on the exercise of fundamental rights, as protected by the Charter of Fundamental Rights, including […]. Such risks may arise, for example, in relation to the design of the algorithmic systems […]. A third category of risks concerns the intentional and, oftentimes, coordinated	**BG** *(Comments)*: Подкрепяме становището на Словакия ,че предвид, че въздействието на услугата върху упражняването на основните права е много широко дефинирано и създава впечатление, че на много големите платформи в своите оценки на риска е оставено да определят кои права за коя ситуация са нарушени следва или да се помисли за по-задълбочено обяснение как много голяма платформа трябва да оценява нарушението на основните права, което да се отрази и в чл. 26. We support Slovakia's view that, given that the impact of the service on the exercise of fundamental rights is very broadly defined and gives the impression that very large platforms

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concerns the impact of the service on the exercise of fundamental rights, as protected by the Charter of Fundamental Rights, including the freedom of expression and information, the right to private life, the right to non-discrimination and the rights of the child. Such risks may arise, for example, in relation to the design of the algorithmic systems used by the very large online platform or the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition. A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform's service, with a foreseeable impact on health, civic discourse, electoral processes, public security and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or incompatible with an online platform's terms and conditions.	manipulation of the platform's service, with a foreseeable impact on health, civic discourse, electoral processes, public security **consumer protection** and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the creation of fake accounts, **deceptive manipulation of consumer behaviour,** the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or incompatible with an online platform's terms and conditions. **SE** *(Drafting)*: Three categories of systemic risks should be assessed in-depth. A first category concerns the risks associated with the misuse of their service through the dissemination of illegal content, such as the dissemination of child sexual abuse material or illegal hate speech, and the conduct of illegal activities, such as the sale of products or services prohibited by Union or national law, including counterfeit products. For example, and without prejudice to the personal responsibility of the recipient of the service of very large online platforms for possible illegality of his or her activity under the applicable law, such	are left to determine for themselves in their risk assessments which rights have been violated and in which situation, the need for a more in-depth explanation should be considered as to how a very large platform should assess the violation of fundamental rights. This explanation should be also reflected on in art. 26. **SE** *(Comments)*: **SE** is of the view that article 23 of the Charter should be emphasized, i.e. that equality between women and men (namely gender equality) must be ensured. **FR** *(Comments)*: *Cf. infra* observations à l'article 26(1). See comments on Article 26(1) below.

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	dissemination or activities may constitute a significant systematic risk where access to such content may be amplified through accounts with a particularly wide reach. A second category concerns the impact of the service on the exercise of fundamental rights, as protected by the Charter of Fundamental Rights, including the freedom of expression and information, the right to private life, the right to non-discrimination, the right to gender equality and the rights of the child. Such risks may arise, for example, in relation to the design of the algorithmic systems used by the very large online platform or the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition. A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform's service, with a foreseeable impact on health, civic discourse, electoral processes, public security and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or	

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	incompatible with an online platform's terms and conditions. **FR** *(Drafting)*: (57) Three categories of systemic risks should be assessed in-depth. A first category concerns the risks associated with the misuse of their service through the dissemination of illegal content, such as the dissemination of child sexual abuse material or illegal hate speech, and the conduct of illegal activities, such as the sale of products or services prohibited by Union or national law, including counterfeit products. For example, and without prejudice to the personal responsibility of the recipient of the service of very large online platforms for possible illegality of his or her activity under the applicable law, such dissemination or activities may constitute a significant systematic risk where access to such content may be amplified through accounts with a particularly wide reach. A second category concerns the impact of the service on the exercise of fundamental rights, as protected by the Charter of Fundamental Rights, including the freedom of expression and information, the right to private life, the right to non-discrimination, ~~and~~ the rights of the child, the right to protection of intellectual property and the guarantee of a high level of consumer protection. Such risks may arise, for example, in relation to the design	

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	of the algorithmic systems used by the very large online platform or the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition. A third category of risks concerns the sometimes intentional and, oftentimes, coordinated dissemination of disinformation or manipulation of the platform's service, with a foreseeable impact on health, ~~civic discourse~~ fundamental rights, electoral processes, public security and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or incompatible with an online platform's terms and conditions.	
(58) Very large online platforms should deploy the necessary means to diligently mitigate the systemic risks identified in the risk assessment. Very large online platforms should under such mitigating measures consider, for example, enhancing or otherwise adapting the	**BG** *(Drafting)*: …, **HU** *(Drafting)*: Very large online platforms should deploy the necessary means to diligently **and to the best of their ability** mitigate the systemic risks	**HU** *(Comments)*: In order to truly mitigate the systematic risks by the very large online platforms, they have to act not just diligently but to the best of their ability. **SK** *(Comments)*: *We are not sure how the primary interest of*

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design and functioning of their content moderation, algorithmic recommender systems and online interfaces, so that they discourage and limit the dissemination of illegal content, adapting their decision-making processes, or adapting their terms and conditions. They may also include corrective measures, such as discontinuing advertising revenue for specific content, or other actions, such as improving the visibility of authoritative information sources. Very large online platforms may reinforce their internal processes or supervision of any of their activities, in particular as regards the detection of systemic risks. They may also initiate or increase cooperation with trusted flaggers, organise training sessions and exchanges with trusted flagger organisations, and cooperate with other service providers, including by initiating or joining existing codes of conduct or other self-regulatory measures. Any measures adopted should respect the due diligence requirements of this Regulation and be effective and appropriate for mitigating the specific risks identified, in the interest of safeguarding public order, protecting privacy and fighting fraudulent and deceptive commercial practices, and should be proportionate in light of the very large online platform's economic capacity and the need to avoid unnecessary restrictions on the use of their	identified in the risk assessment. **PL** *(Drafting)*: Very large online platforms should deploy the necessary means to diligently mitigate the systemic risks identified in the risk assessment. Very large online platforms should under such mitigating measures consider, for example, enhancing or otherwise adapting the design and functioning of their content moderation, algorithmic recommender systems and online interfaces, so that they discourage and limit the dissemination of illegal content, adapting their decision-making processes, or adapting their terms and conditions. They may also include corrective measures, such as discontinuing advertising revenue for specific content, or other actions, such as improving the visibility of authoritative information sources. Very large online platforms should ~~may~~ reinforce their internal processes or supervision of any of their activities, in particular as regards the detection of systemic risks. They should ~~may~~ also initiate or increase cooperation with trusted flaggers, organise training sessions and exchanges with trusted flagger organisations, and cooperate with other service providers, including by initiating or joining existing codes of conduct or other self-regulatory measures. Any measures adopted should respect the due diligence requirements of	*„safeguarding public order "(referred to in recital 58 in relation to art. 27) matches the legal basis of article 114 TFEU (as stated in the preamble) which is in principle aimed at proper functioning of the internal market and its economic conditions. We need to make sure that the proposal is not declared invalid due to improper legal basis.* **PL** *(Comments)*: Very large online platforms – here we are referring to social networks - should make a greater effort to combat harmful content, including disinformation.

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service, taking due account of potential negative effects on the fundamental rights of the recipients of the service.	this Regulation and be effective and appropriate for mitigating the specific risks identified, in the interest of safeguarding public order, protecting privacy and fighting fraudulent and deceptive commercial practices, and should be proportionate in light of the very large online platform's economic capacity and the need to avoid unnecessary restrictions on the use of their service, taking due account of potential negative effects on the fundamental rights of the recipients of the service.	
(59) Very large online platforms should, where appropriate, conduct their risk assessments and design their risk mitigation measures with the involvement of representatives of the recipients of the service, representatives of groups potentially impacted by their services, independent experts and civil society organisations.		
(60) Given the need to ensure verification by independent experts, very large online platforms should be accountable, through independent auditing, for their compliance with the obligations laid down by this Regulation and, where relevant, any complementary	**NL** *(Drafting)*: (…) They should give the auditor access to all relevant data necessary to perform the audit properly**, *<u>including access to algorthmic recommender systems and algorithms.</u>*** *(…)*	**DK** *(Comments)*: In order to promote legal clarity it should be elaborated what specific requirements the organization must meet in order to comply with the obligation to be independent. A description of what circumstances may lead to the

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commitments undertaking pursuant to codes of conduct and crises protocols. They should give the auditor access to all relevant data necessary to perform the audit properly. Auditors should also be able to make use of other sources of objective information, including studies by vetted researchers. Auditors should guarantee the confidentiality, security and integrity of the information, such as trade secrets, that they obtain when performing their tasks and have the necessary expertise in the area of risk management and technical competence to audit algorithms. Auditors should be independent, so as to be able to perform their tasks in an adequate and trustworthy manner. If their independence is not beyond doubt, they should resign or abstain from the audit engagement.		conclusion that an organization is not independent from the VLOP concerned would also be appropriate. **NL** *(Comments)*: To ensure the auditors can assess the influence of algorthmic recommender systems and algorithms on the systemic risks a very large online platform poses they need access to those systems. This drafting suggestion is meant to clarify that this access should be provided.
(61) The audit report should be substantiated, so as to give a meaningful account of the activities undertaken and the conclusions reached. It should help inform, and where appropriate suggest improvements to the measures taken by the very large online platform to comply with their obligations under this Regulation. The report should be transmitted to the Digital Services Coordinator of establishment and the Board without delay,		

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together with the risk assessment and the mitigation measures, as well as the platform's plans for addressing the audit's recommendations. The report should include an audit opinion based on the conclusions drawn from the audit evidence obtained. A positive opinion should be given where all evidence shows that the very large online platform complies with the obligations laid down by this Regulation or, where applicable, any commitments it has undertaken pursuant to a code of conduct or crisis protocol, in particular by identifying, evaluating and mitigating the systemic risks posed by its system and services. A positive opinion should be accompanied by comments where the auditor wishes to include remarks that do not have a substantial effect on the outcome of the audit. A negative opinion should be given where the auditor considers that the very large online platform does not comply with this Regulation or the commitments undertaken.		
(62) A core part of a very large online platform's business is the manner in which information is prioritised and presented on its online interface to facilitate and optimise access to information for the recipients of the service.		**EL** *(Comments)*: *Recital 62 does not specify whether Recommender systems used by very large online platforms applies only to the information they display on their interface or to the ads they*

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This is done, for example, by algorithmically suggesting, ranking and prioritising information, distinguishing through text or other visual representations, or otherwise curating information provided by recipients. Such recommender systems can have a significant impact on the ability of recipients to retrieve and interact with information online. They also play an important role in the amplification of certain messages, the viral dissemination of information and the stimulation of online behaviour. Consequently, very large online platforms should ensure that recipients are appropriately informed, and can influence the information presented to them. They should clearly present the main parameters for such recommender systems in an easily comprehensible manner to ensure that the recipients understand how information is prioritised for them. They should also ensure that the recipients enjoy alternative options for the main parameters, including options that are not based on profiling of the recipient.		*display on them*.
(63) Advertising systems used by very large online platforms pose particular risks and require further public and regulatory supervision on account of their scale and ability to target and	**AT** *(Drafting)*: (63) Advertising systems used by very large online platforms pose particular risks and require further public and regulatory supervision	**SK** *(Comments)*: *We would suggest that Rec. 63 would explicitly state that it (and related Art. 30) relates to all kind of advertisement and sponsored content*

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reach recipients of the service based on their behaviour within and outside that platform's online interface. Very large online platforms should ensure public access to repositories of advertisements displayed on their online interfaces to facilitate supervision and research into emerging risks brought about by the distribution of advertising online, for example in relation to illegal advertisements or manipulative techniques and disinformation with a real and foreseeable negative impact on public health, public security, civil discourse, political participation and equality. Repositories should include the content of advertisements and related data on the advertiser and the delivery of the advertisement, in particular where targeted advertising is concerned.	on account of their scale and ability to target and reach recipients of the service based on their behaviour within and outside that platform's online interface. Very large online platforms should ensure public access to repositories of advertisements displayed on their online interfaces to facilitate supervision and research into emerging risks brought about by the distribution of advertising online, for example in relation to illegal advertisements or manipulative techniques and disinformation with a real and foreseeable negative impact on public health, public security, civil discourse, political participation, **consumer protection** and equality. Repositories should include the content of advertisements and related data on the advertiser and the delivery of the advertisement, in particular where targeted advertising is concerned.	*including political advertisement.* **FR** *(Comments)*: See Article 30 (3) and (4) below.
	FR *(Drafting)*: [After recital 63] (63a) Very large online platforms generally associate advertisements with content uploaded by users, for example by inserting an advertisement before or during a video content uploaded by a user, or by interweaving this advertisement between several non-advertising pieces of content. This practice allows for	**FR** *(Comments)*: See Article 30 (3) and (4) below

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	advertisements to be associated with illegal content or content that violates the terms and conditions, even though the DSA aims to prevent such content from appearing on the services it regulates. This situation is problematic in three respects. First, it can lead, when advertising revenues are shared with content authors, to advertising financing illegal content or content that violates the terms and conditions. On the other hand, in order to increase their advertising revenues, platforms may be encouraged, through their prescription and recommendation mechanisms, to promote illicit content or content that is contrary to the general terms of use, given that such content is often the one that generates the most engagement, reactions or sharing; the economic model of financing through advertising may thus indirectly contribute to the promotion of illicit or otherwise undesirable content for profit-making reasons. Finally, the fact that their advertisements are associated with illicit or undesirable content that is prohibited by the platform's terms and conditions considerably damages the brand image of the buyers of advertising space. To prevent this type of abuse, very large online platforms should ensure that the content to which they associate advertisements is indeed	

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	legal, and more generally, complies with their general terms of use. In order to be fully effective, this guarantee should be given contractually to the purchasers of advertising space, who will be able, in the event of a breach, to seek compensation from the platform for the damage to their brand image, thus contributing to the fight against the financing and distribution of illegal content. Given the power of the very large platforms, which does not allow their partners to effectively negotiate the content of contracts, it is appropriate to require that such a clause be systematically included in contracts for the sale of advertising space. In addition, given the issues listed above, the very large online platforms should allow advertisers to have access to the results of audits carried out independently on the evaluation of commitments and tools in terms of "brand safety".	
(64) In order to appropriately supervise the compliance of very large online platforms with the obligations laid down by this Regulation, the Digital Services Coordinator of establishment or the Commission may require access to or reporting of specific data. Such a requirement may include, for example, the data necessary to assess the risks and possible harms brought about by the platform's systems, data on the accuracy, functioning and testing of algorithmic		**BG** *(Comments)*: Считаме за необходимо да бъде детайлна уредба в съображението и съответно в чл. 31 чие задължение е ангажирането и съответно – сключването на договор с анализаторите, на които се осигурява достъп до информацията – на самата платформа или на някой друг, напр. координаторът на цифровите услуги? Този въпрос е относим и

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systems for content moderation, recommender systems or advertising systems, or data on processes and outputs of content moderation or of internal complaint-handling systems within the meaning of this Regulation. Investigations by researchers on the evolution and severity of online systemic risks are particularly important for bridging information asymmetries and establishing a resilient system of risk mitigation, informing online platforms, Digital Services Coordinators, other competent authorities, the Commission and the public. This Regulation therefore provides a framework for compelling access to data from very large online platforms to vetted researchers. All requirements for access to data under that framework should be proportionate and appropriately protect the rights and legitimate interests, including trade secrets and other confidential information, of the platform and any other parties concerned, including the recipients of the service.		към евентуалната обективност и безпристрастност на извършваните анализи. We consider it necessary to detail the regulation in the recital and respectively in art. 31 so that it becomes clear whose obligation it is to engage and, accordingly, to conclude a contract with the vetted researchers, who are provided with access to the information - of the platform itself or of someone else, e.g. the Digital Services Coordinator? This issue is also relevant to the possible objectivity and impartiality of the analyzes performed. **DE** *(Comments)*: The approval process for "vetted researchers" must be practical and not too bureaucratic. The requirement of the "proven records of expertise in the fields related to the risks investigated or related research methodologies" seems problematic (see below article 31). In this context, the freedom of research has to be guaranteed and alternative instruments to limit abuse, in particular of personal data, should be examined.
(65) Given the complexity of the functioning of the systems deployed and the systemic risks they present to society, very large online platforms should appoint compliance officers,		

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which should have the necessary qualifications to operationalise measures and monitor the compliance with this Regulation within the platform's organisation. Very large online platforms should ensure that the compliance officer is involved, properly and in a timely manner, in all issues which relate to this Regulation. In view of the additional risks relating to their activities and their additional obligations under this Regulation, the other transparency requirements set out in this Regulation should be complemented by additional transparency requirements applicable specifically to very large online platforms, notably to report on the risk assessments performed and subsequent measures adopted as provided by this Regulation.		
(66) To facilitate the effective and consistent application of the obligations in this Regulation that may require implementation through technological means, it is important to promote voluntary industry standards covering certain technical procedures, where the industry can help develop standardised means to comply with this Regulation, such as allowing the submission of notices, including through application programming interfaces, or about the		

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interoperability of advertisement repositories. Such standards could in particular be useful for relatively small providers of intermediary services. The standards could distinguish between different types of illegal content or different types of intermediary services, as appropriate.		
(67) The Commission and the Board should encourage the drawing-up of codes of conduct to contribute to the application of this Regulation. While the implementation of codes of conduct should be measurable and subject to public oversight, this should not impair the voluntary nature of such codes and the freedom of interested parties to decide whether to participate. In certain circumstances, it is important that very large online platforms cooperate in the drawing-up and adhere to specific codes of conduct. Nothing in this Regulation prevents other service providers from adhering to the same standards of due diligence, adopting best practices and benefitting from the guidance provided by the Commission and the Board, by participating in the same codes of conduct.		**BG** *(Comments)*: Бихме желали ЕК да поясни своите виждания при така формулирания текст в съображението относно доброволността на кодексите за поведение дали и с какви мотиви платформите биха поели допълнителни задължения. We would like the EC to clarify its views, given the proposed wording of the recital, on the voluntariness of the codes of conduct, including whether and for what reasons the platforms would take on additional obligations.

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(68) It is appropriate that this Regulation identify certain areas of consideration for such codes of conduct. In particular, risk mitigation measures concerning specific types of illegal content should be explored via self- and co-regulatory agreements. Another area for consideration is the possible negative impacts of systemic risks on society and democracy, such as disinformation or manipulative and abusive activities. This includes coordinated operations aimed at amplifying information, including disinformation, such as the use of bots or fake accounts for the creation of fake or misleading information, sometimes with a purpose of obtaining economic gain, which are particularly harmful for vulnerable recipients of the service, such as children. In relation to such areas, adherence to and compliance with a given code of conduct by a very large online platform may be considered as an appropriate risk mitigating measure. The refusal without proper explanations by an online platform of the Commission's invitation to participate in the application of such a code of conduct could be taken into account, where relevant, when determining whether the online platform has infringed the obligations laid down by this Regulation.	**SE** *(Drafting)*: This includes coordinated operations aimed at amplifying information, including disinformation, such as the use of bots or fake accounts ~~for the creation of fake or misleading information~~, sometimes with a purpose of obtaining economic gain, which are particularly harmful for vulnerable recipients of the service, such as children. ~~The refusal without proper explanations by an online platform of the Commission's invitation to participate in the application of such a code of conduct could be taken into account, where relevant, when determining whether the online platform has infringed the obligations laid down by this Regulation.~~ **SK** *(Drafting)*: *It is appropriate that this Regulation identifies certain areas of consideration for such codes of conduct. In particular, risk mitigation measures concerning specific types of illegal content should be explored via self- and co-regulatory agreements. Another area for consideration is the possible negative impacts of systemic risks on society and democracy, such as disinformation or manipulative and abusive activities. This includes coordinated operations aimed at amplifying information, including*	**DK** *(Comments)*: As we understand, the participation in codes of conduct is voluntary. Thus, we find that the wording of the last sentence of the recital 68 can lead to the conclusion that the participation is in fact binding/mandatory. If participation is voluntary and the VLOP adheres to all legal requirements in the DSA, then it should be stressed, that the refusal to participate in the code of conduct, should not be taken into account when determining whether the VLOP has infringed the obligations in the DSA. **BG** *(Comments)*: В съображение (67) се казва, че The Commission and the Board should encourage the drawing-up of codes of conduct to contribute to the application of this Regulation. Кодексите се изготвят от самите платформи и са изцяло доброволни. В този смисъл се получава неяснота как ЕК би могла да прикани дадена платформа **да се включи** към определен кодекс, като това е ангажимент на платформата. Recital 67 states that the Commission and the Board should encourage the drawing-up of codes of conduct to contribute to the application of this Regulation. The codes are developed by the platforms

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	disinformation, such as the use of bots or fake accounts for the creation of fake or misleading information, sometimes with a purpose of obtaining economic gain, which are particularly harmful for vulnerable recipients of the service, such as children. In relation to such areas, adherence to and compliance with a given code of conduct by a very large online platform may be considered as an appropriate risk mitigating measure. ~~The refusal without proper explanations by an online platform of the Commission's invitation to participate in the application of such a code of conduct could be taken into account, where relevant, when determining whether the online platform has infringed the obligations laid down by this Regulation.~~	themselves and are entirely voluntary. In this sense, it is unclear how the EC could invite a platform to join a particular code, as this is a commitment of the platform. **SE** *(Comments)*: Sweden strongly suggests not using terminology such as "fake information" as this is often used to undermine fundamental rights, but rather to use the appropriate term for incorrect or misleading information – disinformation. In this case though, there is no need to repeat what is already said right before. We also suggest the deletion of the last part of this recital, as it renders in fact a voluntary measure mandatory, which creates a risk for fundamental rights by regulating content that is not manifestly illegal. **SK** *(Comments)*: *We suggest deleting the last sentence because it might deny or weaken the voluntary nature of codes of conduct declared in Rec. 67.* **DE** *(Comments)*: The draft provides for self- and co-regulatory agreements with regard to risk mitigation measures. But fundamental risks may also require regulation (not just self- and co-regulation). It is the task of the legislator and government

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		authorities to identify risks for the society and individuals and decide on the appropriate action. The draft lacks provisions in this regard and leaves too much room for decision making with the platforms (see above).
(69) The rules on codes of conduct under this Regulation could serve as a basis for already established self-regulatory efforts at Union level, including the Product Safety Pledge, the Memorandum of Understanding against counterfeit goods, the Code of Conduct against illegal hate speech as well as the Code of practice on disinformation. In particular for the latter, the Commission will issue guidance for strengthening the Code of practice on disinformation as announced in the European Democracy Action Plan.		
(70) The provision of online advertising generally involves several actors, including intermediary services that connect publishers of advertising with advertisers. Codes of conducts should support and complement the transparency obligations relating to advertisement for online platforms and very large online platforms set out in this Regulation in order to provide for flexible		

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and effective mechanisms to facilitate and enhance the compliance with those obligations, notably as concerns the modalities of the transmission of the relevant information. The involvement of a wide range of stakeholders should ensure that those codes of conduct are widely supported, technically sound, effective and offer the highest levels of user-friendliness to ensure that the transparency obligations achieve their objectives.		
(71) In case of extraordinary circumstances affecting public security or public health, the Commission may initiate the drawing up of crisis protocols to coordinate a rapid, collective and cross-border response in the online environment. Extraordinary circumstances may entail any unforeseeable event, such as earthquakes, hurricanes, pandemics and other serious cross-border threats to public health, war and acts of terrorism, where, for example, online platforms may be misused for the rapid spread of illegal content or disinformation or where the need arises for rapid dissemination of reliable information. In light of the important role of very large online platforms in disseminating information in our societies and across borders, such platforms should be encouraged in drawing		**BG** *(Comments)*: Считаме за удачно текстът да се редактира като да се посочи по-ясно кой ще има отговорност за изготвяне на протоколите – ЕК или платформите. Бихме желали ЕК да поясни мотивите си защо протоколите не са задължителни, както и тези за освобождаването от задължения на платформите, посочени в последното изречение на рецитала. We consider it appropriate to edit the text so as to indicate more clearly who will be responsible for drafting the protocols - the Commission or the platforms. We would like the Commission to clarify its reasons why the protocols are not mandatory, as well as those for the e exception from liability of the platforms mentioned in the

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up and applying specific crisis protocols. Such crisis protocols should be activated only for a limited period of time and the measures adopted should also be limited to what is strictly necessary to address the extraordinary circumstance. Those measures should be consistent with this Regulation, and should not amount to a general obligation for the participating very large online platforms to monitor the information which they transmit or store, nor actively to seek facts or circumstances indicating illegal content.		last sentence of the recital.
HAVE ADOPTED THIS REGULATION:		

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Chapter III **Due diligence obligations for a transparent and safe online environment**		**HU** *(Comments)*: General comment: Chapter III prescribes the legal concept that providers must remove illegal content in justified, effective and transparent manner.However we would like to note, that those contents which are not published due to filtering of algorithms should have similar protection. The rules, algorithms and procedures should be made transparent. **SK** *(Comments)*: *We welcome the asymmetric obligations imposed on different types of digital intermediary service providers according to their impact on society and individuals as well as their ability (financial, administrative) to bear associated risks.* *Nevertheless, we see some correlated risks associated, such as transfer and dissemination of illegal content to less regulated platforms or slower innovation rate growth of platforms (a motivation to stay below thresholds). We hence support a further dialogue on the regulatory burden in order adjust the proportionality of the proposal, but only to the extent that the achievement of the initial objectives would not be undermined.*

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		CZ *(Comments)*: General comments: **CZ** welcomes the asymmetric due diligence obligations on different types of digital service providers and prefers to keep these provisions in the text. **CZ** would not support potential requests to enlarge the scope of this Regulation to harmful content for two reasons: One is this goes against our beliefs on the functioning of the digital Single Market. The second is **CZ** strongly believes reaching a compromise on the definition of harmful content on the EU scale is highly unlikely and even if so, the practical problems deriving from such a decision would outweigh the possible benefits of this Regulation as such. In order to avoid lengthy discussion and leading this proposal away from its rightful intentions, **CZ** suggest to avoid this discussion altogether. **CZ** has done a mapping of the reporting obligation for online platforms and we find this to be disproportionately excessive (articles 13, 23, 28, 30, 33, 37, 41). We are ready to discuss this when we examine the text again.

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	AT *(Drafting)*: **Article 9a** **Exclusion for non-public business services** **The provisions of this Chapter shall not apply to intermediary services that are only provided to a strictly limited number of business clients with no third party effects.**	**AT** *(Comments)*: Many quite burdensome provisions seem to aim on services offered to the public. Of those Articles, only some of them are excluded for small and micro enterprises. Art. 10 to Art. 12, Art. 14 and Art. 15 would apply to very small hosting providers, that are not even publicly accessible. It is therefore reasonable to exclude services that are not public and only adress business clients.
Section 1 **Provisions applicable to all providers of intermediary services**		**FR** *(Comments)*: Pursuant to the French authorities' proposal to include search engines in the intermediary services category, this section shall also apply to search engines.
Article 10 *Points of contact*		**ES** *(Comments)*: We welcome this obligation. One of the biggest challenges for competent sectoral authorities emitting content withdrawal orders consists in identifying the service provider. **NL** *(Comments)*: We are considering the option of obligating Member States' authorities to use these points of contacts as their only allowed route for giving notices to providers of intermediary services.

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		This will make it easier for those providers to identify which notices are from public authorities for example. We reserve the right to make a drafting suggestion for this purpose in the future **DE** *(Comments)*: We advocate for an obligation of the provider to appoint domestic contact persons in every MS it operates in, e.g. authorised agents for legal proceedings. This is crucial e.g. to make it easier for citizens to bring disputes with "their" providers before independent courts. A regulatory model could be Article 29 sec 4 Directive (EU) 2015/2366.
1. Providers of intermediary services shall establish a single point of contact allowing for direct communication, by electronic means, with Member States' authorities, the Commission and the Board referred to in Article 47 for the application of this Regulation.	**IT** *(Drafting)*: 1. Providers of intermediary services shall establish a single point of contact ***and declare the name of responsible and a valid physical address*** allowing for direct communication, by electronic means, with Member States' authorities, the Commission and the Board referred to in Article 47 for the application of this Regulation. **FR** *(Drafting)*: 1. Providers of intermediary services shall establish a single point of contact allowing for	**IT** *(Comments)*: In our opinion, the objective of making the data concerning the service provider public and easily accessible does not seem to be achieved. The notification of the order could be problematic. Provider data is often obscured by cyberlocking and the notification becomes onerous and difficult. It does not seem sufficient to establish a generic contact point, a more stringent registration obligation or at least to declare the name of a physical person and a valid physical address in the EU would be necessary.

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	direct communication~~, by electronic means,~~ with Member States' authorities, the Commission and the Board referred to in Article 47 for the application of this Regulation.	**EE** *(Comments)*: Does the current wording of article 10 (1) exclude the possibility for the Member States' authorities to use the single point of contacts of the providers of intermediary services for the aim of communication needed to prevent an infringement in accordance with Member States' legal systems as referred to in the article 3(3), article 4(2) and article 5(4) (i.e. in the Estonian context not only to send orders to remove illegal content, but also notices, recommendations, and warnings according to the Law Enforcement Act for example in the case of necessity to prevent uploading of illegal content)? **NL** *(Comments)*: The term 'by electronic means' leaves room for interpretation for intermediaries. Shouldn't additional guarantees or minimum standards be built in so that the point of contact can be properly engaged when necessary? **FR** *(Comments)*: Les autorités françaises ne souhaitent pas restreindre la communication avec le point de contact désigné par le fournisseur, aux seuls moyens électroniques. D'une part, cela pourrait être interprété trop strictement (ex. n'incluant que certains moyens à la discrétion de l'opérateur, tel qu'une messagerie instantanée).

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		D'autre part, il peut être nécessaire dans certains cas urgents ou graves de contacter l'opérateur par d'autres moyens. The French authorities do not want to restrict communication with the point of contact designated by the provider to electronic means only. On the one hand, this could be interpreted too strictly (e.g. including only certain means at the discretion of the operator, such as instant messaging). On the other hand, it may be necessary in some urgent or serious cases to contact the operator by other means. **DE** *(Comments)*: We are wondering what the single point of contact's (main) purpose would be: - It is unclear for us whether it is meant to be established as a contact and partner only for authorities or also for citizens. The reference to "professional entities with a special relationship with the provider of intermediary services" in recital 36 is a bit blurry in this regard. - Also, the precise function of the point of contact remains unclear. Is it supposed to be a mere postbox or should it communicate with authorities and which authorities (also enforcement and justice?)? We advocate for clarifications in this regard. In our view an obligation of the "single point of contact" to answer in a meaningful way within a given time

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		limit should be established. The establishment of a "point of contact" is also required by other legal acts under European law, e.g. the regulation on preventing the dissemination of terrorist content online (TCO). Having this in mind, we wonder whether it is sufficient for providers to establish only one "single point of contact" for the purposes of various legal acts.
2. Providers of intermediary services shall make public the information necessary to easily identify and communicate with their single points of contact.	**AT** *(Drafting)*: 2. Providers of intermediary services shall make public the information necessary to easily identify and communicate with their single points of contact**, including name, address, electronic mail address and telephone number**. **DK** *(Drafting)*: **2. Providers of intermediary services shall make public the information necessary to easily identify and communicate with their single points of contact. The information shall be easily accessible.** **IT** *(Drafting)*: 2. Providers of intermediary services shall make public ***and publicly available in a specific***	**DK** *(Comments)*: Such information should not only be made public, but should also be easily accessible. **IT** *(Comments)*: **IT** proposes to refer to a specific section of the website, in order to guarantee the widest knowledge of the information. **NL** *(Comments)*: What does "to make public" mean in this sense. Is that available to the general public? Or should it be read in conjunction with 17 (1) and does it mean towards authorities? Does this article imply that intermediaries should proactively notify the DSC of their point of contact, similarly to article 11(4)?

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	section of their website the information necessary to easily identify and communicate with their single points of contact. **PL** *(Drafting)*: Providers of intermediary services shall make public the information necessary to easily identify and communicate with their single points of contact, including postal address, and ensure that that information is up to date. Providers of intermediary services shall notify that information, including the name, postal address, the electronic mail address and telephone number, of their single point of contact, to the Digital Service Coordinator in the Member State where they are established. **FR** *(Drafting)*: 2. Providers of intermediary services shall ~~make public~~ notify to the Commission/Board [and the Digital Services Coordinator of establishment] the information necessary to easily identify and communicate with their single points of contact. The Commission/Board keep the information updated and available to all the Digital Services Coordinator.	**PL** *(Comments)*: For the sake of transparency Article 10 may be supplemented by an obligation of providers of intermediary services to inform the recipients of their services about the operators of a given service, indicating their postal address. Providing clear information is one of the ways of raising public awareness and media literacy, which is part of the trend towards informed use of the services offered by intermediaries**.** **FR** *(Comments)*: Les autorités françaises souhaitent que le point de contact pour les autorités soit distinct du ou des points de contact prévus pour les utilisateurs du service, afin que les demandes des autorités soient identifiées immédiatement comme telles par les prestataires de services intermédiaires. Elles proposent ainsi que l'identification de ce point de contact ne soit pas rendue publique mais que ses coordonnées soient transmises aux régulateurs (la Commission ou le Board pourrait tenir une liste à jour à disposition des Etats membres). The French authorities ask that a distinction be made between the point of contact for the national authorities and the point(s) of contact for users of the service, so that requests from the authorities are immediately identified as such by

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		the intermediary service providers. They therefore propose that the identification of this point of contact should not be made public, but that its contact details should be notified to the regulators (the Commission or the Board could keep an up-to-date list available to the Member States).
3. 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.	**AT** *(Drafting)*: 3. 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 **English and** 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**, if English is not an official language in that Member State**. **EE** *(Drafting)* 3. 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~~, in addition to an official Union language broadly understood by the largest possible number of Union citizens,	**AT** *(Comments)*: It should be obligatory to at least allow a communication in English. **LU** *(Comments)*: Why did the Commission choose to use the "main establishment" of a provider as the jurisdictional link rather than simple "establishment"? **IT** *(Comments)*: We believe that forcing European authorities to write reports in the language of choice of the marketplaces would be, from a practical standpoint, severely detrimental to the enforcement capabilities of the Member States' authorities, especially in a sector such as Food where, as a matter of fact, marketplaces are not familiar with the legislations of reference (European food quality schemes, labelling and information to consumer, etc.) and reports of

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	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. **LV** *(Drafting)*: Deleted	non-conformity tend to contain a big deal of information and nuanced legal explanations. In order to ensure effective international market controls, it should be made possible, for European national enforcement bodies, to contact foreign operators at least in English language, being the "de facto" international language (which it would not be an excessive burden for the operators as well). **EL** *(Comments)*: *Regarding Art. 10 par. 3, concerning the official language or languages of the Union, which can be used by providers of intermediary services to communicate with their points of contact («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»), we consider that the phrase "and in which language(s) their terms and conditions are available" should be added, as mentioned in recital 33 in the recent proposal for a Regulation of the European Parliament and of the Council on preventing the dissemination of terrorist content online (COM(2018) 640).* **EE** *(Comments)*: We believe that for the purposes of operational communication, the competent authority should

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		be able to communicate in a language most widely understood in the Union. Similar approach is taken in Directive (EU) 2017/1132 as regards the use of digital tools and processes in company law, which states that "*Member States shall at least make the templates available in an official Union language broadly understood by the largest possible number of cross-border users*". **PL** *(Comments)*: 1. With regard to the language in which one can communicate with an intermediary service provider, during the public consultation a number of stakeholders, indicated that, as regards recital 36 and Article 10, there should be an additional requirement for the provider to accept notifications also in English. This issue should be examined, during the negotiations on the DSA, with a view to possibly introducing such a provision. 2. In the case of services provided by very large online platforms, it is necessary to ensure that the user is able to communicate with the service provider in the official language of the country in which the user resides or has permanent residence. Most very large digital platforms already do so and therefore this obligation will not impose an undue burden on the provider of a service which, pursuant to the Regulation,

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		qualifies as a very large online platform. **LV** *(Comments)*: We are concerned about the prerogative of the intermediary service provider to establish a communication regime with public authorities. It should be borne in mind that national authorities are restricted by national legislation when it comes to official decisions like the ones mentioned in Article 8 and 9 and official communication. For instance, in Latvia all official correspondence has to be prepared in official language – Latvian, and this would mean double the burden on authorities to ensure translation. Authorities, especially the ones in small MS, have limited resources and the possibilities for ensuring legal translation in less popular languages vary significantly (automated translation tools cannot be used for official correspondence as for languages like Latvian they do not ensure the quality of translation necessary). There are concerns that potential offenders will be able to use the language aspect to avoid communication with national authorities and to delay investigations. **LV** would prefer this paragraph to be deleted or at least an option should be provided to use a commonly used language that both sides can understand (like English for example).

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		DE *(Comments)*: National authorities may lack the legal basis to work in foreign languages and issue official orders or statements. This problem would be solved if a point of contact is established in every member state. In any case, we wonder what the advantage is of having orders in only one language. It should be possible to use any language spoken in a MS of the EU where the provider operates.
Article 11 *Legal representatives*		**CZ** *(Comments)*: We welcome the obligation for providers which do not have an establishment in the EU but offer services in the EU to have a legal representative. This can help to unify the capacity of EU and non-EU businesses to adequately respond to the authorities and to take responsibility. At the same time, **CZ** would also want to draw attention to the risk of increased administrative burden of the actors in scope of art. 11. 1 as development of the digital services market is fast and the regulation may quickly become obsolete. **CZ** would, therefore, welcome additional assurance based on the impact assessment that the provisions of art. 11 are sufficiently future-proof. **NL** *(Comments)*:

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		NL supports the territorial scope of the proposal, which is not limited to intermediaries that are established within the EU. The government will, however, draw attention to the enforcement possibilities against intermediaries that are not established in the EU. Circumventing the DSA should not only be impossible on paper; it must be possible to prevent it in practice as well. To ensure this goal is met, we are considering a proposal that will introduce 'quality criteria' that legal representatives will have to fulfill. We reserve the right to make drafting suggestion for this purpose in the future. **DE** *(Comments)*: We wonder (mirroring the considerations on Art. 10), whether it is sufficient for providers to establish only one legal representative for the purposes of various legal acts requiring such an establishment under EU law (e.g. TCO regulation).
1. Providers of intermediary services which do not have an establishment in the Union but which offer services in the Union shall designate, in writing, a legal or natural person as their legal representative in one of the Member	**AT** *(Drafting)*: 1. Providers of intermediary services which do not have ~~a~~**an** **main** establishment in the Union but which offer services in the Union shall designate, in writing, a legal or natural person as	**AT** *(Comments)*: This is to address the questions arising from a case where a provider has more than one establishments in the Union, but none of them being the main establishment. See also Art. 16

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States where the provider offers its services.	their legal representative in one of the Member States where the provider offers its services. **PL** *(Drafting)*: 6. Very large online platform defined in art. 25, at the request of the Digital Services Coordinator of the Member States where this provider offers its services, shall designate a legal representative to be bound to obligations laid down in this article	para 1 TCO. **DK** *(Comments)*: As we understand article 11 it applies to all providers of intermediary services established outside the EU but offering services to EU citizens and which have a substantial connection to the Union. In order to promote legal certainty we find it necessary to define more specifically in the regulation what 'significant number of users' and 'targeting activities towards one or more Member States' constitutes in this regard (definition from article 2 (d)). **EL** *(Comments)*: *As stated in recital 37, legal representatives can function as points of contact. For reasons of clarity, we consider that this shall be imprinted also to the article.* *As noted in our comment in recital 37, we believe that the fact that two or more providers can designate the same legal representative, which was cleared in the 26th.1.21 meeting, must be also written in the article.* *We would also like to point out that there is no provision in the article as to whether a third country provider has not appointed a legal representative. Article 40 refers to the case where the provider fails to appoint a legal representative (it is specifically stated which*

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		coordinator is then in charge), however we believe that, for reasons of equality with European providers, the possibility of not appointing a legal representative should not be allowed. **PL** *(Comments)*: Member States should be given the power to compel very large online platforms, which provide social network services, to set up a representative on their territory. This representative would act as a link between the service provider and the users and authorities of the Member State concerned. The establishment of a representative in each Member State would significantly improve communication with the service provider. The absence of such a provision will make it significantly more difficult to supervise and enforce compliance with the obligations imposed on online platforms, and will consequently lead to unjustified discrimination between service recipients from countries where service providers will not have a representative. **DE** *(Comments)*: We wonder, how this obligation can be enforced vis à vis providers from third countries, especially in cases where the provider does not comply with the obligation to designate a legal

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		representative in a Member State. If the obligation is not enforceable, the applicability of the DSA to third-country providers could be undermined.
2. Providers of intermediary services shall mandate their legal representatives to be addressed in addition to or instead of the provider by the Member States' authorities, the Commission and the Board on all issues necessary for the receipt of, compliance with and enforcement of decisions issued in relation to this Regulation. Providers of intermediary services shall provide their legal representative with the necessary powers and resource to cooperate with the Member States' authorities, the Commission and the Board and comply with those decisions.	**LU** *(Drafting)*: 2. Providers of intermediary services shall mandate their legal representatives to be addressed in addition to or instead of the provider by the Member States' **competent** authorities, the Commission and the Board on all issues necessary for the receipt of, compliance with and enforcement of decisions issued in relation to this Regulation. Providers of intermediary services shall provide their legal representative with the necessary powers and resource to cooperate with the Member States' authorities, the Commission and the Board and comply with those decisions.	**BE** *(Comments)*: Should the legal representative be addressed in addition or *instead* of the **provider's contact point**? If in instead of the provider's contact point, there is no mention of language in which communication with the legal representative can be undertaken. We should perhaps **repeat paragraph 3 from Article 10.** **LU** *(Comments)*: Luxembourg suggests a clarification in this paragraph.
	FR *(Drafting)*: 2. (without change) 2a. The requests addressed by the Member States' authorities may be drafted in the official language of the Member State whose authority issues the request; in such case, the legal representative is entitled upon request to a transcription, by said authority, into the	**FR** *(Comments)*: Au contraire des articles 8, 9 et 10, la langue à utiliser pour communiquer avec le représentant légal n'a pas été précisée par la Commission. Il est dès lors proposé d'indiquer que les autorités compétentes des Etats membres peuvent adresser une demande au représentant légal dans la langue de l'Etat où l'autorité est établie, le

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	language declared by the legal representative.	représentant légal étant autorisé à en demander une traduction dans sa langue (reprise de la proposition des autorités françaises pour les articles 8 et 9). In comparison to Articles 8, 9 and 10, the language used to communicate with the legal representative has not been specified by the Commission. It is therefore proposed to indicate that the competent authorities of the Member States may address a request to the legal representative in the language of the State where the authority is established, the legal representative being entitled to ask for a translation into his own language (as proposed by the French authorities for Articles 8 and 9).
3. The designated legal representative can be held liable for non-compliance with obligations under this Regulation, without prejudice to the liability and legal actions that could be initiated against the provider of intermediary services.	**LU** *(Drafting)*: ~~3. The designated legal representative can be held liable for non-compliance with obligations under this Regulation, without prejudice to the liability and legal actions that could be initiated against the provider of intermediary services.~~ **CZ** *(Drafting)*: The designated legal representative can be held liable for non-compliance with obligations under this Regulation, without prejudice to the liability and legal actions that could be initiated against the provider of intermediary services. **While**	**BE** *(Comments)*: What specific obligations of the DSA are to be respected by the legal representative (and can be liable for in case of infringement) that are not obligations to be respected by the provider of intermediary services himself? (non bis in idem principle). **DK** *(Comments)*: As we read the provision, it ensures, that there is a representative in the Union, who can be held liable for non-compliance with the regulation. This is a very important step regarding enforcement of the regulation. However, it

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	acting in accordance with article 11 of this Regulation, the relevant national judicial or administrative authorities should not go beyond what is necessary in order to attain the objectives followed therein. **IT** *(Drafting)*: 3. The designated legal representative ~~***can***~~ ***shall*** be held liable for non-compliance with obligations under this Regulation, without prejudice to the liability and legal actions that could be initiated against the provider of intermediary services.	appears from article 40(3) that all member states shall have jurisdiction if a provider of intermediary services fail to appoint a legal representative. As we read these provisions, they do not limit the providers' access to the Union, if they do not appoint a legal representative – only that all member states has jurisdiction. In this case no one in the Union will be legally responsible for non-compliance. We worry that this can lead to circumvention of the rules. **LU** *(Comments)*: Luxembourg is not convinced that this obligation will be effective in practice. Taking on liability on top of the liability carried by the company seems to be a disproportionate task for honest businesses and their representatives. In any case, rogue actors wishing to circumvent EU rules will not be caught by this obligation either. Further, it remains to be seen to what extent a similar obligation in the Market Surveillance Regulation has proven successful. **CZ** *(Comments)*: As to the obligations for all actors in art. 11.3, **CZ** deems it necessary to clarify ex ante the administrative practice of MS to prevent this provision becoming an invisible barrier to the free provision of digital services. **CZ** businesses have repeatedly informed us that these sort of

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		barriers can be very dissuasive. **CZ** believes these possible barriers are necessary to take into account regardless the origin of the provider. **CZ** believes this is against the nature of DSA. Similarly to our previous comments to articles 6, 8 and 9, **CZ** would like to suggest additional assurance that administrative practice resulting from article 11 is not used as a dissuasive measure against intermediaries. **IT** *(Comments)*: **IT:** under which conditions the designated legal representative can/shall be held liable for non-compliance with obligations? It would be necessary to clarify in order to precise the provision and to strengthen the due diligence required to the legal representative
4. Providers of intermediary services shall notify the name, address, the electronic mail address and telephone number of their legal representative to the Digital Service Coordinator in the Member State where that legal representative resides or is established. They shall ensure that that information is up to date.	**IT** *(Drafting)*: 4. Providers of intermediary services shall notify the name, ***a valid physical*** address, the electronic mail address and telephone number of their legal representative to the Digital Service Coordinator in the Member State where that legal representative resides or is established. They shall ensure that that information is up to date. **PL** *(Drafting)*:	**DK** *(Comments)*: We are worried that these requirements could be circumvented by the use of "shell-companies". In order to prevent this it seems necessary to consider the set up of certain requirements regarding *who* can be notified as legal representative. Especially if the legal responsibility should have any effect in reality. **IT** *(Comments)*: **IT**: a more stringent registration obligation or at

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	Providers of intermediary services shall notify valid identification data, including the name, postal address, the electronic mail address and telephone number of their legal representative to the Digital Service Coordinator in the Member State where that legal representative resides or is established. They shall ensure that that information is up to date. **FR** *(Drafting)*: 4. Providers of intermediary services shall notify the name, address, the electronic mail address and telephone number of their legal representative to the Digital Service Coordinator in the Member State where that legal representative resides or is established and to the Board. They shall ensure that that information is up to date. The Board keep the information updated and available to all the Digital Services Coordinator.	least a valid physical address in the EU would be necessary. **NL** *(Comments)*: Why are the requirements for legal representatives to proactively provide information stricter than those for points of contact in article 10? This confusion is also the reason for our questions on article 10 **PL** *(Comments)*: It should be ensured that only actually existing entities are designated to perform this function in order to enforce compliance with the Regulation of providers of intermediary services which do not have an establishment in the Union but which offer services in the Union. **FR** *(Comments)*: Les autorités françaises estiment que l'obligation de transmettre les coordonnées du représentant légal qu'au seul Etat d'établissement est insuffisante : il convient de prévoir la transmission de ces coordonnées à l'ensemble des autorités des Etats membres en charge de l'application du DSA, afin de fluidifier les échanges mais surtout d'avoir connaissance de la désignation d'un représentant légal et de son lieu d'établissement (pour la bonne application de l'article 40 du DSA notamment). Cette transmission pourrait se faire dans le cadre du

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		Comité. The French authorities consider that the obligation to transmit the details of the legal representative only to the State of establishment is insufficient: provision should be made for the transmission of these details to all the authorities of the Member States responsible for the application of the DSA, in order to facilitate communication and, above all, to ensure that they are aware of the appointment of a legal representative and his place of establishment (in particular for the proper application of Article 40 of the DSA). This transmission could be made within the framework of the Board.
5. The designation of a legal representative within the Union pursuant to paragraph 1 shall not amount to an establishment in the Union.		
Article 12 *Terms and conditions*		**ES** *(Comments)*: "Terms and conditions" should be supervised by competent authorities, including data protection and consumer protection authorities, in the same way that clauses in standard form contracts are controlled in the case of offline activities to detect the possible abusive nature of certain clauses.

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	FR *(Drafting)*: 1. Providers of intermediary services shall ensure that their terms and conditions prohibit the recipients of their services from providing information that is not in compliance with Union law or the law of the Member State where it is made available, and that any additional restrictions that they impose in relation to the use of their service in respect of information provided by the recipients of the service are designed with due regard to their fundamental rights as enshrined in the Charter.. **DE** *(Drafting)*: Article 12 ~~Terms and conditions~~**Content restrictions**	**FR** *(Comments)*: Terms and conditions must include prohibition of content that is contrary to EU or local national law. They may provide for additional restrictions, provided that these restrictions are designed with due regard to fundamental rights.. **DE** *(Comments)*: In general, it is unclear whether Article 12 lays down rules on the limits of contractual terms regarding content restrictions or whether Article 12 stipulates a specific information obligation. In any case, Article 12 rather adresses "content restrictions" than terms and conditions in general. Online platforms usually base their decisions to delete certain content or disable accounts on violations of their own terms and conditions, which they refer to as Community Standards. While Art. 12 puts in place general rules such as freedom from arbitrariness and proportionality of such Community Standards, the DSA nevertheless does not provide for any detailed content rules for the Community Standards of the platforms. Therefore, platforms will continue to be largely "free" to decide which content and accounts they want to block based on the reason of violation of their Community Standards or which content is displayed particularly

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		prominently. We advocate for more procedural and substantive regulatory requirements in this regard, at least for very large online platforms and search engines. The proposal follows a very limited approach which is no longer appropriate given the market power and the massive importance / reach of some providers for the public debate. It needs to be assured that the decision of the providers of hosting services to delete or block a content of a media service provider exercising editorial responsibility over their information does not lead to the unjustified deletion of a content protected by the media freedom and the freedom of expression of the media service provider.
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, 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	**HR** *(Drafting)*: 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, 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,	**BE** *(Comments)*: Given the importance of protecting the freedom of expression and the freedom of information, the DSA should safeguard the right balance between imposing and enforcing substantive obligations by the government and by private companies. The adoption of legislation concerning illegal content clearly is the responsibility of the state. The terms and conditions of intermediary services should be in line with these government rules. Is there a check – a priori or a posteriori - of the terms and conditions?

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available in an easily accessible format.	comprehensible and unambiguous language and shall be publicly available in an easily accessible format. **IT** *(Drafting)*: 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, 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 a specific section of their website*** in an easily accessible format. **FR** *(Drafting)*: ~~1~~2. 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, 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	Are there any conditions/restrictions concerning languages the intermediary should use for the terms and conditions? **HR** *(Comments)*: For the sake of clarity, we propose the addition of the word "comprehensible" in the text of this Paragraph so to ensure that Terms and conditions are written in a manner that would be understood by average recipients of the service, especially consumers. Same obligation of providing "*comprehensive legal information*" is regulated within consumer legislation, e. a. Directive (EU) 2011/83. **SK** *(Comments)*: *We would welcome if the information about content moderation that is currently displayed in terms and conditions could be shown also at more accessible and more user friendly way (for instance "news feed").* **LU** *(Comments)*: We wonder why this Article doesn't address the updating or modifications of terms and conditions, similarly to the Platform-to-Business Regulation? How does this provision link with Article 3 of the P2B Regulation, given that the scopes of actors covered is slightly different? **IT** *(Comments)*: **IT** proposes to refer to a specific section of the

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	unambiguous language and shall be publicly available in an easily accessible format.. **EE** *(Drafting)*: 1. Providers of intermediary services shall include information on any restrictions imposed by law or that they impose in relation to the use of their service in respect of information provided by the recipients of the service, in their terms and conditions. That information shall include a meaningful explanation ~~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. **PL** *(Drafting)*: 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, 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, plain, intelligible and unambiguous language and shall be publicly	website, in order to guarantee the widest knowledge of the information. **EL** *(Comments)*: *We suggest adding to the article the risk assessments prepared by the very large platforms, which in our opinion should be reflected in the terms and conditions, in order to be in line with what is mentioned in the article. 26, par. 2.* **EE** *(Comments)*: The current wording is too broad as to the expected level of detail of the information. Namely, it is unclear whether it is sufficient to state that there are policies/measures/tools in place (YES/NO), or whether the service provider needs to, for example, explain the workings of the content moderation filters. **PL** *(Comments)*: It is important to ensure an effective right of appeal against decisions to remove or disable information provided by a recipient of the service. Therefore, providers of intermediary services should clearly communicate to recipients of their services what content is not acceptable under their terms and conditions and clearly inform of any changes to their rules. Therefore we call for introducing clear obligations for providers of intermediary

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	available in an easily accessible format. **DE** *(Drafting)*: […] It shall be set out in clear and unambiguous language and shall be publicly available in an easily accessible, **comprehensible and machine-readable** format.	services to publish understandable and clear (user-friendly) terms and conditions. **DE** *(Comments)*: Considerung the great importance of providers for the public debate, especially for the noticeability of different opinions and information, it is important how providers handle the information provided by the recipients of the service. This does not only apply for the decision to delete or block information, but also for the way *how* information provided by the recipients of the service are used and published. The obligations in para. 1, re. transparency and tools used for the purpose of content moderation, however, are defined on a *very* general level. These obligations should thus be more precise and less general (e.g. by presumptive/rule examples). The concept of "merely providing information through general terms and conditions" should be reconsidered. Such GTCs, which are agreed between parties to the contract, set out the rights and obligations of the parties, but are not a suitable means of merely providing information. In any case, restrictions of services need a legal base, either provided by contract or law. Does Article 12 implement the obligation to agree such restrictions?

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		We advocate, that the providers' terms and conditions have to specify not only as to how content provided by the recipients of the service is blocked or deleted, but also re. all modalities of the publication of user-provided content (content ranking, date of upload, access restrictions for specific user groups, fact checking references made by the service etc.). For consumer protection purposes the information shall be in any case easily accessible, comprehensible (, see as well Art. 20(4) and Art. 29(1)) and machine-readable. The requirement of readibility by machines should be added to allow scanning by tools for automated contract analysis, especially by consumer protection tools.
2. Providers of intermediary services shall act in a diligent, objective and proportionate manner in applying and enforcing the restrictions referred to in paragraph 1, with due regard to the rights and legitimate interests of all parties involved, including the applicable fundamental rights of the recipients of the service as enshrined in the Charter.	**SE** *(Drafting)*: 2. Providers of intermediary services shall act in a diligent, objective and proportionate manner in applying and enforcing the restrictions referred to in paragraph 1, with due regard to the rights and legitimate interests of all parties involved, including the applicable fundamental rights of the recipients of the service as enshrined in the Charter, in particular the right to freedom of expression, including freedom to hold opinion, and the right to	**ES** *(Comments)*: In particular, freedom of expression could be mentioned as one of the fundamental rights that must be protected by providers. **SE** *(Comments)*: All the rights protected by the Charter are of fundamental value. However, some of them are of more direct importance according to the subjects regulated in the DSA. This applies in particular to the right to freedom of expression,

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	freedom of the arts. **IT** *(Drafting)*: 2. Providers of intermediary services shall act in ~~*a diligent*~~ ***accordance with high industry standards of professional diligence and in an*** objective and proportionate manner ***and shall make best efforts*** in applying and enforcing the restrictions referred to in paragraph 1, with due regard to the rights and legitimate interests of all parties involved, including the applicable fundamental rights of the recipients of the service as enshrined in the Charter. **FR** *(Drafting)*: ~~2~~3. Providers of intermediary services shall enforce the restrictions referred to in paragraph 2 ~~act~~ in a diligent, objective and proportionate manner ~~in applying and enforcing the restrictions referred to in paragraph 1~~, with due regard to the rights and legitimate interests of all parties involved, including the applicable fundamental rights of the recipients of the service as enshrined in the Charter. **EE** *(Drafting)*: 2. Providers of intermediary services shall act in a diligent, objective and proportionate manner in applying and enforcing the restrictions referred to in paragraph 1, with due regard to the rights and legitimate interests of all parties involved,	including freedom to hold opinion, and the right to freedom of the arts. This should be explicitly stated in the article. **CZ** *(Comments)*: Paragraph 2 says that the terms and conditions shall be applied and enforced with regard to the fundamental rights, however, how is it ensured that the terms and conditions themselves respect EU principles? Unless resolved, it creates potential for conflict. **IT** *(Comments)*: In order to ensure consistency and legal certainty, **IT** suggests to align the text with the corresponding wording of Copyright directive. **FR** *(Comments)*: It should be clearly stated that providers of intermediary services must enforce their terms and conditions. **EE** *(Comments)*: All fundamental rights enshrined in the Charter are *applicable* – the issue is which ones are relevant in any given context. This should not be qualified by "applicable". **NL** *(Comments)*: To enforce this article, Authorities will have to carry out substantive assessments whether providers of intermediary services acted

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	including the ~~applicable~~ fundamental rights of the recipients of the service as enshrined in the Charter.	"diligent, objective and proportionate" and with "due regard to the rights and legitimate interests of all parties involved". This forces authorities to interpret the law or the contractual terms in a private law relationship. We question whether authorities should be conferred to what essentially amounts to a judicial power of scrutiny of a judge. At the same time, we recognize the importance of this paragraph. We do not yet have a solution for this but wanted to flag it nonetheless. **DE** *(Comments)*: We wonder how the very general obligations in para. 2 shall be enforced or even examined. In any case we advocate for a representation body in the sense of Article 68 to be able to bring Community Standards before a court.

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	PL *(Drafting)*: **new paragraphs:** 3. Very large online platforms as defined in article 25, should publish their terms and conditions in all official languages of the Union. 4. The Digital Services Coordinator of each Member State has the right to request very large online platforms, to apply measures and tools of content moderation, including algorithmic decision-making and human review reflecting Member State's socio-cultural context. Framework for this cooperation as well as specific measures thereof may be laid down in national legislation and be notified to the European Commission. 3. Notwithstanding the right in article 12(3), the Digital Services Coordinator of each Member State, by means of national legislation, may seek to request from a very large online platform to cooperate with the Digital Services Coordinator of the Member State in question in handling specific legal content removal cases in which there is reason to believe that Member State's socio-cultural context may have played a vital role. **FR** *(Drafting)*: *Article 12a* Providers of website hosting services, domain	**PL** *(Comments)*: Article 12 applies to all intermediate service providers. As regards very large online platforms, we believe the requirements for their terms and conditions should be strengthened. Terms and conditions concerning acceptable and non-acceptable content should not be imposed in an entirely arbitrary manner by providers of intermediary services, and in particular by very large online platforms. The management of content by very large platforms - in this case, social networks - should therefore take into account the socio-cultural context of the user's country, and rules should be available in all official languages of the EU countries at which the service is targeted. **FR** *(Comments)*: The application of the 'traceability of traders' obligation is far too narrow in scope. The "know your business customers" obligations should not be limited to online marketplaces. The provision of illegal digital content inevitably relies on the services of other intermediaries for infrastructure and support, for example, providers of website hosting services, domain registrars/registries or content delivery networks. Therefore, those

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	name registrars and other providers of domain name services to registrants and providers of content delivery networks shall verify the identity of their business customers and shall refrain from providing services to unverified customers. **DE** *(Drafting)*: **Article 12a** **Protection of minors** **1. If a service is primarily aimed at children or adolescents or is used predominantly by children and adolescents, the providers of intermediary services shall explain conditions and restrictions for the use of the service in a way children and adolescents can understand.** **2. The design and online interface of services aimed at children or adolescents or mainly used by children or adolescents must take into account the special needs of children and adolescents.**	intermediaries should also be subject to this obligation. **DE** *(Comments)*: Art. 12 para. 1 stipulates that terms and conditions must be provided in clear and unambiguous language. However, this does not take into account special needs of children or adolescents who will probably face special difficulties understanding legal provisions. The best way to ensure that also children and adolescents comply with terms of use is to ensure that they understand the meaning and the effect of such provisions. Therefore, service providers should be obliged to explain such terms and conditions to minors. The obligation only adresses services primarily aimed at children or adolescents or predominantly used by this group. The special needs of children and adolescents must also be taken into consideration regarding design and online interface.
Article 13 *Transparency reporting obligations for providers of intermediary services*		**HU** *(Comments)*: In addition to micro and small businesses, hosting services and online platforms can also be provided by individuals, typically on a non-profit basis (online forums, clubs, etc.). We believe it would be appropriate to extend the exemptions for micro and small enterprises to

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		them as well. **ES** *(Comments)*: It is considered appropriate to impose the obligation to online intermediaries of publishing annual transparency reports on their content moderation practices, including both illegal content and on the basis of their terms and conditions. **CZ** *(Comments)*: We agree with the general notion of transparency obligations. **CZ** would not support any widening of these obligations as they already constitute a barrier to trade in our view which is at the same time on the verge of respecting the proportionality principle. **NL** *(Comments)*: As a general comment, **NL** is appreciative of and endorses Article 13, in the form of harmonised transparency obligations that apply to all categories of online intermediary services. These obligations provide more insight into the operation of the services and ensure intermediaries must publicly account for the choices made and the policies they enact. More transparency is both the least far-reaching and the most fitting policy intervention. However, we are concerned there may be a

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		possibility of overlap between the transparency obligations and/or comparable requirements under other EU legislative instruments applicable to intermediaries, such as for instance those arising from the Platform-to-Business Regulation. We are still analyzing this and reserve the right to make drafting suggestions in the future if we find there is unjustifiable overlap **DE** *(Comments)*: We support different requirements re. transaction functionalities on the one hand and interaction functionalities on the other hand. The differentiation should create transparency re. all types of functionalities and at the same time take into account the special relevance of fundamental rights of platforms with interaction functions.
		BE *(Comments)*: In order to ensure access for users to a plurality of opinions and content, shouldn't there be also an obligation for the intermediary to make **content of general interest** prominent and easily findable ?
1. Providers of intermediary services shall publish, at least once a year, clear, easily comprehensible and detailed reports on any content moderation they engaged in during the	**IT** *(Drafting)*: 1. Providers of intermediary services shall publish, at least once a year, ***in a specific section***	**IE** *(Comments)*: Steps should be taken to ensure that a duplication of administrative burdens does not

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COMMISSION PROPOSAL	**Drafting**	**Comments**
relevant period. Those reports shall include, in particular, information on the following, as applicable:	***of their website*** clear, easily comprehensible and detailed reports on any content moderation they engaged in during the relevant period. Those reports shall include, in particular, information on the following, as applicable: **FR** *(Drafting)*: 1. Providers of intermediary services shall publish, at least once a year, clear, easily comprehensible and detailed reports ~~on any content moderation they engaged in during the relevant period. Those reports shall~~that include, in particular, information on ~~the following, as applicable:~~	occur for intermediary services when, or if, there are reporting obligations under European sectoral regulations. **DK** *(Comments)*: The provision could advantageously address *where* such reports should be published e.g. in the recital. **SK** *(Comments)*: *SR support all transparency obligations in form of reports. However, it is crucial that the data contained in the reports are precisely defined, indeed meaningful and with accurate and operative content. We would be interested in a more detailed justification of the purpose of the required information.* **IT** *(Comments)*: **IT** proposes to refer to a specific section of the website, in order to guarantee the widest knowledge of the information. It is not clear in which language the annual transparency report should be published. Is the choice of language discretionary? The public's ability to read such reports will depend on the language regime chosen by the platform. **EL** *(Comments)*: *It must be clarified and included in the article where they publish those report (on their site,*

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		terms and conditions etc) **LV** *(Comments)*: The production and publication of annual transparency reports imposes additional administrative burdens on intermediary service providers. Thus, it is important to clearly stipulate in Article 13 the purpose of such transparency reports. At least recital 39 needs to further explain why such a requirement has been introduced and how the authorities will be able to use these transparency reports in the performance of their duties. In addition, it should be made clear where such a transparency report is published, who are the addressees and how authorities will be able to access it. It should be avoided that transparency reports could be misused by abusive users as a guide to circumvent the content moderation system and rules. **DE** *(Comments)*: We wonder why the obligation to publish such reports only on a yearly basis is considered sufficient. We could also imagine such an obligation on a half-yearly basis, as it is established in the German NetzDG. We also wonder about the comparability of such reports and advocate for more specific requirements regarding the content and

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		presentation of the transparency obligation. There may also be place for an implementing act by the Commission to elaborate further on a format. We also support format specifications, such as machine readability. It seems also unclear to us whether MS can request additional reports which seems to be useful.
(a) the number of orders received from Member States' authorities, categorised by the type of illegal content concerned, including orders issued in accordance with Articles 8 and 9, and the average time needed for taking the action specified in those orders;	**LU** *(Drafting)*: (a) the number of orders received from Member States' authorities, categorised by the type of illegal content concerned **where such information is permitted**, including orders issued in accordance with Articles 8 and 9, and the average time needed for taking the action specified in those orders; **FR** *(Drafting)*: ~~(a)~~ the number of orders received from Member States' authorities, including orders issued in accordance with Articles 8 and 9. This information should be categorised by country, by the type of orders, by the type of illegal content ~~concerned, including orders issued in accordance with~~ in relation to Article~~s~~ 8 ~~and 9,~~ and indicate the average time needed for taking the action specified in those orders.~~;~~	**ES** *(Comments)*: Apart from the average response time, the standard deviation should also be published in order to prevent the 'average' hiding delays in response times to CA requests. Reasons for disproportionate delays should also be included. **FI** *(Comments)*: In para 1a), it would be better to speak about "the *median time* needed for taking the action" instead of the "the *average time* needed for taking the action". Measuring average time can be misleading. **SK** *(Comments)*: *What does 'the type of illegal content' mean? Should there be a uniform type classification or a provider will decide about the classification on their own?*

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		We have some reservations about including orders issued in accordance with Article 9 and the compliance of the purpose of provided information and the purpose of transparency reporting declared in Rec. 39. Orders to provide information in Art. 9 do not have to lead to content moderation or any concrete measures taken against recipients of services. How could we benefit from the information on these orders regards the transparency purpose in Rec. 39? Or should be just statistic information? **LU** *(Comments)*: Some authorities prohibit the communication about any orders issued as they could jeopardise ongoing investigations. This potential conflict of obligations for intermediaries should be addressed, particularly since the DSCs will also publish a similar report according to Article 44. **FR** *(Comments)*: S'agissant du (a), il est proposé de préciser les informations demandées par pays, par type d'injonction et, pour l'article 8, par type de contenus illicites concernés. Concerning point (a), we propose to clarify that the information is requested by country, by type of injunction and, for Article 8, by type of illegal content concerned.

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(b) the number of notices submitted in accordance with Article 14, categorised by the type of alleged illegal content concerned, any action taken pursuant to the notices by differentiating whether the action was taken on the basis of the law or the terms and conditions of the provider, and the average time needed for taking the action;	**SK** *(Drafting)*: *(b) the number of notices submitted in accordance with Article 14, categorised by the type of alleged illegal content concerned,* ***the number of notices submitted by trusted flaggers,*** *any action taken pursuant to the notices by differentiating whether the action was taken on the basis of the law or the terms and conditions of the provider****, the share of notices processed by the automated means*** *and the average time needed for taking the action;* **PL** *(Drafting)*: (b) the number of notices submitted in accordance with Article 14, categorised by the type of alleged illegal content concerned, any action taken pursuant to the notices by differentiating whether the action was taken on the basis of the law or the terms and conditions of the provider, and the average and median time needed for taking the action; **FR** (*Drafting*) ~~(b) the number of notices submitted in accordance with Article 14, categorised by the type of alleged illegal content concerned, any action taken pursuant to the notices by differentiating whether the action was taken on~~	**ES** *(Comments)*: It should also state which of the actions used are automated and which ones require human intervention. **FI** *(Comments)*: In para 1b), it would be better to speak about "the *median time* needed for taking the action" instead of the "the *average time* needed for taking the action". Measuring average time can be misleading. **SK** *(Comments)*: *We suggest transferring Art. 13 (1)(b) to Section 2 of Chapter III. It does not apply to all providers of intermediary services (Section 1), but just for providers of hosting services (Section 2).* *What does 'the type of alleged illegal content' mean? Should there be a uniform type classification or a provider will decide about the classification on their own?* *We suggest adding information about notices of trusted flaggers that have special position pursuant Art. 19. We would welcome if the information about processing and decision-making by automated means would not be included only in the notification in Art. 14 (4) (in*

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	~~the basis of the law or the terms and conditions of the provider, and the average time needed for taking the action;~~	*individual cases), but also in transparency reporting (in general evaluation).* **FR** *(Comments)*: Items b), c) and d) of this article relate to reporting on notices received, proactive moderation measures and internal complaint-handling mechanisms. Since these obligations are moved to section 2, so should the reporting on their execution. Moved to Article 21a **PL** *(Comments)*: Requirement to report average time may prove to be an ineffective metric and could encourage platforms to make hasty decisions rather than work expeditiously but carefully. Therefore in view of the fact that the cases to be decided differ from one another, consideration should be given to the possibility of supplementing the reporting also with median time needed for taking the action.
(c) the content moderation engaged in at the providers' own initiative, including the number and type of measures taken that affect the availability, visibility and accessibility of information provided by the recipients of the service and the recipients' ability to provide	**FR** *(Drafting)*: ~~(c) the content moderation engaged in at the providers' own initiative, including the number and type of measures taken that affect the availability, visibility and accessibility of information provided by the recipients of the~~	**BE** *(Comments)*: This provision is crucial in order to ensure an adequate balance in terms of fundamental rights. Indeed, adequate and reinforced transparency measures are essential to allow public authorities to control if the content moderation is realised in

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information, categorised by the type of reason and basis for taking those measures;	~~service and the recipients' ability to provide information, categorised by the type of reason and basis for taking those measures;~~	the respect of the freedom of expression as well as to allow users to effectively exercise their rights of remedies. In this regard, we would like to underline the importance to explicitly report in these transparency report obligations, and behind purely statistics, **the reason and basis for any removal, including when the removal is undertaken by automated tools**. For example, it is of utmost importance for the public authorities to have at their disposal any relevant information in order to examine the controversial removals of Rubens' paintings for nudity and Nick Ut's photo "Napalm Girl" for child pornography and removals of Sinterklaas' photos for racism. We therefore suggest to examine if Art. 13.1.c) is clear enough in this regard when referring to : « *provide information,* ***categorised by the type of reason and basis for taking those measures*** ». **FR** *(Comments)*: Moved to Article 21a
(d) the number of complaints received through the internal complaint-handling system	**PL** *(Drafting)*: (d) the number of complaints received	**DK** *(Comments)*: We fail to see why all providers of intermediary

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referred to in Article 17, the basis for those complaints, decisions taken in respect of those complaints, the average time needed for taking those decisions and the number of instances where those decisions were reversed.	through the internal complaint-handling system referred to in Article 17, the basis for those complaints, decisions taken in respect of those complaints, the average and median time needed for taking those decisions and the number of instances where those decisions were reversed. **FR** *(Drafting)*: ~~(d) the number of complaints received through the internal complaint-handling system referred to in Article 17, the basis for those complaints, decisions taken in respect of those complaints, the average time needed for taking those decisions and the number of instances where those decisions were reversed.~~	services should report on complaints received through the internal complaint-handling system, when only online platforms are required to establish an internal complaint-handling system. We suggest moving this requirement to article 23, which elaborates on transparency obligations for providers of online platforms, hence ensuring legal clarity. **SK** *(Comments)*: *We suggest transferring Art. 13 (1)(d) to Section 3 of Chapter III (Art. 23). It does not apply to all providers of intermediary services (Section 1), but just for online platforms (Section 3).* **PL** *(Comments)*: See comment to Art. 13(1)(b) **FR** *(Comments)*: Moved to Article 21a
2. Paragraph 1 shall not apply to providers of intermediary services that qualify as micro or small enterprises within the meaning of the Annex to Recommendation 2003/361/EC.	**LU** *(Drafting)*: 2. Paragraph 1 shall not apply to providers of intermediary services that **disseminate information to the public and** qualify as micro or small enterprises within the meaning of the Annex to Recommendation 2003/361/EC.	**ES** *(Comments)*: We welcome this exemption for micro and small businesses. **LU** *(Comments)*: We consider that there is a risk that illegal content might "escape" to micro- or small cloud providers with such a blanket exemption. We therefore suggest to limit the derogation for transparency reporting in order cover such

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		intermediary services that might take advantage of the lack of transparency and "attract" illegal content. **IT** *(Comments)*: **IT** can accept to exempt micro and small businesses as far as MSE for their number of users do not fall within the definition of very large online platform. It should be noted that the Commission launched a public consultation in 2018 on revising the Recommendation 2003/361/EC (see https://ec.europa.eu/info/consultations/publicconsultation-review-sme-definition_en). **EL** *(Comments)*: *We consider that the exemption from the transparency reporting obligations of providers of intermediary services that are micro or small enterprises (as defined in Recommendation 2003/361/EC), for reasons of proportionality, is important as they avoid disproportionate burdens (par. 2).* **LV** *(Comments)*: In the context of the aim of this Article it should be assessed whether a more risk based approach would be necessary in determining the exclusions depending on the reach and impact and not on size of the enterprise that can be

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		irrelevant with modern technologies.
	EL *(Drafting)*: (suggested wording) 3. The Commission may adopt implementing acts to lay down templates conserning the form, content and other details ofr reports persuant to paragraph 1. **PL** *(Drafting)*: **New paragraph** 3. The Commission shall adopt delegated acts in accordance with Article 69, after consulting the Board, t lay down specific templates of reports specified in paragraph 1. **FR** *(Drafting)*: *Article 13a* This section shall apply to providers of hosting services, of live streaming platform services and of private messaging services. For the purpose of this section: (a) live streaming platform services shall be defined as information society services of which the main or one of the main purposes is to give the public access to audio or video material that is live broadcasted by its users, which it organises and promotes for profit-making purposes. (b) private messaging services shall be defined	**EL** *(Comments)*: *We consider that it should be examined the addition of α provision according to which the Commission shall have the right to adopt implementing acts to lay down templates concerning the form, content and other details of the reports (as in Art. 23 par. 4 for online platforms). This will make possible the faster process of the reports (possibly using mechanical-automated methods) and also the horizontal comparison per service sector, between specific types of harmful content (such as misinformation).* **L** *(Comments)*: Reporting strengthens the transparency of platforms in terms of their content moderation practices. At the same time, we are of the view that this obligation should be proportional. The reports should be standardised and driven by the need to monitor the obligations imposed on intermediaries under the DSA. Templates and publication procedure of the reports referred to in Article 13 should be standardised at EU level, in order to make it possible to compare the performance of providers in different Member States and to facilitate analysis and collection of data

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	as number-independent interpersonal communications services as defined in Article 2(7) of Directive (EU) 2018/1972, excluding transmission of electronic mail as defined in Article 2 (h) of Directive 2002/58/EC. *Article 13b* *Exclusion for micro and small enterprises* Except for Articles 14 and 15, This Section shall not apply to online platforms that qualify~~ies~~ or, where relevant, belongs to an undertaking that qualifies as a micro or small enterprise~~s~~, within the meaning of the Annex to Recommendation 2003/361/EC, and which provide their services to a number of average monthly active recipients of the service in the Union lower than 5 million, calculated in accordance with the methodology set out in the delegated acts referred to in article 25, paragraph 3. For the purposes of this article, an undertaking means all linked enterprises or connected undertakings that form a group through the direct or indirect control of an enterprise or undertaking by another and that are engaged in an economic activity, regardless of their legal status and the way in which they are financed.	presented in the reports. In this regard, the Commission should be empowered to design templates for such reports on the basis of delegated acts in accordance with Article 69, after consulting the European Board for Digital Services. Delegated acts should specify what information is required, but all the while ensuring no data which may be used in bad faith by third parties, is made available. It is essential that transparency and reporting obligations do not violate business secrets, confidentiality of commercial contracts and users' privacy and do not lead to disclosure of other economically sensitive information. **FR** *(Comments)*: Article 13a : This amendment suggests subjecting 2 new type of actors, which are not hosting providers, to the obligations listed in this section. a) services that provide live-steaming of content provided by users : - These services are covered by the AVMS Directive where video is concerned: they fall under the category of video-sharing platform services (which is not itself a subcategory of hosting services, as “storage” is not required as condition).

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		- These actors already deploy content moderation measures, such as real-time blocking of notified content (or proactively-detected content) or, mainly, suspension of the account of the content's author. b) Messaging services, which play a growing role in the dissemination, of illegal and harmful content : - these actors already deploy content moderation measures while preserving the confidentiality of communications (such as allowing users to notify to the messaging service content which they have received, which is thus no longer covered by confidentiality of communications, in order to allow the service, after examination of the notified content, to suspend the sender's account and/or contact public authorities). It should be clearly stated that messaging services do not include emails, which have no place in this regulation. Messaging and live-streaming services could thus be subjected to obligations to provide notification mechanisms, which would not lead to content removal (although the blocking of live-streaming could be feasible and useful in certain situations) but to other measures, such as account suspension. Article 13b: As in article 16.

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		The French authorities propose adding an audience criterion (as in Article 25), which remains the most relevant in the digital environment. The purpose of this criterion is to ensure that small platforms with a large audience, which raise issues in terms of content moderation, are covered by the obligations in this section. The exemption also includes criteria provided for in article 1 of the DMA, in order to prevent small enterprises belonging to significantly-sized groups from benefiting the exemption.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
Section 2 **Additional provisions applicable to providers of hosting services, including online platforms**	**IT** *(Drafting)*: ADDITIONAL PROVISIONS APPLICABLE TO PROVIDERS OF *CACHING AND* HOSTING SERVICES, INCLUDING ONLINE PLATFORMS **FR** *(Drafting)*: **SECTION 2** **ADDITIONAL PROVISIONS APPLICABLE TO PROVIDERS OF HOSTING SERVICES, INCLUDING ONLINE PLATFORMS, AND TO PROVIDERS OF LIVE STREAMING PLATFORM SERVICES AND OF PRIVATE MESSAGING SERVICES**	**DK** *(Comments)*: It is very important to ensure legal clarity regarding which requirements are applicable to which services. In the current proposal, it is unclear whether domain name administrators are solely considered as providers of intermediary services or whether they can also be considered as providers of hosting services in the remit of the DSA. We would suggest to further clarify in a recital what is understood by a "hosting service", perhaps as an extention of recital 13 which clarifies the term "online platform". **LU** *(Comments)*: We agree that harmful (but legal) content justifies a more nuanced approach than illegal content. Such harmful content needs to be balanced with the protection of freedom of expression and other fundamental rights, and often put into specific contexts, which is not required for illegal content (if it's illegal, it's illegal). Any attempts at defining harmful content EU-wide would fail and therefore we support the approach taken not to include harmful content in this Regulation. **IT** *(Comments)*: **IT**: Change in line with the proposal regarding article 4, par. 1 e "the provider acts

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		expeditiously to remove or to disable access to the information it has stored ***upon obtaining actual knowledge of the fact that information at the initial source of the transmission are illegal or related to illegal activities, or upon obtaining actual awareness of facts or circumstances from which the illegality of the same informations is apparent,or*** upon obtaining actual knowledge of the fact that the information at the initial source of the transmission has been removed from the network, or access to it has been disabled, or that a court or an administrative authority has ordered such removal or disablement. “ **FR** *(Comments)*: *see infra 13a*
Article 14 *Notice and action mechanisms*		**BE** *(Comments)*: **Territorial scope** Concerning the territorial scope of this provision, we would like to have more clarity on the substantial connection with EU. Indeed, besides cross-border orders issued by competent authorities, the cross-border nature of notifications issued by users are also crucial and raise the following questions : - Illegal content published by an EU citizen

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		and addressed to EU citizens. May a Russian citizen notify to Facebook Ireland this illegal content in accordance to this Article? In accordance with Article 1.3, this instrument is limited to any EU user and cannot therefore apply to this example. Is this interpretation correct? - More importantly, may an EU citizen notify an illegal content published by a US citizen and addressed to US citizens as soon as they are disseminated within the EU? **Obligation to remove a content** This provision does not provide for an obligation to remove an illegal content. It refers, in Article 14.3 to the exemption of liability (which may fall in case of actual knowledge) . We would like to have more information on the **consequences in case of no follow-up** (i.e. the intermediary decides not to give effect to the notice and not to remove the content). - As it is the case when the content is removed, shouldn't the entity/individual notifying the content **be informed of the reasons** why it was given **no effect to its notice**? - Will there be an opportunity for competent authorities to check this decision not to take down the content (and maybe decide there

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		IS an illegality, contrary to what the provider has decided)? In addition, what legal basis should be examined by the provider in order to consider a content as illegal or not? The legal basis applicable in the country of the entity or individual notifying the content? Where the illegality takes place? Where the intermediary is established? **Notion of illegal content** It is of crucial importance to avoid imposing a provider itself to come to decisions on legally complex questions and, in doing so, turn itself into a judge of online legality. This decision on the illegal nature of a content should remain within the exclusive competence of a competent public authority. We are wondering whether this idea is stated clearly enough, in particular in this Article and whether it would not be useful to clarify that the assessment realised by the provider is aimed to determine if the content should **be *considered* as illegal**. Moreover, we need to further examine the possible role of competent authorities to review alleged illegal content when so decided by the intermediary. In addition, we should ensure that the user has at his disposal **adequate and relevant reviews** with regard to the decision

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		taken by the provider. **Retention of removed content** We note that Article 7 of TCO Regulation usefully relates to the preservation of content and related data which are necessary for remedies as well as the prevention, detection, investigation and prosecution of criminal offences. Why isn't there something similar in the DSA to be applicable to any content removal, whether it is through N&A, voluntary measures or orders pursuant to Article 8? **DK** *(Comments)*: From the Danish side we support the obligations in article 14 to put notification mechanisms in place and in article 15 that the hosting service informs the recipient of the service of its decision to remove or disable access to content including the reasons for making this decision. **ES** *(Comments)*: The establishment of rules that harmonize notice and action mechanisms for all hosting providers (including file storage services, web hosting services, or ad servers), not only online platforms, is positively valued. **SK** *(Comments)*: *We support closer regulation of the adoption of measures for hosting service providers.*

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		However, we dare to emphasize that the current framework of the assessment of the criteria for illegal content is predominately in the hands of intermediary service providers: It raises some concerns about preserving the objectivity of assessment of legality of the content, or to preserve the freedom of speech. It is not sufficiently clear how balanced the process of content removal (evaluation / argumentation) might be in accordance with the Regulation, and which criteria will be decisive, either formally or in terms of content. It is questionable whether there won´t be an overproportionate or excessive online content removal from the side of the providers. *E.g. the Article 14 could explicitly mention a possibility to consult appropriate authority in member state or any other relevant body in case of any doubts in assessing the illegality of the content.* *We would equally welcome if the art. 14 contained a duty to remove content which was identified as illegal in all member states that deem this content as illegal.* **CZ** *(Comments)*: **CZ** supports increasing the efficiency of the fight against illegal content by clarification of the obligations of online platforms in order to

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		ensure, above all, an adequately quick response of platforms against identified illegal content. In this context, **CZ** supports the obligation to introduce adequate mechanisms for the reporting of illegal content on platforms by users. Only content that is manifestly and evidently illegal should be removed. **CZ** would not support substantial provisions going beyond the proposed text. **NL** *(Comments)*: **NL** is positive about the harmonisation of a notice & action mechanism (N&A). It is a well-known fact that self-regulation mechanisms have not always been sufficiently effective for users in this respect. Therefore, we support the intention of providing users of intermediaries with more transparency, legal certainty and rights with regard to the moderation of content by intermediaries. **DE** *(Comments)*: We wonder why the mechanism established by Art. 14 only counts for "illegal content" and not also for violations of Community Standards. Even if a content is not illegal, it can be harmful and recipients should have a possibility to ask the provider to delete the harmful content based on its Community Standards. Different reporting channels, one for illegal content and one for

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		harmful content, should be avoided. In addition to the notice and action mechanism and with respect to offers of illegal products, providers of e-commerce platforms and market places should also be obliged to notify the digital services coordinators. They could then forward the information about the illegal product and contact details of the retailer to the respective competent national authorities. The notification obligation would thus ensure that these illegally traded products can be seized and all other necessary enforcement measures can be taken by the competent authorities. This would significantly facilitate the implementation and enforcement of the DSA, as it would reduce the likelihood that the illegally traded products are offered on another platform or under another name shortly afther the removal of an illegal offer. Simply deleting the illegal posts is not enough. Authorities must be put in a position to acutally remove the illegally traded products from the market. In doing so, one key incentive for using the internet for illegal trade would be removed. If such a reporting obligation should not be made mandatory in the DSA, MS should at least have the right to provide for such an obligation under national law.

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1. Providers of hosting services shall put mechanisms in place to allow any individual or entity to notify them of the presence on their service of specific items of information that the individual or entity considers to be illegal content. Those mechanisms shall be easy to access, user-friendly, and allow for the submission of notices exclusively by electronic means.	**IT** *(Drafting)*: 1. Providers of hosting services shall ***make best efforts to expeditiously*** put mechanisms in place to allow any individual or entity to notify them of the presence on their service of specific items of information that the individual or entity considers to be illegal content. Those mechanisms shall be easy to access, user-friendly, **timely**, and allow for the submission of notices exclusively by electronic means. **FR** *(Drafting)*: 1. Without prejudice to the application of Articles 8 and 9, p~~P~~roviders referred to in Article 13a ~~of hosting services~~ [without change] **DE** *(Drafting)*: […] Those mechanisms shall be easy to access, user-friendly, and allow for the submission of notices exclusively by electronic means~~.~~ **and in the language of every Member State, the provider operates in.**	**DK** *(Comments)*: It is important that the notification mechanisms in art 14 are easy to access and user friendly. We find that the terms "easy to access" and "user friendly" should be specified and defined (i.e. in the recitals) with inspiration from behavioral science and user experience design. We regret that the Commission has chosen not to set clearly defined timeframes for acting on notifications on illegal content. We would further prefer to have two sets of timelines with a shorter timeframe for high impact content. In this regard, we are also concerned that the DSA will not adequately address the fragmentation in national legislation regarding notice and action procedures, if there are not established clear timeframes for acting on notifications. **ES** *(Comments)*: Recital 40 provides the notification of multiple specific items of illegal content through a single notice so as not to overburden the notifying parties. However, it would be desirable to include this provision in this article. **IT** *(Comments)*: In order to ensure consistency and legal certainty

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		IT suggests to align the text with the corresponding wording of Copyright directive. **NL** *(Comments)*: Can government authorities, particularly those with the competence to otherwise order intermediaries to remove content, also make use of these mechanisms? While N&A mechanisms can help to remove illegal content expeditiously, the competences of government authorities generally contain safeguards against misuse that the N&A mechanism does not. This could allow authorities to circumvent the safeguards for their respective competences. **DE** *(Comments)*: Given that the deletion of illegal content depends highly on the users notices, it has to be possible for users to supply notices in their own language. Clarification on this issue is particularly important because the notifications relate to content that is written in the different languages of EU Member States. Limiting the mechanism to just one language would have a deterrent effect, particularly if the reasons for the notice also have to be provided and would lead to a decrease of ambition as it is put in place in some member states already.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
2. The mechanisms referred to in paragraph 1 shall be such as to facilitate the submission of sufficiently precise and adequately substantiated notices, on the basis of which a diligent economic operator can identify the illegality of the content in question. To that end, the providers shall take the necessary measures to enable and facilitate the submission of notices containing all of the following elements:	**SK** *(Drafting)*: *The mechanisms referred to in paragraph 1 shall be such as to facilitate the submission of sufficiently precise and adequately substantiated notices, on the basis of which a diligent* ~~*economic operator*~~***provider of hosting services*** *can identify the illegality of the content in question. To that end, the providers shall take the necessary measures to enable and facilitate the submission of notices containing all of the following elements:* **IT** *(Drafting)*: 2. The mechanisms referred to in paragraph 1 shall be such as to facilitate the submission of sufficiently precise and adequately substantiated notices, on the basis of which a diligent economic operator ***making his best effort*** can identify the illegality of the content in question. To that end, the providers shall take the necessary measures to enable and facilitate the submission of notices containing all of the following elements: **DE** *(Drafting)*: 2. The mechanisms referred to in paragraph 1 shall be such as to facilitate the submission of sufficiently precise and adequately substantiated notices~~, on the basis of which a diligent economic operator can identify the illegality~~	**DK** *(Comments)*: We worry about the smaller businesses. Would it be sufficient for a small company to offer an easily accessible email address that users could utilize for notifications? It might be preferable with proportionality in this regard. We find that the provision lacks a language regime. It is important, that the users know in what language they can submit notices in and that the hosting services know what languages they are expected to handle complaints in. Especially, given the cross-border nature of the services in question. **SK** *(Comments)*: *We do not understand clearly why is there a reference to the general category of 'economy operators' and not just for providers of hosting services. Who exactly is the benchmark category for this consideration?* **LU** *(Comments)*: Can the Commission demonstrate that the listed elements will not result in over-removal (because abusively repetitive notices will be sent or because the intermediary will anticipate notices)? Point (d) requiring the good faith of the notifier seems difficult to enforce. **IT** *(Comments)*:

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	~~**of the content in question.**~~ To that end, the providers shall take the necessary measures to enable and facilitate the submission of notices containing all of the following elements:	In order to ensure consistency and legal certainty **IT** suggests to align the text with the corresponding wording of Copyright directive **DE** *(Comments)*: The requirement of a "sufficiently precise and adequately substantiated notice" seems to work as a barrier against misuse, but could be – at least in individual cases – a huge barrier itself to use the mechanism in the first place. The question arises whether the requirement "on the basis of which a diligent economic operator can identify the illegality of the content in question" is not too high. Does the notification of the individual have comprehensively to contain all relevant legal information, i.e. why a product is not approved for European market and therefore illegal?
(a) an explanation of the reasons why the individual or entity considers the information in question to be illegal content;	**IT** *(Drafting)*: (a) ~~*an*~~ ***a sufficiently substantiated*** explanation of the reasons why the individual or entity considers the information in question to be illegal content;	**DK** *(Comments)*: We support the requirement; however, it is important that this explanation is not interpreted as a requirement to refer to specific, relevant legal provisions or a more formalistic explanation. This is to enable all users to notify specific information.

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(b) a clear indication of the electronic location of that information, in particular the exact URL or URLs, and, where necessary, additional information enabling the identification of the illegal content;	**DK** *(Drafting)*: a clear indication of the electronic location of that information, **for an example** ~~in particular~~ the exact URL or URLs, and, where necessary, additional information enabling the identification of the illegal content; **MT** *(Drafting)*: a clear indication of the electronic location of that information, ~~**in particular**~~ **such as** the exact URL or URLs, and, where necessary, additional information enabling the identification of the illegal content; **IT** *(Drafting)*: (b) a clear indication of ***any relevant and necessary information enabling the identification of the illegal content*** ~~*the electronic location of that information, in particular the exact URL or URLs,*~~ and, where necessary, additional information enabling the identification of the illegal content; **PL** *(Drafting)*: b) a clear indication of the electronic location of that information~~, in particular the exact URL or URLs,~~ and, where necessary and applicable, additional information enabling the identification of the illegal content which shall be appropriate to the type of content and to the	**DK** *(Comments)*: We are worried that the requirement to indicate the exact URL will hamper the effect of the provision significantly. In many cases, it will be impossible for the individual, entity or authority to compile a complete mapping of the exact URL (s) that refer to the illegal information. There will be two main reasons for this: A. The same illegal information can exist on many different URLs. B. The person affected will not always have access to, or knowledge of, the URL. E.g. if the victim does not have a user account for that online platform, or if he or she has been blocked by the recipient of the service disseminating the illegal information. Thus, the lack of referral to the exact URL should not exclude a notification according to the provision as long as the notification provides information enabling the identification of the content concerned. **ES** *(Comments)*: This indent should be redrafted, as to clarify that electronic location or any other information that would reasonably allow identification would be sufficient. URL is not the only possibility, contrary to what the text currently suggests.

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	specific type of intermediary; **FR** *(Drafting)*: (b) a clear indication of the electronic location of that information, for instance~~in particular~~ if relevant the exact URLor URLs or the exact search query and, where necessary, additional information enabling the identification of the illegal content;	**MT** *(Comments)*: Article 14(2) contains a list of elements to facilitate the submission of notices. One of these elements is the 'exact URL' identifying the illegal content. Malta notes that an 'exact URL' might not always be easy to extract from certain online platforms (for instance, a post on a social media 'wall' by a user might not have a publicly extractable URL per se, or else the URL might contain characters that identify unique 'tokens' pertaining to the logged in user only.) When queried, the Presidency's reply (refer to wk04265) suggests that *"As long as a clear indication of the electronic location or any other information that would reasonably allow identification is provided, this would be sufficient. URL is primarily provided as the most common way to identify location of specific information online and has therefore been used the best possible indicator of the electronic location, but it is not the only possibility."* Malta therefore suggests a minor amendment to cater for this. **SK** *(Comments)*: *The indicator of URL could (given the circumstances of digital evolution) change rather quickly (plus the content could in the meantime be moved to another URL), hence it*

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		should be possible to send evidence of illegal content on the platform other than the URL to uniquely identify the illegal content. **RO** *(Comments)*: **RO** considers that the technological requirement of indicating the URL of the illegal listing is not a complete and future-proof solution. Many of the notices today relate to illegal content that is identified on different types of apps (e.g. messaging apps) that do not use URLs. Other ways of identifying the illegal listing's location should be considered. **IT** *(Comments)*: Italy reminds that according to the jurisprudence of the CJEU the indication of the URL is not a clear and certain reference parameter. Also art. 17 of the Copyright Directive in outlining the contours of the responsibility of video sharing platforms does not refer to the URLs. **PL** *(Comments)*: As regards Article 14(2)(b), it should be considered whether a clear indication of the electronic location of the content should take into account the possibility of using other means of identifying non-legal content than just the URL. In this aspect, it was pointed out by a number of entities during the public consultation, that entities with different business

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		models have different experiences with identification of identification of illegal content with URL. For some types of service providers, e.g. online trading platforms, providing the URL is the most effective way to ensure the correct identification of content, while for other types of content the URL may not always be an effective means to fully identify and permanently remove illegal content. Therefore we call for reflection on this matter. The notice enabling the platform to identify illegal content should be appropriate to the type of content and include technology factors. It should also be applicable to the type of intermediary provider that is supposed to remove the content. The technical means of identifying illegal content and its location should be future-proof, bearing in mind possible new developments and innovations in this field. A "one size fits all approach" is not recommended, as it will not enable effective removal of illegal content. Providing the specific URL should be treated as one of the means, but not an obligatory means, of indicating the electronic location or correct identification of the content. The text proposed by the Commission may practically be interpreted as imposing an obligation to indicate the exact URL of each illegal content item in the case of court orders

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		(art.8) and notice mechanisms (art.14). However in cases where a host provider catalogues illegal content, it should be possible to provide the URL to the folder, in case the folder contains only illegal content or in case the vast majority of the content in folder is illegal and indicating the exact URL to every illegal content is not feasible, instead of indicating hundreds of URLs (links) in this folder. In case a website hosts only illegal content, it should be possible to indicate just its domain address (i.e. main URL), without the need to select and indicate hundreds of links for each item of illegal content. This problem has already been identified in the US Copyright Office report of May 2020, Section 512 of Title 17 - regarding the Digital Millennium Copyright Act (https://www.copyright.gov/policy/section512/section-512-full-report.pdf) where the report conclusions state: "The Office concludes that Congress may wish to consider whether the "information reasonably sufficient . . . to locate" provision is appropriately interpreted as requiring that a rights-holder must submit a unique, file-specific URL for every instance of infringing material on an OSP's service." **FR** *(Comments)*: Privilégier une formulation plus générique sans précision de technologie (mention des URL à

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		titre d'exemple). The French authorities suggest using a more generic wording, without referring to specific technological means. URL would then only be mentioned as an example. It should also be possible to notify the localisation of the illicit content through other means, such as stating the specific query in a search bar. This needs to be future proof and technologically neutral which is not the case of URLs. **DE** *(Comments)*: We wonder whether illegal content can only be accessed via URLs and whether this requirement is future proof. In our view, it should be clarified that the URL may not be the only means of identifying illegal content and that other types of information that allow for the identification of illegal content, depending on the type of content and intermediary service used, would suffice.
(c) the name and an electronic mail address of the individual or entity submitting the notice, except in the case of information considered to involve one of the offences referred to in Articles 3 to 7 of Directive 2011/93/EU;		**ES** *(Comments)*: The obligation to include the name of the individual is considered excessive. The email address could be enough. It should be assessed the possibility of having anonymous channels for notifying, without needing to include

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		personal data, with safeguards to avoid the abuse of the system. **NL** *(Comments)*: We are considering the option that would ensure notices can be submitted anonymously. We reserve the right to suggest striking "the name and an (…)" from this subparagraph **LV** *(Comments)*: The provision should provide the possibility for a user to submit the notice from its user profile, the user can be identified without providing additional contact information, thus reducing the burden for both – users and the service provider. Since this provision does not preclude submitting of notices under a fake identity, we do not see a reason why anonymous notices should not be allowed in general and not just in relation to the Directive 2011/93/EU. **DE** *(Comments)*: We welcome the possibility to anonymously submit notices of illegal content in the cases mentioned in point c). However, it should be taken into consideration that there might be more cases where an individual has a legitimate interest to stay anonymous.

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(d) a statement confirming the good faith belief of the individual or entity submitting the notice that the information and allegations contained therein are accurate and complete.	**LV** *(Drafting)*: Deleted	**HR** *(Comments)*: Added value of this Subparagraph in the text of the Regulation proposal is somewhat unclear. Namely, would it be possible to explain the purpose of this Subparagraph? What are the consequences of providing e.g. "incomplete" information by the individual or entity in case they were not aware that the information they provided was incomplete? By adding this provision, the consequences might be such that the entities will be discouraged of providing any information on suspected illegality. Additionally, even if the entity acts against good faith and with the intention of making defamatory or false allegations, there are already adequate criminal sanctions against such actions in all Member States. Therefore, we would consider revising the necessity of adding this Subparagraph to the final text of the Proposal. **LV** *(Comments)*: We do not understand the added value of this statement, considering that individuals or entities can submit notifications on content that they **consider** illegal. The perception of what should or not be illegal varies amongst individuals who do not have legal background, however, individuals should not be discouraged to notify because of lack of legal knowledge.

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	MT *(Drafting)*: **2A. Where the subject-matter of the notice is not in relation to illegal hate speech or terrorist content and unlawful discriminatory content, or activities that are illegal in terms of Union law, such as 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, the provider of hosting services shall immediately inform the recipient of the service who provided the content of the challenge period available to it, which shall be a minimum of five (5) days, within which the recipient of the service may submit its comments and/or arguments, if it feels aggrieved by the notice submitted in terms of paragraph 2, which comments and/or arguments must be considered by the provider of hosting service before deciding the actions to be taken in respect of the content detected, pursuant to Articles 14(5) and 14(6).**	**MT** *(Comments)*: Malta proposes to introduce a challenge period for content that is not classified as one of the matters mentioned in Recital 12. For such content, which may trigger differing interpretations of what constitutes legal or illegal content, it is only fair that the recipient of the service which has provided the content is allowed a period of time within which to bring comments and/or arguments to make their position known and which comments and/or arguments must be taken into consideration by the intermediary service provider when deciding the course of action that should be taken in relation to that content.
3. Notices that include the elements referred to in paragraph 2 shall be considered to	**SE** *(Drafting)*: Notices that include the elements referred to in	**BE** *(Comments)*: For the effectivity of Notice and Action

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give rise to actual knowledge or awareness for the purposes of Article 5 in respect of the specific item of information concerned.	paragraph 2 shall be considered to give rise to actual knowledge or awareness for the purposes of Article 5 in respect of the specific item of information concerned. The knowledge or awareness regarding a specific item of information that has been removed or disabled shall continue to pertain in case the item reappears with the provider. **FR** *(Drafting)*: 3. Notices that include the elements referred to in (a) and (b) of paragraph 2 shall be considered to give rise to actual knowledge or awareness for the purposes of Article 5 in respect of the specific item of information concerned. This should not preclude cases where actual knowledge of illegal activity or information may be otherwise characterized.. **MT** *(Drafting)*: 3. Notices that include the elements referred to in paragraph 2 **and that fall outside of the scope of paragraph 2A** shall be considered to give rise to actual knowledge or awareness for the purposes of Article 5 in respect of the specific item of information concerned. **For notices that are subject to a challenge period in terms of paragraph 2A, actual knowledge or awareness for the purposes of Article 5 shall only be deemed to arise once the**	mechanism, we support the introduction of **a presumption of actual knowledge** when the notice contains all the elements referred to in §2. (as it is currently suggested in the text). **IE** *(Comments)*: The limitation of considerations of elements mentioned in paragraph 2 will allow "an explanation of the reasons why the individual or entity **considers** the information in question to be illegal content" to be sufficient to fix the hosting service with liability. The reference to "sufficiently precise and adequately substantiated notices, on the basis of which a diligent economic operator can identify the illegality of the content in question" is stated with reference to the mechanism which the hosting service is obliged to provide. It is not a qualifier that applies to the content of a valid notice stated in para 2. **ES** *(Comments)*: It is welcomed that article 14.3 clearly establishes that notifications will result in effective knowledge for the services provider. **MT** *(Comments)*: This relates to comment above. **LU** *(Comments)*: Do we understand correctly that a valid notice

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	challenge period has elapsed. **EE** *(Drafting)*: 3. Notices that include at least the elements referred to in points a and b of paragraph 2 shall be considered to give rise to actual knowledge or awareness for the purposes of Article 5 in respect of the specific item of information concerned.	immediately triggers the liability of the intermediary? What safeguards are in place to avoid over-removal in this case? What if the notice fulfills all criteria in paragraph 2 but turns out to concern legal content? What if a valid notice concerns the URL of an entire service/website, how can a provide react proportionately? Does this mean there is a requirement on the intermediary to assess the illegality of the notified content? **CZ** *(Comments)*: Precise and substantiated notices are considered to give rise to knowledge or awareness for the purposes of Article 5, which means that the platform is obliged to act to remove or disable access to the illegal content. After consultation with stakeholders, it is to be expected that platforms will still verify the notices and study the legal regime of a given notice to ensure legal certainty, resulting in increase of compliance costs and weakening of the country of origin principle. **CZ** does not support this paragraph, however, we are willing to accept it as a compromise. **FR** *(Comments)*: a) and b) are the only relevant items listed in paragraph 2 where actual knowledge or awareness of illegal content by the provider is

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		concerned. Therefore, the presumption of actual knowledge should rely only on those items of information. It is also necessary to specify that paragraph 3 provides a simple presumption of knowledge or awareness, and that the provider may obtain actual knowledge or awareness of illegal content even if the notification is incomplete.**EE** *(Comments)*: If allegedly illegal content has been flagged with an explanation and a clear indication of the electronic location is provided, the provider of the hosting service will have actual knowledge. The e-mail address of the sender and the statement confirming good faith serve entirely different purposes. Note the wording in para 4 – „*Where* the notice contains the name and electronic mail address of the individual…“ – this implies that even where this information is not provided, a notice will be and should be reviewed. As a general note of concern - not all hosting service providers have the technical possibilities to act against specific items of illegal content. They can only disable access to the whole service / web page. Under article 5 hosting service providers are obliged to act expeditiously to remove or to disable access to

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		the illegal content. It should be clear from the Regulation that the need to „act expediotiously to remove or to disable access to the illegal content“ does not mean that the hosting service providers is necessarilly themselves obliged to remove or disable access to the content that has been notified as illegaal to them. Service providers like web hosting providers or cloud service providers should have the possibility to ask their client to remove the particular content, so as to prevent and minimise any possible negative effects for the availability and accessibility of information that is not illegal content. **DE** *(Comments)*: What about notices that do not include all elements referred to in para. 2? In our view, it has to be clarified, that para. 3 does not mean, that only notices that include the elements referred to in para. 2 give rise to actual knowledge for the purpose of Article 5. It has to be clarified, that it has to be assessed on a case by case basis whether a notice that does not include the elements referred to in para. 2 give rise to actual knowledge.
4. Where the notice contains the name and an electronic mail address of the individual or	**AT** *(Drafting)*: 4. Where the notice contains the name and	**DK** *(Comments)*: In cases where the user can notify anonymously,

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entity that submitted it, the provider of hosting services shall promptly send a confirmation of receipt of the notice to that individual or entity.	an electronic mail address of the individual or entity that submitted it, the provider of hosting services shall promptly send a confirmation of receipt of the notice**, including a copy of the notice,** to that individual or entity. **HU** *(Drafting)*: Where the notice contains the name and an electronic mail address of the individual or entity that submitted it, the provider of hosting services shall promptly send a confirmation of receipt of the notice **including its content** to that individual or entity. **IT** *(Drafting)*: 4. Where the notice contains the name and an electronic mail address of the individual or entity that submitted it, the provider of ~~*hosting*~~ ***the relevant*** services shall promptly send a confirmation of receipt of the notice to that individual or entity ***within 7 days***. **FR** *(Drafting)*: 4. Where the notice contains ~~the name and an electronic mail address~~ an electronic contact of the individual or entity that submitted it, the provider of hosting services shall promptly send a confirmation of receipt of the notice to that individual or entity.	it should still be required that the provider of hosting services promptly send a confirmation of receipt of the notice, if the user has submitted an e-mail address. This is not reflected in the provision. Specification of the term *"promptly"* would be appropriate, i.e. through exemplifications in the recitals. **HU** *(Comments)*: In our opinion, in a procedure of a data protection authority, it is important to be able to verify what the content of the request was. This also protects the data controller in cases where the data subject refers the matter to the data protection authority, which was not even part of the request. In the event of a legal dispute, the precise wording of this provision is a requirement of legal certainty, in line with the principle of accountability. **ES** *(Comments)*: We do not quite understand this paragraph. If name and address are not provided, there is no obligation to answer as notices should contain all elements in section 2. Therefore, the first part of the paragraph could be deleted. **SK** *(Comments)*: *We miss the obligation to notify also the provider of the content about the notice (if they*

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		are known). Such a provision would introduce an element of procedural justice into the process, e.g. they could react on their own immediately. **IT** *(Comments)*: Italy proposes to create the conditions for a uniform and certain processing of notifications by specifying the number of days within which operators must fulfil. **LV** *(Comments)*: Paragraph 4 gives the impression that the only reason for the complainant to provide its name and e-mail is to receive information that the hosting provider has received the notification. Provision provide the possibility that when a user submits information from its user profile, the user can be identified and receive a confirmation of receipt without providing additional contact information. **FR** *(Comments)*: Il sera parfois possible de contacter l'utilisateur directement via son compte au sein du service, plutôt que par email. It will sometimes be possible to contact the user directly on his service account rather than by email

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5. The provider shall also, without undue delay, notify that individual or entity of its decision in respect of the information to which the notice relates, providing information on the redress possibilities in respect of that decision.	**AT** *(Drafting)*: 5. The provider shall also, without undue delay, notify that individual or entity of its decision in respect of the information to which the notice relates, providing information on the redress possibilities in respect of that decision. **That notification shall be sent within 10 days at the latest after reception of the notice of the individual or entity, if no exceptional circumstances arise.** **SK** *(Drafting)*: *The provider shall also, without undue delay, notify that individual or entity of its decision in respect of the information to which the notice relates~~, providing information on the redress possibilities in respect of that decision.~~* **IT** *(Drafting)*: 5. The provider shall also, ~~*without undue delay*~~ ***within 7 days***, notify that individual or entity of its decision in respect of the information to which the notice relates, providing information on the redress possibilities in respect of that decision. **DE** *(Drafting)*: 5. The provider shall also, without undue delay, notify that individual or entity of its decision in respect of the information to which	**DK** *(Comments)*: Specification of the term *"without undue delay"* would be appropriate, i.e. through exemplifications in the recitals. **ES** *(Comments)*: Maximum response deadlines should be specified, at least, in the case of certain types of illegal content such as child sexual abuse material. **SK** *(Comments)*: *In general, what are redress possibilities for individuals and entities in this case? We do not (preliminary) think that individual or entity can 'complain' against the decision of hosting provider because the evaluation of justification of the notice is in their own disposition. We presume that the Digital Services Coordinators should not be entitled to review the decisions of hosting providers (materially/the result of notice & action mechanism), they should enforce only obligations according the DSA (formally/ the process of notice & action mechanism). If individuals of entities were not satisfied with the result of the process, they could make a complaint to responsible authority (depends on the type of illegal content) – the system is different in different countries, so it might be excessive to require this information from the*

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	the notice relates, providing information on the redress possibilities in respect of that decision **and <u>a clear and specific statement of reasons for that decision.</u>**	*hosting provider.* **CZ** *(Comments)*: **CZ** would welcome if the provider could be also briefly informed about the reasoning behind the decision. **CZ** would welcome a verification that this is covered by article 15. **IT** *(Comments)*: "without undue delay" can determine subjective assessments and vary from platform to platform, from country to country in which the platform operates. Italy proposes to create the conditions for a uniform and certain processing of notifications by specifying the number of days within which operators must fulfil. **EL** *(Comments)*: *A time limit should be set for the notification of providers' decisions to the individuals or entities that submitted the notices as the phrase "without undue delay" is unclear.* **LV** *(Comments)*: This provision does not oblige the service provider to provide a redress possibility, only inform about it, which to our understanding would also include informing that redress possibilities are not provided. If that is the aim of this provision, it should be stated more clearly.

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		DE *(Comments)*: The current draft does not provide for an obligation of the provider to justify decisions **not** to delete a content despite a notice. The notified content will often involve violations of personality rights or product piracy. A statement of reasons can be crucial for individuals to take further action against the illegal content and should thus be obligatory.
6. Providers of hosting services shall process any notices that they receive under the mechanisms referred to in paragraph 1, and take their decisions in respect of the information to which the notices relate, in a timely, diligent and objective manner. Where they use automated means for that processing or decision-making, they shall include information on such use in the notification referred to in paragraph 4.	**IT** *(Drafting)*: 6. Providers of ~~*hosting*~~ ***the relevant*** services shall process any notices that they receive under the mechanisms referred to in paragraph 1, and take their decisions in respect of the information to which the notices relate, in a timely, diligent and objective manner ***within 7 days***. Where they use automated means for that processing or decision-making, they shall include information on such use in the notification referred to in paragraph 4. **FR** *(Drafting)*: 6. Providers of hosting services, of live streaming platform services and of private messaging services shall process any notices that they receive under the mechanisms referred to in paragraph 1, and take their decisions in respect	**BE** *(Comments)*: Should providers of hosting services not include information about the use of automated means for processing notices or decision making, in the notification referred to in **paragraph 5**? No notification is mentioned in paragraph 4. **ES** *(Comments)*: 1. Maximum response deadlines should be specified, at least, in the case of certain types of illegal content such as child sexual abuse material. 2. When a decision to remove illegal information is made, providers of hosting services should prevent the new availability or reappearance of that information. **SK** *(Comments)*: *Could the EC please further specify, what*

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	of the information to which the notices relate or in respect of the recipient of the service who provided this information, in a timely, diligent and objective manner. [Without change] **DE** *(Drafting)*: Providers of hosting services shall process any notices that they receive under the mechanisms referred to in paragraph 1, and take their decisions in respect of the information to which the notices relate, **expeditiously,** in a ~~**timely**~~, diligent and objective manner. **All notices shall be decided within seven days the latest, in case of manifestly illegal content within 24 hours.** Where they use automated means for that processing or decision-making, they shall include information on such use in the notification referred to in paragraph 4. **Micro and small providers of hosting services shall be exempted from the 24 hour time limit.**	*exactly is meant by „automated means „incorporated in articles e.g. 14(6), 15(2)(c), 17(5), 23(1)(c) and rec. 42. Why is this term not formally defined in the regulation and what is its relation to artificial intelligence technology?* *Due to legal certainty (responsible entities, affected users and supervisory authorities) as well as for the sake of subsequent uniform application practice, it preferred to better specify the determination of the response time to take actions against illegal content. We would like to underline the different terminology in this respect that could lead to different interpretation in future application – Art. 14 (5): without undue delay; Art. 14 (6): timely; Art. 5 (1)(b): expeditiously. We would suggest to modify the term "in a timely manner" into more concrete and specific time limit as we all know that the impact that illegal content can have on a user is the highest shortly after it is published. It should be therefore our priority to remove it as soon as possible within given time limit as "in a timely manner" can evoke different interpretation among platforms.* **CZ** *(Comments)*: **CZ** has doubts that "in an objective manner" is an adequate provision to prevent platforms from being "too diligent" and removing content in a preventive fashion. As no explanation on the

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		basis of for example case law has been provided so far, **CZ** would prefer to specify what is meant by "objective". **IT** *(Comments)*: Italy proposes to create the conditions for a uniform and certain processing of notifications by specifying the number of days within which operators must fulfil. What happens if the hosting provider decision is to reject the notice submitted by the individual or entity as set out in paragraph 1? It is unclear what individual or entity may do in that circumstance. Which are the measures to be taken? Technologies can recognize illegal contents already reported and subject to previous notices and actions, therefore the paragraph might provide for stay down measures. This mechanism, if supported by transparent detection technologies, could allow the permanent removal of illegal content that would otherwise continue to recur clogging the detection system. Given the horizontal nature of the DSA, from these mechanisms would benefit the subjects involved (users, suppliers and providers). **EL** *(Comments)*: *We consider it important to set a time limit for*

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		providers of hosting services to make decisions about the information they receive under the Notice and action mechanism as the phrase that providers "...take their decisions in respect of the information to which the notices relate, in a timely, diligent and objective manner" needs clarification **LV** *(Comments)*: Considering the liability imposed by Paragraph 3 of this Article, we do have concerns regarding imposing a content evaluation and decision-making obligation on intermediary service providers since they might not have the relevant competencies or resources to assess whether the content in question is illegal. This aspect might become particularly problematic, for example, when there is a dispute between individuals over intellectual property. In such cases, the decision can often only be made by a court. **FR** *(Comments)*: Dans le cas des services de messagerie et, en général, de streaming, le signalement pourra donner lieu, non à une action sur le contenu, mais à une intervention envers son auteur (ex. suspension de compte). Where messaging and live-streaming services in general are concerned, the notification may lead to intervention against the author of the content

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		(for example, a suspension of his account), rather than an action on the content itself. **DE** *(Comments)*: Specific processing deadlines for the decision process of the platforms are needed. Depending on the size of the service provider, consideration should be given to making differently strict regulations and, if necessary, exceptions, in particular with regard to processing time or reporting obligations, so as not to burden smaller providers disproportionately
	DE *(Drafting)*: **7. Member States, in which the provider operates, may regulate that the notice and action mechanisms must ensure that certain illegal content, like illegal hate speech, is removed or access to it is blocked within their territory.**	**DE** *(Comments)*: Furthermore, MS must be able to regulate that the notice and action mechanisms must ensure that certain illegal content, like illegal hate speech, is removed or access to it is blocked. This has to be clarified in the text (see new para. 7).
Article 15 *Statement of reasons*		**SK** *(Comments)*: *Could the EC specify, in what manner (within uniform approach) should the art. 15 (and art. 14) be supervised by Member States? (which criterion is to be considered for platforms - effectiveness of the systems in place or concrete results/outputs?)*

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COMMISSION PROPOSAL	**Drafting**	**Comments**
1. Where a provider of hosting services decides to remove or disable access to specific items of information provided by the recipients of the service, irrespective of the means used for detecting, identifying or removing or disabling access to that information and of the reason for its decision, it shall inform the recipient, at the latest at the time of the removal or disabling of access, of the decision and provide a clear and specific statement of reasons for that decision.	**AT** *(Drafting)*: 1. Where a provider of hosting services decides to remove or disable access to specific items of information provided by the recipients of the service, irrespective of the means used for detecting, identifying or removing or disabling access to that information and of the reason for its decision, it shall inform the recipient **to which it has a contractual relationship**, at the latest at the time of the removal or disabling of access, of the decision and provide a clear and specific statement of reasons for that decision. **IT** *(Drafting)*: 1. ~~*Where a provider of hosting services*~~ ***Upon receiving sufficiently substantiated notice, the provider shall act expeditiously to verify if it is legally grounded and in case*** decides to remove or disable access to specific items of information provided by the recipients of the service, irrespective of the means used for detecting, identifying or removing or disabling access to that information and of the reason for its decision, it shall inform the recipient, at the latest at the time of the removal or disabling of access, of the decision and provide a clear**,** ***substantiated*** and specific statement of reasons for that decision.	**AT** *(Comments)*: Since there is freedom to contract, a recipient that does not enter a contractual relationship with the provider does not have enforcable rights that its content has to remain on that platform. **FI** *(Comments)*: There is a tension between, 1) treating notices in a timely manner under article 14 and more generally, removing illegal content promptly and 2) drafting a clear and specific statement of reasons for the removal at the latest at the time of the removal of content. Some illegal content (e.g. CSAM) needs to be removed immediately before informing the recipient of the service. In some cases informing the recipient of the service may harm the investigation of a crime. Law enforcement must be taken into account. **SE** *(Comments)*: Question: Does the obligation to inform the recipients also apply in situations when a service is acting based on an order (article 8) or on a decision made by a court or administrative authority (article 5.4)? **LU** *(Comments)*: Do we understand correctly that if an

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	FR *(Drafting)*: 1. Where a provider of hosting services decides to remove ~~or~~, disable access to or otherwise restrict the visibility of specific items of information provided by the recipients of the service, or to suspend or terminate monetary payments related to those items, irrespective of the means used for detecting, identifying or removing ~~or~~, disabling access to or reducing the visibility of that information and of the reason for its decision, it shall inform the recipient, at the latest at the time of the removal or disabling of access or the restriction of visibility or the suspension or termination of monetization, of the decision and provide a clear and specific statement of reasons for that decision.	intermediary decides not to remove or disable access, it doesn't have to provide a statement of reasons? **IT** *(Comments)*: **IT** proposes to better clarify that the motivation must be solid and legally sustainable. Service providers can disable content without first hearing the other interested parties and their reasons. There are pros and cons. Nothing is said about the language of communications **FR** *(Comments)*: The obligation to provide a statement of reasons should not only cover cases where content is blocked or removed, but rather every and any moderation measure that have an impact on the visibility of content, including demonetization. **EL** *(Comments)*: *Regarding the time of information for the removing and disabling access and the provision of statement of reasons to the recipient of service, we believe that a specific period of time should be set, in order to avoid misunderstandings or removing/disabling access for the wrong reasons (probably simultaneously). A brief warning would serve both parties, for example, if the recipient of the service can assess the reasons for the decision and subsequently either comply or refute them,*

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		thus proving to the provider that he was wrong, without having to seek redress in court which is time consuming and costly for both parties. We consider that the absence of a timeline does not provide the necessary security and there are plenty of interpretations that may lead to abuses by providers, so a time period should be specified. **NL** *(Comments)*: It is unclear why this obligation is limited to decisions to remove or disable access to specific items of information, and not extended to situations where the decision is to NOT remove or disable access (so-called "must-carry decisions). We are considering an advice to broaden this obligation to include those "negative" decisions and reserve the right to make a drafting suggestion for this purpose in the future. **PL** *(Comments)*: Article 15 obligation to justify the decision will apply both to content notified under the notice and action procedure and to content that provider of hosting services themselves identify as unlawful, but also - very importantly - contrary to their internal rules, including through the use of automated tools. Poland agrees with this approach, i.e. that the obligation to justify

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		the decision to remove or block content should apply regardless of the grounds for such a decision and regardless of how the platform obtained knowledge of the unlawful nature of the content. **LV** *(Comments)*: The ability to inform the recipient of the service is dependent on the possession of the contact information of the recipient in question. If the provision does not oblige the service provider to always obtain this information, this should be reflected in the text, stating that the recipient is informed where the contact information is available. **DE** *(Comments)*: We wonder, in which language the statement of reason has to be? In case of prior notification, it should be same language of the notice.
	AT *(Drafting)*: **<u>The compliance with an order of a competent authorithy issued in accordance with Article 8 is not a decision of the provider according to this article.</u>**	**AT** *(Comments)*: This is to clarify that if the provider follows a decision of a competent authority according to Article 8, it does not have to submit a statement of reasons to explain a decision that was not taken by the provider.
2. The statement of reasons referred to in paragraph 1 shall at least contain the following information:		**LU** *(Comments)*: We wonder about the burden created for intermediaries that are not “the usual suspects”.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		NL *(Comments)*: The statement of reasons partially overlaps with article 4 of the Platform-to-Business regulation. It is unclear how this article relates to that article in the Platform-to-Business regulation. Which is the lex specialis and in which cases?
(a) whether the decision entails either the removal of, or the disabling of access to, the information and, where relevant, the territorial scope of the disabling of access;	**LU** *(Drafting)*: (a) whether the decision entails either the removal of, or the disabling of access to, the information and, where relevant **in accordance with orders pursuant Article 8(2)(b)**, the territorial scope of the disabling of access; **FR** *(Drafting)*: (a) whether the decision entails either the removal of, ~~or~~ the disabling of access to, the restriction of the visibility of, or the demonetization of the information and, where relevant, the territorial scope of the disabling of access or the restriction;	**IE** *(Comments)*: Where the decision results from investigation of a notice and in other relevant cases, the determination of territorial scope should not be determined by the hosting service but set out in the notice. Under the operation of the Country of Origin principle the hosting service cannot be expected to know how far the territorial extent should extend other than to the Member State in which it is established, the Member of the State of the complainant in the case of a national law or EU wide in the case of a European regulation **LU** *(Comments)*: Providers should not be incited to decide about territorial scopes of removal. If this relates to orders sent by national authorities in accordance with Article 8, then we should say so. **FR** *(Comments)*: The obligation to provide a statement of reasons should not only cover cases where content is

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		blocked or removed, but rather every and any moderation measure that have an impact on the visibility of content, including demonetization.
(b) the facts and circumstances relied on in taking the decision, including where relevant whether the decision was taken pursuant to a notice submitted in accordance with Article 14;	**SK** *(Drafting)*: *(b) ~~the facts and circumstances relied on in taking the decision, including where relevant whether the decision was taken pursuant to a notice submitted in accordance with Article 14;~~*	**IE** *(Comments)*: Should it be made clear that no personal data relating to, or sufficient to identify, the issuer of the notice should be revealed. **SK** *(Comments)*: *Why is it necessary to inform the recipient whether the decision was based on a notice? It is more important to justify the facts based on which the content is deemed to be illegal.* **IT** *(Comments)*: it could be useful to provide that the information is made directly available to individual users and consumers, to strengthen their awareness and protection, taking into account their weakness in the contractual relationship.
(c) where applicable, information on the use made of automated means in taking the decision, including where the decision was taken in respect of content detected or identified using automated means;		**BE** *(Comments)*: It should be specified in the statement of reasons, whether, the removal decision was taken ***solely*** on the basis of automated means or whether there has been human review after such a use.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		In relation with art. 14.6: "information on such use" should also include information of human review. **DE** *(Comments)*: We wonder whether it is sufficient to indicate the use of automated means as such or should there be more details to be reported.
(d) where the decision concerns allegedly illegal content, a reference to the legal ground relied on and explanations as to why the information is considered to be illegal content on that ground;	**MT** *(Drafting)*: (d) where the decision concerns allegedly illegal content, a reference to the legal ground relied on and explanations as to why the information is considered to be illegal content on that ground **including explanations in relation to the arguments submitted under Article 14 paragraph 2A, where relevant**;	**MT** *(Comments)*: Malta is proposing to amend Article 15(2) to reflect the inclusion of the challenge period in Article 14 being proposed by **MT**, by introducing the obligation on the hosting service provider, to include replies or rebuttals to the comments and arguments submitted by the recipient of the service which provided the content, to ensure that the intermediary service provider has considered and taken into account these submissions and has made its decision based on all the information available to it.
(e) where the decision is based on the alleged incompatibility of the information with the terms and conditions of the provider, a reference to the contractual ground relied on and explanations as to why the information is		

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considered to be incompatible with that ground;		
(f) information on the redress possibilities available to the recipient of the service in respect of the decision, in particular through internal complaint-handling mechanisms, out-of-court dispute settlement and judicial redress.	**FI** *(Drafting)*: (f) information on the redress possibilities available to the recipient of the service in respect of the decision, in particular through internal complaint-handling mechanisms **and** out-of-court dispute settlement**,** and **on the possibilities to initiate judicial proceedings** ~~**judicial redress**~~. **MT** *(Drafting)*: (f) information on the redress possibilities available to the recipient of the service in respect of the decision, in particular through internal complaint-handling mechanisms, out-of-court dispute settlement and judicial redress~~.~~ **, which may be sought in the Member State of establishment of the provider of the service and/or in the Member State of establishment of the recipient of the service who provided the content.**	**BE** *(Comments)*: Next to the redress possibilities, there is no mention of an obligation for the provider to restore access to information or content that was wrongly removed or blocked. This should be more clearly indicated in article 17.3. and 18. **FI** *(Comments)*: The wording used in the article does not in a sufficient degree differentiate between possibilities to seek an alteration of a decision to remove content using for instance an internal complaint mechanism and the possibility to initiate judicial proceeding regarding the removing of content or similar issues. For instance, according to Article 15 paragraph 2 point f) information on the redress possibilities available to the recipient of the service in respect of the decision [of the service provider], in particular through internal complaint-handling mechanisms, out-of-court dispute settlement and judicial redress. The wording indicated that there could/should be a possibility to appeal a decision of a service provider to a court of law. However, an "appeal" to court would require that the decision of the service provider would be a

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		decision that would be comparable to a decision made by a court of first instance or by national administrative body. Now, it is obvious that a decision by a service provider is not comparable to a decision by a court of first instance and that a service provider is not a part of the judicial system. Therefore, the word "redress" should not be used when referring to the possibility of taking a dispute between the recipient and the service provider to court. **MT** *(Comments)*: Given the absence of oversight on gambling matters at EU level, **MT** proposes this addition to introduce redress that may be sought in the Member State of the establishment of the providers of the service and / or in the Member State of establishment of the recipient of the service who provided the content. This proposed amendment is in line with Malta's proposed amendment for Article 8(2)(a).
3. The information provided by the providers of hosting services in accordance with this Article shall be clear and easily comprehensible and as precise and specific as reasonably possible under the given circumstances. The information shall, in particular, be such as to reasonably allow the	**FI** *(Drafting)*: 3. [Without change] **IT** *(Drafting)*: 3. The information provided by the providers of ~~*hosting*~~ ***relevant*** services in accordance with this Article shall be clear and	

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recipient of the service concerned to effectively exercise the redress possibilities referred to in point (f) of paragraph 2.	easily comprehensible and as precise and specific as reasonably possible under the given circumstances. The information shall, in particular, be such as to reasonably allow the recipient of the service concerned to effectively exercise the redress possibilities referred to in point (f) of paragraph 2. **FR** (*Drafting*): ~~3~~4. [Without change]	
4. Providers of hosting services shall publish the decisions and the statements of reasons, referred to in paragraph 1 in a publicly accessible database managed by the Commission. That information shall not contain personal data.	**SK** *(Drafting)*: ~~*Providers of hosting services shall publish the decisions and the statements of reasons, referred to in paragraph 1 in a publicly accessible database managed by the Commission. That information shall not contain personal data.*~~ **CZ** *(Drafting)*: Providers of hosting services shall publish the decisions and the statements of reasons, referred to in paragraph 1 in a**n ~~publicly~~** accessible database managed by the Commission. That information shall not contain personal data. **IT** *(Drafting)*: 4. Providers of ~~*hosting*~~ ***relevant*** services shall publish the decisions and the statements of reasons, referred to in paragraph 1 in a publicly accessible database managed by the	**SK** *(Comments)*: *We do not see much added value in having the publicly accessible database of the decisions and the statements of reasons alongside the annual transparency report.* *The reason for a publicly available mainly statement of reasons might eventually be misused (a possibility of using this database as a good "source of knowledge" for those who might want to publish illegal content online). We would alter the accessibility to for ex. as per request.* **LU** *(Comments)*: We question the proportionality and added value of this obligation for all intermediaries. What is the objective of the database managed by the Commission? Could such a public database turn

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	Commission. That information shall not contain personal data. **EE** *(Drafting)*: (4) Providers of hosting services shall publish the decisions and the statements of reasons referred to in paragraph 1 in a publicly accessible database managed by the Commission, as well as information on whether the decisions were challenged and whether they were reversed, including the reasons for the reversal. That information shall not contain personal data. **FR** (*Drafting*):5. [Without change]	out to be counterproductive to the extent that it will give information about (non-) action of certain hosting providers, thereby facilitate and incentivise their mal-intentioned use? **CZ** *(Comments)*: In our opinion, the obligation to publish the decisions and the statements of reasons stated in paragraph 4 might disproportionately increase the administrative burden for providers. Despite explanation by the Comission, **CZ** still fears that the database of all decisions might be a significant potential security risk of training bad actors on how to avoid rules. Access to the databse should therefore be specified in the recital. A suggestion for further discussion is that the access would be limited to trusted flaggers, relevant authorities, DSC, Board and the Commission. **EE** *(Comments)*: The database will be misleading as to the interpretation of illegal and non-compliant content if there is no indication of whether the decisions taken and the reasoning behind the decisions was challenged and ultimately upheld..
Section 3 **Additional provisions applicable to**	**FR** *(Drafting)*: ~~**SECTION 3**~~	**NL** *(Comments)*: The statement of reasons partially overlaps with

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online platforms	~~**ADDITIONAL PROVISIONS APPLICABLE TO ONLINE PLATFORMS**~~	article 4 of the Platform-to-Business regulation. It is unclear how this article relates to that article in the Platform-to-Business regulation. Which is the lex specialis and in which cases?
Article 16 *Exclusion for micro and small enterprises*	**FR** *(Drafting)*: ~~Article 16~~ ~~Exclusion for micro and small enterprises~~	**HU** *(Comments)*: In addition to micro and small businesses, hosting services and online platforms can also be provided by individuals, typically on a non-profit basis (online forums, clubs, etc.). We believe it would be appropriate to extend the exemptions for micro and small enterprises to them as well. **NL** *(Comments)*: **NL** recognizes that excluding micro companies and small companies from the obligations for online platforms serves to limit the administrative burden on the business community and avoids making the entry barriers too high. However, we would like to draw attention to the fact this should not undermine the objectives of the proposal, for example by causing illegal content and activities to move to smaller platforms, some of which may still have – despite their size, turnover and limited number of employees – significant reach.

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		Annex to Recommendation 2003/361/EC may therefore be ill-fitting with the DSA proposal to justify exempting micro, small and medium-sized enterprises providing online platform services because it lacks a definition on "reach" in the digital sphere. The Commission has countered this risk by referring to corresponding recital 43 which would ensure small businesses that have significant reach and impact would be subject to the obligations applicable to very large online platforms (VLOPs), provided they meet the VLOP criteria. Whilst, in principle, we support the Commission's thinking and set-up of the DSA proposal, i.e. to subject those services with the largest reach and impact to more stringent obligations, we find the criteria that are used to determine if an online platform has on average 45 million monthly active recipients of its service unclear. More specifically, what constitutes "an active" recipient is not detailed. Furthermore, this only ensures that micro, small and medium-sized enterprises that are also VLOPs will be regulated. If reach is the reason for defining the upper limit of obligations, then why not also for the lower limit? For the sake of legal certainty for businesses, and to ensure the DSA creates a stable and

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		predictable environment for innovation, we would like to explore in the Council Working Party a threshold of reach in the form of the number of users, under which businesses can qualify for the exemption in Article 16. At the same time, we are mindful of the possible effects setting thresholds (based on number of users) may have on small businesses' incentives to grow and scale up and wish to avoid so-called regulatory cliff-edge effects. **FR** *(Comments)*: Moved to 13b, supra.
This Section shall not apply to online platforms that qualify as micro or small enterprises within the meaning of the Annex to Recommendation 2003/361/EC.	**HU** *(Drafting)*: "except for online platforms that qualify as very large online platforms according to Article 25 below." **IT** *(Drafting)*: This Section shall not apply to online platforms that qualify as micro or small enterprises within the meaning of the Annex to Recommendation 2003/361/EC ***unless their reach and impact is such that they meet the criteria to qualify as very large online platforms under this Regulation*** **PL** *(Drafting)*:	**DK** *(Comments)*: As a starting point, we have a positive view to the exclusion of micro and small enterprises from the obligations set out in this chapter. However, we are currently looking into the different exceptions for micro and small enterprises in the DSA as a whole – including if the provisions, from which they are excempt, are the right ones. **HU** *(Comments)*: Although the chances are small, there may be a case where a legal or natural person with micro or small business income operates a popular online platform that is considered a very large

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	This Section shall not apply to online platforms that qualify as micro or small enterprises within the meaning of the Annex to Recommendation 2003/361/EC and which do not engage in illegal activity.	online platform due to the number of users. In such a case, the exception under Article 16 should not apply. In line with Recital 43, we propose to add the following at the end of the sentence. **FI** *(Comments)*: The limitation of the application through the Recommendation 2003/361/EC will be technically challenging for the supervisory authorities, for instance to investigate what is the amount of the employees of the platform situated outside EU. **SK** *(Comments)*: *We support the exclusion of micro and small enterprises.* **LU** *(Comments)*: We are not convinced that the number of employees of an intermediary is the right criterion for a derogation from this chapter. Given that the objective of the DSA is also to create a safer environment online, what matters is the reach in terms of audience. There can be very small businesses with tremendous impact on our society. It would be counterproductive to exclude them from this section. Instead, it would be more effective to decline the obligations according to the risks posed by a given intermediary: the higher the risk for harm,

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		the more obligations. Such a risk-based approach would be both more targeted (and alleviate those smaller players who need to) and more effective. We therefore suggest the development of such a risk-based approach. **CZ** *(Comments)*: Given the large number of single person intermediaries, it is necessary to maintain the exemption for micro and small enterprises. **IT** *(Comments)*: Article under scrutiny: the objective of not imposing non-proportionate administrative burdens on smaller companies, favouring the creation of new businesses, must however be balanced with the public interest to guarantee in any case an effective supervision of the correctness of commercial relations and the diligence of professional behaviour in the digital context. It would be useful to receive more information about the ongoing revision of the Recommendation 2003/361/EC, in any case an exclusion of MSEs could be envisaged unless, due to their reach and impact, they meet the criteria to qualify as very large online platforms under this Regulation. This specification given in recital 43 should be reflected in the text **EL** *(Comments)*:

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		In recital 43 the phrase "unless their reach and impact is such that they meet the criteria to qualify as very large onlile platforms" states an exemption. We believe that this exemption must be in the article too. *Moreover, although we agree with the exemption of micro and small enterprises, we are sceptical for the use of number of employees as a criterion in the digital world, where a platform can have the minimum number of employees but a huge impact and reach (example of instragram).* **PL** *(Comments)*: Further analysis is required as to exemption, from all provisions of Section 3, for small and micro enterprises, in particular as regards their exemption from the provisions on trusted flaggers (Article 19), additional reporting (Article 23), online advertising transparency (Article 24). The analysis should consider, on the one hand, the principle of proportionality, i.e. the rules to be adopted should not lead to burdens that make it in practice impossible for smaller companies to operate on the market. On the other hand, consideration should be given to the concern that the exclusion of smaller entities from some of the provisions of Section 3 may possibly lead to illegal activities being shifted to

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		these smaller entities. **LV** *(Comments)*: As mentioned before, we would welcome a discussion regarding a more risk-based exclusions that are not entirely based on the number of employees and turnover but rather the reach and influence of the service provider in question. **LV** is in favour of fostering innovations and start-ups in EU, however, providing an exception for micro and small enterprises and exempting them too widely from their obligations may run the risk that the spread of illegal content will become a feature of small platforms. The reasoning in recital 43 that the obligations of Section 3 of Chapter III of the DSA, as well as the obligations of transparency reports, do not apply to micro and small enterprises is too general. There must be an appropriate assessment of each specific obligation. To achieve the objective of this Regulation, which is to create a safer, more predictable and trusted online environment, requires an approach that extends the number of obligations to a wider range of enterprises and simultaneously reduces the administrative burden of obligations. It should be taken into account that since there is no exemption for small and micro enterprises for

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		application of Articles 14 and 15, small market players can actually benefit from some of the articles in Section 3, like Art.18 and Art.20 (that contains a reference to Art.14) that provides some safeguards and makes it possible to solve disputes arrising from application of Art.14 and 15 in courts. In adition, we do not see why Art.21 should not be applied to all service providers equally as it is anyones' obligation to inform authorities on a criminal offence. **DE** *(Comments)*: According to rec. 43, if the "reach and impact" of the platform concerned meet the requirements of Art. 25 para. 1, the far-reaching requirements of Section 4 (Art. 25 et seq.) may apply. We wonder whether it is consistent if some small platforms may have to fulfil the requirements of Section 4 but not those of Section 3. We wonder why such platforms should be exempt from the obligations named in Art. 22, for example.
Article 17 *Internal complaint-handling system*		**DK** *(Comments)*: It seems unclear what redress possibilities the notifying user have, if the provider decides *not* to remove or disable access to notified information (or makes no decision at all). According to the wording art. 17 and 18 only concerns decisions to remove or disable access.

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		If this is unintended, it should be specified that art. 17 and 18 also applies to these situations. **ES** *(Comments)*: It is positive that the provider provides a statement of reasons in article 15. Even more important is the user right to redress. However, this mechanism applies to online platforms only. It should apply to the rest of the hosting providers as well. **SK** *(Comments)*: *We find that redress mechanisms/possibilities are not evident for all hosting providers except for online platforms that are subject to additional obligations under Art. 17 (internal complaint handling system) and Art. 18 (out-of-court dispute resolution). Is there hence an ambition to somewhat harmonize at least basic features of the redress mechanism so that all reporting parties have equal access to it across all markets? For example, could the dispute between the hosting provider that is not an online platform and a recipient of services be also solved by the out-of-court dispute resolution in Art. 18?* *We suggest explicitly excluding decisions of the online platforms taken based on decisions or orders of courts or other competent authorities from the scope of Articles 17 and 18. In this*

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		cases, the provider of the content have other means of redress. **CZ** *(Comments)*: **CZ** supports the introduction of safeguard mechanisms aimed at protecting the freedom of speech, however, **CZ** would welcome the institute of appeal to be enshrined for all parties involved, including the party reporting illegal content to the online platform. **EL** *(Comments)*: *We consider, as a general remark, that the access to the recipients of the services of online platforms in an internal complaint-handling system against decisions taken by the online platforms is important for resolving disputes at an earlier stage before courts.* *However, given the fact that Art. 11 of Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 "on promoting fairness and transparency for business users of online intermediation services" regarding the obligation of providers of online intermediation services to provide an internal complaint-handling system, arises the question whether the platforms are required to comply with different systems (one for the purpose of Regulation 2019/1150 and different one for the purpose of the proposed Regulation*

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		regulation) or whether the complaint-handling system could be one. **NL** *(Comments)*: The additional obligations for online platforms to adopt internal disputes resolution procedures are a good step. We do, however, question whether the internal complaint-handling systems are sufficiently independent. For this reason, we support the establishment of an out-of-court dispute settlement system as established in Article 18. We are considering the idea of making the obligation to set up an internal complaints-handling system voluntary for situations wherein there is also a competent out-of-court dispute settlement body so as to lower compliance costs. **DE** *(Comments)*: The proposal has to take into account both the rights of the author of a specific content (expression of opinion) and those of the person possibly affected by that content (e.g. insult, murder threat). However Art. 17 does not make it possible to take action against the platforms' decisions **NOT** to delete content despite a notice. We advocate for extending the internal complaint-handling system to also cover instances, where a content has not been deleted

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		despite notice. Individuals who notify a certain content and trusted flaggers need a fast and easily accessible way to remonstrate a platform's decision not to take action. We wonder whether Art. 17 (3) should be understood to mean that if, for example, the illegality of a reported content is not established beyond doubt, the decision "must" be reversed without undue delay. We also wonder whether this means that the deleted post has to be reinstated or unblocked or whether the user only has to be given the option of reinstatement. Thus we also wonder whether Art 17 inherits an obligation of platforms to store content for six month after deletion. Such a (limited) storage obligation of the provider is very important to secure possible evidence, which might be needed to prosecute the author of the content.
1. Online platforms shall provide recipients of the service, for a period of at least six months following the decision referred to in this paragraph, the access to an effective internal complaint-handling system, which enables the complaints to be lodged electronically and free of charge, against the following decisions taken by the online platform on the ground that the information provided by the recipients is illegal	**CZ** *(Drafting)*: Online platforms shall provide recipients of the service, for a period of at least ~~six~~ **one** month~~s~~ following the decision referred to in this paragraph, the access to an effective internal complaint-handling system, which enables the complaints to be lodged electronically and free of charge, against the following decisions taken by the online platform on the ground that the	**BE** *(Comments)*: It should be specified that internal complaint should be available to the recipient of services in the language in which the services are used by this person. In order to ensure that the decision to pronounce the illegality of a content remains to the competence of a public authority, we would deem useful to specify in paragraph 1 the

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content or incompatible with its terms and conditions:	information provided by the recipients is illegal content or incompatible with its terms and conditions: **FR** *(Drafting)*: 1. Online platforms shall provide recipients of the service as well as individuals or entities that have submitted a notice, for a period of at least six months following the decision referred to in this paragraph, the access to an effective internal complaint-handling system, which enables the complaints to be lodged electronically and free of charge, against the decision taken by the online platform not to act after having received a notice, and against the following decisions taken by the online platform on the ground that the information provided by the recipients is illegal content or incompatible with its terms and conditions:	following: " is **considered** illegal content ». (see also our comment on article 14). **SE** *(Comments)*: See comment on article 14.5. **CZ** *(Comments)*: The period of six months for reversal of the platform's decision and uploading the content back is very long according to the stakeholders and will require significant investments and costs for platforms to be able to fulfil this obligation. Moreover, this provision establishes an "obligation to conclude a contract", i.e. the obligation of the provider to stay in the contractual relationship with the recipient. The provision also does not respect the right of the provider to change the service in a way that the return of the content is no longer possible. The reasons provided by the Commission to support the current wording do not seem to outweigh the damage caused by extra burdens on the business side. Therefore, we propose a change in paragraph 1 and in case this would not be accepted, we propose addition to paragraph 3. **FR** *(Comments)*: The French authorities deem necessary to allow users who notified content to file complaints against the decision taken by the platform in response to their notice, including the decision

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		not to take action. **LV** *(Comments)*: Article 17 should make a clear distinction between hosting service decisions to remove content arising from notifications under Art.14 or on its own initiative, and removal of content ordered by the authorities under Art.8. Accordingly, there are two distinct scenarios for appealing against a platform decision. If the content has been removed by a decision of a public authority, then the recipient of the platform service has a dispute with that public authority and appropriate redress before national courts. If the content has been removed through the internal complaint handling system or at the initiative of the platform, an appeal under Articles 17 and 18 may be used. If Articles 17 and 18 apply only to hosting service decision to remove content arising from complaints from other users or on its own initiative, it should be specified explicitly to avoid confusions.
(a) decisions to remove or disable access to the information;	**FR** *(Drafting)*: (a) decisions to remove, ~~or~~ disable access to or restrict the visibility of the information;	**NL** *(Comments)*: The additional obligations for online platforms to adopt internal disputes resolution procedures are a good step. We do, however, question

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		whether the internal complaint-handling systems are sufficiently independent. For this reason, we support the establishment of an out-of-court dispute settlement system as established in Article 18. We are considering the idea of making the obligation to set up an internal complaints-handling system voluntary for situations wherein there is also a competent out-of-court dispute settlement body so as to lower compliance costs
(b) decisions to suspend or terminate the provision of the service, in whole or in part, to the recipients;		**SK** *(Comments)*: *Would this provision include also suspension according Art. 20 (2) if there was no illegal content or additional provision in terms and condition related to Art. 20 (2)?*
(c) decisions to suspend or terminate the recipients' account.	**FR** *(Drafting)*: (c) (without change) (d) decisions to restrict the ability to monetize content provided by the recipients..	
	CZ *(Drafting)*: **1a. Online platforms shall provide recipients of the service, for a period of at least one month following the decision referred to in this paragraph, the access to an effective**	**CZ** *(Comments)*: This is in line with our proposal to rec. 44 and general comment on article 17. **CZ** would welcome the institute of appeal to be enshrined for all parties involved, including the party

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	internal complaint-handling system, which enables the complaints to be lodged electronically and free of charge, against the refusal by the online platform to take decision referred to in paragraph 1 (a) - (c) on the ground that the information provided by the recipients is not illegal content or is compatible with its terms and conditions. Online platforms shall inform complainants without undue delay of the decision they have taken in respect of their complaint. Only paragraphs 2 and 4 apply to handling of these complaints. **PL** *(Drafting)*: **New letter:** d) any other decisions that affect the availability, visibility or accessibility of that content and/or the recipient's account or the recipient's access to significant features of the platform's regular services.	reporting illegal content to the online platform. **PL** *(Comments)*: Further analysis is required as to exemption, from all provisions of Section 3, for small and micro enterprises, in particular as regards their exemption from the provisions on trusted flaggers (Article 19), additional reporting (Article 23), online advertising transparency (Article 24). The analysis should consider, on the one hand, the principle of proportionality, i.e. the rules to be adopted should not lead to burdens that make it in practice impossible for smaller companies to operate on the market. On the other hand, consideration should be given to the concern that the exclusion of smaller entities from some of the provisions of Section 3 may possibly lead to illegal activities being shifted to these smaller entities. *(Comments)*: The proposed 'due-process safeguards' currently apply only to platforms' decision to remove content or remove / suspend an account. In our opinion they should cover every action of the platform that leads to limitation of the visibility of a questioned content or otherwise reduces its reach (this applies, for example, to the so-called 'shadow bans' or limitations concerning promoting content or monetizing it). All those measures should meet the same standards of transparency and accountability as currently

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		provided for content/account removal or suspension. Although these measures may seem less 'intrusive', in practice they may lead to an equally serious interference with the freedom of expression, especially as at the moment they are often imposed without any notification of the user, not only making it impossible to question such a restriction, but even to gain knowledge about its imposition. At the same time, the sole obligation to provide statistical information on activities reducing the visibility of content (article 13(1) letter c) does not constitute a sufficient guarantee against the abuse of these measures, as it does not sufficiently protect the interests of individual users against whom such measures are applied.
2. Online platforms shall ensure that their internal complaint-handling systems are easy to access, user-friendly and enable and facilitate the submission of sufficiently precise and adequately substantiated complaints.	**FR** (*Drafting*): 3 [Without change]	**DK** *(Comments)*: It is important that the internal complaint-handling systems are easy to access and user friendly. We find that the terms "easy to access" and "user friendly" should be specified and defined (i.e. in the recitals) with inspiration from behavioral science and user experience design. We also support the requirement in article 17 (2), that the complaint-handling system shall enable and facilitate submission of sufficiently precise and adequately substantiated complaints. However, it is important that the system enable all

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		users to lodge a complaint and does not set up formalistic requirements such as referral to specific, relevant legal provisions or elaborate explanations. This should be pointed out in the recitals.
3. Online platforms shall handle complaints submitted through their internal complaint-handling system in a timely, diligent and objective manner. Where a complaint contains sufficient grounds for the online platform to consider that the information to which the complaint relates is not illegal and is not incompatible with its terms and conditions, or contains information indicating that the complainant's conduct does not warrant the suspension or termination of the service or the account, it shall reverse its decision referred to in paragraph 1 without undue delay.	**AT** *(Drafting)*: 3. Online platforms shall handle complaints submitted through their internal complaint-handling system **within two weeks after receiving the complaint** in a ~~**timely,**~~ diligent and objective manner. Where a complaint contains sufficient grounds for the online platform to consider that the information to which the complaint relates is not illegal and is not incompatible with its terms and conditions, or contains information indicating that the complainant's conduct does not warrant the suspension or termination of the service or the account, it shall reverse its decision referred to in paragraph 1 without undue delay. **SE** *(Drafting)*: 3. Online platforms shall handle complaints submitted through their internal complaint-handling system in a timely, diligent and objective manner. Where a complaint contains sufficient grounds for the online platform to consider that the information to which the	**CZ** *(Comments)*: In line with our comment on paragraph 1 and if our proposal to paragraph 1 is not accepted, we propose this addition. **IT** *(Comments)*: **IT** proposes to create the conditions for a uniform and certain processing of complains by specifying the number of days. **EL** *(Comments)*: *We are conscious for the phrase "… or contains information indicating that the complainant's conduct does not warrant the suspension or termination of the service or the account, it shall reverse its decision referred to in paragraph 1 without undue delay", as, it might be used by platforms in a discriminatory way.* **NL** *(Comments)*: How should authorities determine whether decisions have been made in an objective manner? What requirements does that impose on

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	complaint relates is not manifestly illegal and is not incompatible with its terms and conditions, or contains information indicating that the complainant's conduct does not warrant the suspension or termination of the service or the account, it shall reverse its decision referred to in paragraph 1 without undue delay. **CZ** *(Drafting)*: Online platforms shall handle complaints submitted through their internal complaint-handling system in a timely, diligent and objective manner. Where a complaint contains sufficient grounds for the online platform to consider that the information to which the complaint relates is not illegal and is not incompatible with its terms and conditions, or contains information indicating that the complainant's conduct does not warrant the suspension or termination of the service or the account, it shall reverse its decision referred to in paragraph 1 without undue delay. **This is without prejudice to the right of online platforms to innovate, update or terminate their service in a way that it is not technically possible to reinstate the recipients' information or access to the information, reinstate the provision of the service to the recipient or reinstate the recipients' account.**	the internal complaint handling process?

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	IT *(Drafting)*: 3. Online platforms shall handle complaints submitted through their internal complaint-handling system ***within 7 days*** in a ~~*timely*~~, diligent and objective manner. Where a complaint contains sufficient grounds for the online platform to consider that the information to which the complaint relates is not illegal and is not incompatible with its terms and conditions, or contains information indicating that the complainant's conduct does not warrant the suspension or termination of the service or the account, it shall reverse its decision referred to in paragraph 1 without undue delay **FR** (*Drafting*): ~~3~~4. [Without change]	
4. Online platforms shall inform complainants without undue delay of the decision they have taken in respect of the information to which the complaint relates and shall inform complainants of the possibility of out-of-court dispute settlement provided for in Article 18 and other available redress possibilities.	**AT** *(Drafting)*: 4. Online platforms shall inform complainants without undue delay of the decision they have taken in respect of the information to which the complaint relates**, including a statement of reasons for the decision,** and shall inform complainants of the possibility of out-of-court dispute settlement provided for in Article 18 and other available redress possibilities. **HU** *(Drafting)*:	**HU** *(Comments)*: In order to increase transparency, we recommend including that the online platforms not just inform the complainants about the decision but justify it in a clear and concise manner. **HR** *(Comments)*: Even though the Proposal already prescribes time limit within which online platforms are obligated to inform complainant on their decision ("without undue delay"), we

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	Online platforms shall inform **and justify concisely and clearly the** complainants without undue delay of the decision they have taken in respect of the information to which the complaint relates and shall inform complainants of the possibility of out-of-court dispute settlement provided for in Article 18 and other available redress possibilities. **FI** *(Drafting)*: 4. Online platforms shall inform complainants without undue delay of the decision they have taken in respect of the information to which the complaint relates and shall inform complainants of the possibility of out-of-court dispute settlement provided for in Article 18 and other available ~~**redress**~~ **dispute resolution** possibilities. **HR** *(Drafting)*: Online platforms shall inform complainants without undue delay and no later than 15 days of the receipt of the complaint of the decision they have taken in respect of the information to which the complaint relates and shall inform complainants of the possibility of out-of-court dispute settlement provided for in Article 18 and other available redress possibilities. **IT** *(Drafting)*: 4. Online platforms shall inform complainants ***within 7 days*** ~~*without undue delay*~~	recommend prescribing deadline so that complaint has no doubt/question on time limits of resolving its complaint and to ease decision whether and when he should try to resolve the matter before the court or within out of court proceedings. Such solution would be in accordance with legal certainty and clarity, since the complainants would then have a clear information on the time they may use other legal remedies at their disposal in case the platform rejects their complaint. E.g. prescribing more detailed timeframes has proven beneficial in many existing legal acts, such as CPC Regulation, where the detailed complaint-handling and information-sharing procedure as well as strict deadlines have been set. **CZ** *(Comments)*: **CZ** would welcome if the complainant could be also briefly informed about the reasoning behind the decision. **CZ** would welcome a verification that this is covered in the text. **IT** *(Comments)*: Italy proposes to create the conditions for a uniform and certain processing of complains by specifying the number of days **EL** *(Comments)*: *Also, while the recipients of the services of the platforms are provided with a specific time*

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	of the decision they have taken in respect of the information to which the complaint relates and shall inform complainants of the possibility of out-of-court dispute settlement provided for in Article 18 and other available redress possibilities. **PL** *(Drafting)*: **Paragraph 4 additional sentences.** Online platforms shall inform complainants without undue delay of the decision they have taken in respect of the information to which the complaint relates and shall inform complainants of the possibility of out-of-court dispute settlement provided for in Article 18 and other available redress possibilities. This feedback shall also include: - information on whether the decision referred to in paragraph 1 was taken as a result of human review or through automated means. - in case the decision referred to in paragraph 1 is to be sustained, detailed explanation on how the information to which the complaint relates is in breach of the platform's terms and conditions or why the online platform finds the information unlawful. **FR** (*Drafting*): 5. [Without change]	*horizon (6 months) for submission of complaints (see par. 1), the handling of the complaints by the platforms remains indefinite. Specifically, in this paragraph, we consider that it would contribute to the transparency the definition of a maximum period within which the online platforms are obliged to inform the recipients of their services about the decisions of the internal complaint handling system.* **NL** *(Comments)*: If there are multiple out-of-court dispute settlement bodies, then should all of those options be communicated to fulfill this obligation? **PL** *(Comments)*: Creating an effective system for handling a user complaint is one of the key solutions which the DSA should provide. Equally important as fast and effective removal of illegal content is the introduction of mechanisms preventing unjustified removal or blocking of content. Therefore, platforms should offer easy-to-use mechanisms for their users to challenge decisions to remove content they have posted. As stated in Article 17(5), online platforms must ensure that decisions taken as a result of complaints by recipients of services are not based solely on automated measures. It should

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		be noted that due to huge amount of content published online, it is not possible to completely eliminate automated means in the decision-making process. However, it seems necessary to introduce rules according to which, in the event of the use of automated means for complex content, it will be possible to have an effective redress mechanism. In this aspect Poland agrees with the necessity to limit the possibility of online platforms to issue decisions solely on the basis of automated measures, e.g. by ensuring in each case an effective redress path, where prior decisions issued as a result of use of automated measures would be finally verified by a human being.
5. Online platforms shall ensure that the decisions, referred to in paragraph 4, are not solely taken on the basis of automated means.	**IT** *(Drafting)*: 5. Online platforms shall ensure that the decisions, referred to in paragraph 4, are not solely taken on the basis of automated means ***and shall be subject to human review***. **FR** *(Drafting)*: 6. Online platforms shall ensure that recipients of the service are given the possibility, where necessary, to contact a human interlocutor at the time of the submission of the complaint and that the decisions, referred to in paragraph 4, are not	**SK** *(Comments)*: *We would welcome if the guarantee of human oversight contained in this article would apply also to providers of hosting services (art. 14 and 15 DSA).* **IT** *(Comments)*: In line with art. 17 of Copyright directive **IT** proposes to provide for human review. **FR** *(Comments)*: The French authorities deem necessary to allow users, in some specific situations, to contact the

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	solely taken on the basis of automated means. **PL** *(Drafting)*: Drafting. Paragraph 5 additional sentence: Online platforms shall ensure that the decisions, referred to in paragraph 4, are not solely taken on the basis of automated means. Complainants shall have the right to request human review and consultation with relevant online platforms' staff with respect to content to which the complaint relates to.	online platform through an alternative to electronic means generally available. Whilst it may offer room for abuse, such avenue may also allow more fluidity in the handling of the most serious complaints. **PL** *(Comments)*: See comments to paragraph 4.
	PL *(Drafting)*: Drafting. New paragraph 6: Recipients of the service negatively affected by the decision of an online platform shall have the possibility to seek swift judicial redress in accordance with the laws of the Member States concerned. The procedure shall ensure that an independent judicial body decides on the matter without undue delay, resolving the case no later than within 14 days while granting the negatively affected party the right to seek interim measures to be imposed within 48 hours since the recourse is brought before this body. The right to seek a judicial redress and/or interim measures will not be limited or conditioned on exhausting the internal complaint-handling system.	**PL** *(Comments)*: It should be clear that the recipients of the service must have the right to fast-track judicial review, that is to say, appeal against the decision of the platform directly to a national court or specialised body in the country where he resides or has his permanent residence. In the case of very large online platforms, a legal representative established at the request of a Member State may be a party to the dispute.

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Article 18 *Out-of-court dispute settlement*		**BE** *(Comments)*: **Mandatory hierarchy between the review mechanisms** We would like to have some clarification on the following wording in §1 : *« including complaints that **could not** be resolved by means of internal complaint-handling systems*»". Indeed, we deem crucial to ensure that any user is enable to lodge one of another review mechanism as provided for in this instrument, namely international complaint-handling systems, out-of-court dispute settlement and judicial review, **without any hierarchy or mandatory steps**. In other words, we are of the opinion that a user should, for example, be able to lodge a review as provided for in Article 18 without having first lodged a complaint in accordance with Article 17. The Commission has explained during the meetings that there were 3 alternative redress mechanism (no obligation to go first through internal complaint for example). However, we believe this should be usefully clarified in a Recital. **Effective remedy** We understand that this provision is "user-oriented" in the sense the recipient of services has the opportunity to select any out-of-court

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		body that has been certified in accordance with §2. Nevertheless, we have concerns in the case no out-of-court body would be certified in the country/language of the recipient of service. In order to ensure an effective right for any user to make use of these out-of-court dispute settlement, and in full compliance with the fundamental rights, we consider that any user must be able to lodge a complaint in its own country and in its own language, irrespective of the hosting State and official language of the intermediaries. **Different dispute resolution systems** We would like to receive a confirmation from the Commission that this Article **does not require us to set up a specific system** of regulatory arbitrage. Indeed, this Article provides for a system of arbitrage according to which a body pronounces a binding decision in order to resolve the dispute. However, the Commission explained that we **can make use of existing systems** such as the ones provided for in accordance with Directive 2013/11/EU on alternative dispute resolution for consumer disputes. In Belgium, this Directive has been implemented through different dispute resolution systems including regulatory arbitrage or conciliation.

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		Moreover, we would like to have more clarity on the meaning of the **binding nature** of these decisions. In addition, it also requires that this body is certified in accordance with paragraph 2. This **certification** procedure raises **the following questions** : - Should the existing bodies be required to proceed to a new certification procedure in accordance with this instrument? ; - How will the Digital services coordinator, in the framework of this certification procedure, interact with already existing procedure such as the ones provided for the federal commission for mediation ? ; - Does the body refers to both legal and natural persons? **ES** *(Comments)*: Compulsory certification of out-of-court settlement bodies is considered appropriate. In the same way, it is positively valued that the reimbursement of the fees operates only from the platform to the user. **FI** *(Comments)*: See **FI** drafting suggestion in recital 44. **SK** *(Comments)*: ***SK*** *views the binding nature of the decisions of*

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		the certified bodies of the out-of-court dispute settlements, moreover only towards one party of the dispute, with reservations. The right to initiate an out-of-court settlement of a dispute (with an exclusive choice of the certified body) is granted only to the recipient of the service, it might be viewed as a violence of the principle of equality of the parties. The proposal should therefore be respectively amended, at least by determining the remedies for the party for whom the decision of the certified body is binding (ie the platform). **IT** *(Comments)*: We should further reflect on the need for such a complex article, which seems to have the opposite effect to the intended one, namely to reduce the number of disputes. The article also differs from article 17 of the Copyright directive and from article 25 of Directive (UE) 2018/1972 **NL** *(Comments)*: Ibid. See Comment under Article 17 **PL** *(Comments)*: Member States should be free to designate the body competent for out-of-court dispute settlement, and users, in the course of proceedings before such a body, should be able to communicate in the official language of the

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		state in which they use the service. The body referred to above may also be a public administrative authority within the meaning of legislation of the Member State concerned. The starting point in this respect should be that the Regulation sets out a minimum competence attributed to the body responsible for out-of-court dispute resolution which Member States could extend by way of national legislation. Differences in legal systems and specificities existing in each Member State should be taken into account, which would justify to give national legislation freedom to choose the most effective model of operation of the body competent for out-of-court settlement. After all, it is ultimately the responsibility of each Member State to create a coherent and efficient administrative apparatus. It should also be stressed that decisions taken by the competent authority will be subject to judicial review, which will ensure that they are verified for compliance with the law. The scope of decisions in these cases will concern such fundamental rights as freedom of speech, expression and information. Allowing the Member States to decide freely on mechanisms for the out-of-court settlement of disputes will make it possible to ensure uniformity of case-law and stability of the law, which are extremely important for

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		consumers. Only in this way we guarantee equality rights of both users and service providers, which in most cases are large multinational corporations. **LV** *(Comments)*: Out-of-court dispute settlement provision excludes small and mediums businesses and other hosting services that are not online platforms. At the same time, these hosting services are subject to the obligations set out in Articles 14 and 15. Therefore, out-of-court dispute settlement provision might be useful for these hosting services to avoid a situation where service recipients of these hosting services can only resolve disputes through the courts, creating great expenses for both sides. **DE** *(Comments)*: An out-of-court settlement of disputes is an important additional opportunity for individuals to enforce their rights vis à vis providers. It avoids costs and risks of going to court. Thus we advocate for extending the out-of-court dispute settlement instrument to also cover instances, where a content was not deleted despite notice. Individuals who notify a certain content and trusted flaggers need a fast and easily accessible way to remonstrate a platform's decision not to take action.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		Furthermore, we would recommend rules to ensure anonymity in the dispute settlement process. Section 3c paragraph 3 of the German NetzDG Amendment Act could serve as a model in this respect.
1. Recipients of the service addressed by the decisions referred to in Article 17(1), shall be entitled to select any out-of-court dispute that has been certified in accordance with paragraph 2 in order to resolve disputes relating to those decisions, including complaints that could not be resolved by means of the internal complaint-handling system referred to in that Article. Online platforms shall engage, in good faith, with the body selected with a view to resolving the dispute and shall be bound by the decision taken by the body.	**AT** *(Drafting)*: 1. Recipients of the service addressed by the decisions referred to in Article 17(1), shall be entitled to select any out-of-court dispute **settlement body** that has been certified in accordance with paragraph 2 in order to resolve disputes relating to those decisions, including complaints that could not be resolved by means of the internal complaint-handling system referred to in that Article. Online platforms shall engage, in good faith, with the body selected with a view to resolving the dispute and shall be bound by the decision taken by the body. **FR** *(Drafting)*: 1. Recipients of the service addressed by the decisions referred to in Article 17(1), shall be entitled to select any out-of-court dispute settlement body ~~that has been certified, in accordance with~~ that meets the conditions set in paragraph 2, in order to resolve disputes relating to those decisions, including complaints that	**BE** *(Comments)*: Does this include complaints dealt with by means the internal complaint-handling system, but not resolved in the way the recipient would like? **IE** *(Comments)*: Firstly there appears to be a typographical error whereby " settlement body" has been omitted following "out of court dispute" in the second line. Secondly, it is not understood why such a body from a Member State entirely unrelated to the dispute in question would be permitted to be appointed. **DK** *(Comments)*: From the wording of the provision, it appears that the recipient is only entitled to select any out-of-court dispute settlement if they are addressed by a decision referred to in article 17(1) (decisions to remove or disable access). However, we find that it is important that a user have the same redress possibilities if the

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	could not be resolved by means of the internal complaint-handling system referred to in that Article. ~~Online platforms~~ Providers referred to in Article 13a shall engage, in good faith, with the body selected with a view to resolving the dispute and shall be bound by the decision taken by the body.	provider decides *not* to remove or disable access to notified information (or makes no decision at all). According to the wording art. 17 and 18 only concerns decisions to remove or disable access. If this is unintended, it should be specified that art. 17 and 18 also applies to these situations. From the wording of the provision, it appears that the recipient is entitled to select any out-of-court dispute settlement body. As we understand from the discussions during the working parties this implies, that the user can choose a body in *any* Member State – regardless of where the user lives or where the platform is established. As an outset we find this problematic and we are currently looking into this provision and might return with more comments and suggestions regarding this part of the provision. It appears from the provision, that the online platform shall be bound by the decisions taken by the body. From our side it is very important that the possibility to seek juridical redress in accordance with the laws of the Member State concerned is not affected. **BG** *(Comments)*: По този член бихме желали да бъдат обмислени следните въпроси: - Как ще се прилагат разпоредбите му,

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		ако в ДЧ има само един сертифициран орган, т.е. получателите на услугата няма да имат избора, предвиден в пар. 1; - Как ще се прилагат разпоредбите му, ако в дадена ДЧ няма орган, пожелал сертификация; - Ако участието в този способ е доброволно от страна на платформите – по какъв начин потребителят ще е известен, че платформата няма желание да участва в него. - Какво е съотношението на този метод с процедурата за подаване на жалби пред националния орган. We would like the following issues to be considered under this article: - How will its provisions be applied if there is only one certified body in the MS, ie. the recipients of the service will not have the choice provided in par. 1; - How will its provisions be applied if there is no body in a MS that has the requested certification; - If the participation in such prcedures is voluntary on the part of the platforms, how will the user be informed that the particular platform does not wish to participate. - What is the correlation between this method and the complaint procedure before the national

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		authority. **LU** *(Comments)*: Can an out-of-court dispute settlement body take cases from outside the Member State where it is established? **NL** *(Comments)*: Can Article 18 only be invoked after complainants have exhausted the availability of the internal complaint handling system in Article 17, or are recipients permitted to have recourse to the out-of-court dispute settlement before, at the same time, or instead of the internal dispute settlement? More specifically, and further to this question, how is the phrase "including complaints that could not be resolved by means of the internal complaint-handling system" to be construed? Does the term "including" signal both resolved and unresolved complaints? This paragraph seems to imply that recipients of the service are allowed to select any out-of-court dispute settlement system across the EU. Is that correct? Will that not lead to forum shopping? And which law applies if, for instance, a Dutch citizen selects a Spanish dispute settlement body? Generally speaking, we are assessing whether there is added value in adding a clause which

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		stipulates that decisions by dispute settlement bodies should be published. This may be particularly helpful for courts when being seized by complainants to adjudicate on a specific content moderation decision. **LV** *(Comments)*: We see the freedom to choose any out-of-court dispute certified problematic in relation to jurisdiction. First of all, there is no obligation for out of court disputes to be accepted from any person irrespective of their residence, hence the freedom to choose does not mean the complainant will get its satisfaction. Secondly, this would mean that out of court disputes would have to be able to solve the dispute, applying any of the 27 laws of MS, which is highly unlikely to be possible in reality. This makes us question the effectiveness of the whole article. We would suggest examining the possibility to follow the construction of Directive 2013/11/EU, where Art.13 of that directive obliges traders to inform consumers about the ADR entity or ADR entities by which those traders are covered, when those traders commit to or are obliged to use those entities to resolve disputes with consumers. In this case, at least the out of court dispute indicated by service provider will not be able to reject the case.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		FR *(Comments)*: En prévoyant une procédure de certification par le « Digital Services Coordinator » (DSC) des organes de médiation sollicités, le paragraphe 2 tend à confier obligatoirement au DSC une mission bien particulière. Il n'est pas sûr, à ce stade, que les autorités qui pourraient être pressenties par les Etats-membres pour remplir la fonction de DSC soient disposées ou en situation de répondre à cette tâche de certification dans le domaine de la médiation extra-judiciaire. A ce stade, les autorités françaises ne sont donc pas favorables à ce que le règlement énonce en la matière une obligation contraignante à destination tant des DSC que des Etats-membres et propose d'en faire une faculté. Article 18 establishes a procedure for the certification of the out-of-court dispute settlement body by the Digital Services Coordinator (DSC). However, it is not certain at this stage that the authorities that could be designated as a DSC have the competences to fulfil this task. The French authorities therefore propose to amend the wording so that certification becomes an option. **DE** *(Comments)*: The possibility of alternative dispute resolution is always a positive instrument.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		However, it would be desirable if the general principle of voluntary participation is preserved. We are cautious when it comes to binding effects of decisions in the context of ADR proceedings; legally binding decisions are the responsibility of the state courts and not of the ADR bodies. We therefore suggest that the ADR body should not submit binding decisions, but rather non-binding proposals. In addition, we believe that compliance with the "decision proposals" of the ADR bodies should continue to be carried out on a voluntary basis.
The first subparagraph is without prejudice to the right of the recipient concerned to redress against the decision before a court in accordance with the applicable law.	**FI** *(Drafting)*: The first subparagraph is without prejudice to the right of the recipient concerned to **~~redress against the decision~~ initiate proceedings** before a court in accordance with the applicable law.	**DE** *(Comments)*: We especially welcome the fact that Art. 18 (1) subpara. 2 makes it clear that an effective review remains possible by way of judicial protection before state courts. To ensure the constitutional judicial rights of online platforms as well, we ask to include an additional sentence clarifying that the platforms have a right to appeal the decisions made by the out-of-court dispute mechanisms.
2. The Digital Services Coordinator of the Member State where the out-of-court dispute settlement body is established shall, at the	**DK** *(Drafting)*: The Digital Services Coordinator of the Member	**DK** *(Comments)*: As we read article 18(2) the Digital Services

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COMMISSION PROPOSAL	**Drafting**	**Comments**
request of that body, certify the body, where the body has demonstrated that it meets all of the following conditions:	State where the out-of-court dispute settlement body is established **decides** ~~shall,~~ at the request of that body, **whether the body shall be certified** ~~certify the body~~, where the body has demonstrated that it meets all of the following conditions: **FR** *(Drafting)*: 2. The Digital Services Coordinator of the Member State where the out-of-court dispute settlement body is established ~~shall~~ may, at the request of that body, certify the body, where the body has demonstrated that it meets all of the following conditions:	Coordinator is obligated to certify a body, if the body demonstrates, that it meets the five requirements listed in the paragraph. From our side we find it important that it is the Member State/Digital Services Coordinator, who certifies a body according to this article. Thus, it should be pointed out that: • A body can only be certified if it meets the requirements of the article, and the Digital Services Coordinator decides whether the out-of-court dispute settlement body shall be certified. **SK** *(Comments)*: *We would welcome if the requirements for certified bodies were more concrete. The current proposal can lead to different applications in member states with huge differences in quality of these bodies across the EU. Alternatively, we welcome guidance to this Article from the EC, at least.* **LU** *(Comments)*: Can an out-of-court dispute settlement body be certified for several Member States? If so, does each DSC need to certify the body? I.e. for an EU-wide out-of-court dispute settlement body all 27 DSCs would need to accredit that body (and if one is missing, it won't be able to operate)? In order to avoid multiplication of

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		such bodies, and in line with the Internal Market objective of this Regulation, itt should be specified that **a certification of such a body has to be mutually recognised and valid in all 27 Member States** (as the conditions in points (a) to (d) apply to all). **NL** *(Comments)*: What does this mean for existing out-of-court dispute settlement bodies that are currently already competent for settling some types of disputes on illegal content online (e.g. in the Netherlands: the Advertising Code Commission)? Can they continue their work without certification, or will they lose their competence as soon as the DSA comes into force, and until they get certification from the DSC? **LV** *(Comments)*: As mentioned in the meetings, we do not think it is justified to assign the task of certification only to the DSCs, this should be up to the MS to decide which authority has more experience and competence in these issues. **DE** *(Comments)*: It is unclear to us whether knowledge of the law of all MS re. the illegality of content is a requirement for certification if the out-of-court dispute settlement body offers its services

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		throughout the EU.
(a) it is impartial and independent of online platforms and recipients of the service provided by the online platforms;	**FR** *(Drafting)*: a) it is impartial and independent of ~~online platforms~~ providers referred to in Article 13a and recipients of their services ~~provided by the online platforms~~;	**DK** *(Comments)*: The requirement, that the body is impartial and independent should be elaborated for instance with inspiration from article 6 in Directive 2013/11/EU on alternative dispute resolution. **EL** *(Comments)*: *We consider it important to define the criteria which will help the Digital Services Coordinator to assess that an out-of-court dispute resolution body is impartial and independent.* **NL** *(Comments)*: This does not preclude online platforms from – either alone or as a group – of setting up their own dispute settlement bodies. Given that we do not feel the internal complaints handling-system is sufficiently independent we have the same reservations about dispute settlement bodies that have been set up by private actors alone. We reserve the right to making drafting suggestions to exclude these types of dispute settlement bodies from being eligible of getting certification.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
(b) it has the necessary expertise in relation to the issues arising in one or more particular areas of illegal content, or in relation to the application and enforcement of terms and conditions of one or more types of online platforms, allowing the body to contribute effectively to the settlement of a dispute;	**FR** *(Drafting)*: (b) it has the necessary expertise in relation to the issues arising in one or more particular areas of illegal content, or in relation to the application and enforcement of terms and conditions of one or more types of ~~online platforms~~ providers referred to in Article 13a, allowing the body to contribute effectively to the settlement of a dispute;	**EL** *(Comments)*: *We wonder how the expertise will be proven on behalf of the body. It is important to define the criteria which will help the Digital Services Coordinator to assess that an out-of-court dispute resolution body has the necessary expertise.*
(c) the dispute settlement is easily accessible through electronic communication technology;		
(d) it is capable of settling dispute in a swift, efficient and cost-effective manner and in at least one official language of the Union;		
(e) the dispute settlement takes place in accordance with clear and fair rules of procedure.	**FR** *(Drafting)*: (e) the dispute settlement takes place in accordance with clear and fair rules of procedure, in compliance with applicable legislation.	**DK** *(Comments)*: The provision does not provide much guidance regarding what clear and fair rules of procedure are. This should also be elaborated appropriately, i.e. with inspiration from Directive 2013/11/EU on alternative dispute resolution. **FR** *(Comments)*:

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		The dispute is dealt with based on applicable law.
The Digital Services Coordinator shall, where applicable, specify in the certificate the particular issues to which the body's expertise relates and the official language or languages of the Union in which the body is capable of settling disputes, as referred to in points (b) and (d) of the first subparagraph, respectively.		**LV** *(Comments)*: See comment above relating to Para 2 of this Article
3. If the body decides the dispute in favour of the recipient of the service, the online platform shall reimburse the recipient for any fees and other reasonable expenses that the recipient has paid or is to pay in relation to the dispute settlement. If the body decides the dispute in favour of the online platform, the recipient shall not be required to reimburse any fees or other expenses that the online platform paid or is to pay in relation to the dispute settlement.	**CZ** *(Drafting)*: If the body decides the dispute in favour of the recipient of the service, the online platform shall reimburse the recipient for any fees and other reasonable expenses that the recipient has paid or is to pay in relation to the dispute settlement. **~~If the body decides the dispute in favour of the online platform, the recipient shall not be required to reimburse any fees or other expenses that the online platform paid or is to pay in relation to the dispute settlement.~~** **FR** *(Drafting)*: 3. If the body decides the dispute in favour of the recipient of the service, the ~~online platforms~~ providers referred to in Article 13a shall reimburse the recipient for any fees and	**DK** *(Comments)*: Regarding the fees for the dispute settlement (article 18(3)), we find it of utmost importance that these fees are kept at a low level in order to secure access to out-of-court dispute settlement for all users. Thus, we are worried that the provision will allow the dispute settlement bodies to charge high fees. **SK** *(Comments)*: *Do fees and other expenses in the first subparagraph include also fees charged by the body for the dispute settlement or how are these expenses borne?* **CZ** *(Comments)*: The disproportion in paragraph 3 is striking to

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	other reasonable expenses that the recipient has paid or is to pay in relation to the dispute settlement. If the body decides the dispute in favour of the ~~online platforms~~ providers referred to in Article 13a, the recipient shall not be required to reimburse any fees or other expenses that the ~~online platforms~~ providers paid or is to pay in relation to the dispute settlement.	us, especially when taking into account the risk of repeated unsuccessful requests from the recipient. Given this provision applies to all, except micro and small enterprises according to article 16, this may results in disproportionately high costs for the smaller players in scope. Alternatively, the article could specify that it does not apply to SMEs. **EL** *(Comments)*: *In case that the platform is a marketplace, we strongly believe that the issue of compensation is not fully clarified in the event that the out-of-court dispute resolution body finds that the platform has wrongly removed a business user's product from its interface. Pursuant to par. 3, the platform reimburses the recipient for any fees and other reasonable expenses paid or to be paid by the recipient of the service regarding the resolution of the dispute. However, how is the profit loss of business user accumulated during the period of removal of the product from the platform claimed? By bringing an action before the competent national court of the Union in accordance with the rules of law of the Member State in which the action is brought?*

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COMMISSION PROPOSAL	**Drafting**	**Comments**
The fees charged by the body for the dispute settlement shall be reasonable and shall in any event not exceed the costs thereof.		**EL** *(Comments)*: *It must be specified how the payment of those fees is shared between recipients and platforms.* **NL** *(Comments)*: We would welcome further clarity on what constitutes "reasonable" fees to avoid this paragraph potentially acting as a disincentive and/or barrier for users to gain access to justice. We therefore reserve the right to amend and/or clarify this pargraph at a later stage.
Certified out-of-court dispute settlement bodies shall make the fees, or the mechanisms used to determine the fees, known to the recipient of the services and the online platform concerned before engaging in the dispute settlement.	**FR** *(Drafting)*: ~~Certified~~ out-of-court dispute settlement bodies shall make the fees, or the mechanisms used to determine the fees, known to the recipient of the services and the ~~online platforms~~ providers referred to in Article 13a concerned before engaging in the dispute settlement.	**FR** *(Comments)*: Cette condition doit s'appliquer même aux arbitres non certifiés. This requirement should apply even to non-certified bodies.
4. Member States may establish out-of-court dispute settlement bodies for the purposes of paragraph 1 or support the activities of some or all out-of-court dispute settlement bodies that they have certified in accordance with paragraph 2.	**NL** *(Drafting)*: Member States may establish out-of-court dispute settlement bodies for the purposes of paragraph 1 or support the activities of some or all out-of-court dispute settlement bodies that ~~***they***~~ have ***been*** certified in accordance with paragraph 2.	**DK** *(Comments)*: This provision implies that the Member State is not obligated to support all certified bodies financially, but that it can choose to do so. Is this understanding correct? **NL** *(Comments)*: Member States do not certify the out-of-court

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		dispute settlement bodies, which is done by Digital Services Coordinators (DSCs). The Drafting suggestion is meant to clarify this
Member States shall ensure that any of their activities undertaken under the first subparagraph do not affect the ability of their Digital Services Coordinators to certify the bodies concerned in accordance with paragraph 2.		
5. Digital Services Coordinators shall notify to the Commission the out-of-court dispute settlement bodies that they have certified in accordance with paragraph 2, including where applicable the specifications referred to in the second subparagraph of that paragraph. The Commission shall publish a list of those bodies, including those specifications, on a dedicated website, and keep it updated.	**AT** *(Drafting)*: 5. Digital Services Coordinators […]. The Commission shall publish a**n easily accessible** list of those bodies, including those specifications, on a dedicated website, and keep it updated.	**BE** *(Comments)*: There is no possibility in article 18 to revoke the certification as "out-of-court body" (as it is in the contrary the case for trusted flagger status in art. 19). The Commission explained during WP meetings that it will keep the a list of certified bodies updated in accordance with art. 18.5. In order for this list to be effectively up to date, DSC should also notify the COM of bodies that do not meet the criteria set for in §2 anymore. **LV** *(Comments)*: See comment above relating to Para 2 of this Article.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
6. This Article is without prejudice to Directive 2013/11/EU and alternative dispute resolution procedures and entities for consumers established under that Directive.		
	PL *(Drafting)*: **New paragraph 7.** Member States shall establish a mechanism enabling the recipients of the service to contest decisions of out-of-court dispute settlement bodies before a national judicial authority or an administrative authority relevant for resolving disputes related to freedom of expression.	**PL** *(Comments)*: An effective redress mechanism guarantees the user's fundamental right to freedom of expression. Therefore, the regulation should make it clear that the decision may be challenged, irrespective of other remedies, before a court or administrative authority of the place of residence of the user, in accordance with the applicable national law.
Article 19 *Trusted flaggers*		**BE** *(Comments)*: Belgium fully supports the legal framework for the **trusted flaggers status**, including the conditions and procedure to obtain such status. The current text is however currently limited to an obligation to proceed with priority and without delay such notifications by a 'trusted flagger'. We deem useful to further define a specific and "faster-analyze" procedure when the content is notified by a "trusted flagger", notably through an **encouragement to conclude specific cooperation agreements.** **DK** *(Comments)*: We are currently looking into the exception of

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		micro and small enterprises from the scope of the provisions. We are worried that illegal content will end up on the smaller marketplaces, if the provision does not apply to them. **ES** *(Comments)*: It is considered appropriate that the status of trusted flagger is awarded by Digital Services Coordinators. **SK** *(Comments)*: *We would welcome if the requirements for trusted flaggers were more concrete. The current proposal can lead to different applications in member states with huge differences in quality of these trusted flaggers across the EU. Alternatively, we welcome guidance to this Article from the EC, at least.* **CZ** *(Comments)*: **CZ** welcomes the establishment and deepening of the cooperation with trusted flaggers. As raised at the WP, there might be a problem with selecting suitable trusted flaggers with sufficient experience and independence. In order to keep a competitive market and avoid a possible risk of fighting competition through the institute of trusted flaggers, **CZ** would not support softening the criteria for obtaining the status of trusted flaggers.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		NL *(Comments)*: We are considering advice to broaden the scope of this article to include hosting service providers. We therefore reserve the right to make drafting suggestions for that purpose in the future. **DE** *(Comments)*: State authorities, research institutions and civil society organisations can play an important role in taking action against illegal content published online, we therefore welcome the prioritised handling of notices submitted by trusted flaggers.
1. Online platforms shall take the necessary technical and organisational measures to ensure that notices submitted by trusted flaggers through the mechanisms referred to in Article 14, are processed and decided upon with priority and without delay.	**AT** *(Drafting)*: 1. Online platforms shall take the necessary technical and organisational measures to ensure that notices submitted by trusted flaggers through the mechanisms referred to in Article 14, are processed and decided upon with priority and without delay. **The notification according to Article 14 paragraph 5 shall be sent within 5 days at the latest after reception of the notice of the trusted flagger, if no exceptional circumstances arise.** **FR** *(Drafting)*: 1. Online platforms and live streaming	**LU** *(Comments)*: We understand that currently existing trusted flagger mechanisms, where individual companies or rightsholders can flag illegal content may continue to exist on the basis of voluntary cooperation with platforms. **IT** *(Comments)*: Italy suggests "without delay" should be clarified. **NL** *(Comments)*: Do online platforms have to treat trusted flaggers which are certified as such in another

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	platforms can initiate cooperation with trusted flaggers. In that case, they shall take the necessary technical and organisational measures to ensure that notices submitted by trusted flaggers through the mechanisms referred to in Article 14, are processed and decided upon with priority and without delay. .	member state outside the platform's country of origin with priority as well? **FR** *(Comments)*: Les autorités françaises considèrent que l'obligation de travailler avec des signaleurs de confiance ne devrait pas être imposée, mais plutôt recommandée. Par ailleurs, elles estiment nécessaire de clarifier que ce dispositif des signaleurs de confiance ne saurait être interprété comme affectant ou conditionnant d'une façon ou d'une autre les prérogatives propres aux autorités publiques dûment habilitées à intervenir auprès des plateformes : *cf. supra* au considérant 46. The French authorities consider that the obligation to work with trusted flaggers should not be imposed, but rather recommended. Furthermore, they consider it necessary to clarify that this system of trusted flaggers should not be interpreted as affecting or conditioning in any way the prerogatives of the public authorities duly authorised to intervene with platforms in accordance with Article 8 of the DSA (see comments above in recital 46).
		NL *(Comments)*: We are considering advice to introduce the obligation to process notices from trusted

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		flagger *diligently* as well.
2. 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:	**HU** *(Drafting)*: The status of trusted flaggers under this Regulation shall be awarded, upon application by any ~~entities~~ **legal persons**, 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 **EE** *(Drafting)*: 2. The status of trusted flaggers under this Regulation shall be awarded, upon application by any non-governmental 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. **FR** *(Drafting)*: 2. The status of trusted flaggers under this Regulation shall be awarded by the platform referred to in paragraph 1~~, 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:	**DK** *(Comments)*: From the Danish side, we support the provision regarding trusted flaggers. Especially we support that the status as trusted flagger is awarded by the national authorities and not the online platforms themselves. **HU** *(Comments)*: In our view, the phrase 'by any entities' in Article 19 (2) can be understood in a broad sense (which may include a natural person) and may give rise to misunderstandings. Therefore, in line with recital 46, we propose to place more emphasis on the fact that only a legal person can be a trusted flagger. **LU** *(Comments)*: We are not convinced **why trusted flaggers can only be awarded that status at national level, Member State per Member State. This does not seem coherent with the Internal Market objective** of this Regulation and would also mean a step back from current practice, where many trusted flaggers operate on a cross-border basis. In order to avoid multiplication of such bodies, and in line with the Internal Market objective of this Regulation, it should be specified that a trusted flagger has to be

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		mutually recognised in all 27 Member States. **EL** *(Comments)*: *It must be defined how a trusted flagger proves that it meets the mentioned conditions, especially conditions a), b) and c).* **EE** *(Comments)*: We believe that it is essential that the competent authorities of Member State issue removal orders instead of delegating the decision of whether to remove the content because it is illegal or not to the service provider **NL** *(Comments)*: Can there be multiple trusted flaggers which defend more or less the same interest? For example several trusted flaggers which defend the rights of intellectual property rights holders? Can a rights holder that is a member of an organization that has been awarded the status of trusted flagger still become a trusted flagger itself ? **PL** *(Comments)*: It is important to define appropriate quality standards to be met by trusted flaggers to ensure their professionalism and independence. It is also important that these entities have adequate resources and knowledge of circumstances existing in a given Member State. Trusted

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		flagger status should be given to entities that will not make biased decisions with regard to content. Otherwise that could lead to censorship and thus infringe the right to freedom of expression. Therefore, the safeguards indicated in Article 19(5) and 19(6) are important. It is worth stressing that, irrespective of the role of trusted flaggers, dispute concerning the legality of the content should be decided by a national court or an appropriately established authority. Member States should have discretion to recognize entities as trusted flaggers. The DSA should not give rise to an obligation on Member States to recognize any organization as a trusted flaggers. **LV** *(Comments)*: The conditions below do not take into account the possible revocation of the trusted flagger status under Paragraph 6. Should an entity be allowed to re-apply once its status has been revoked? Current rules do not prevent that. **FR** *(Comments)*: Les autorités françaises relèvent l'intérêt de la coopération entre les plateformes et des signaleurs de confiance auxquels est accordé un traitement préférentiel de leurs signalements auprès des plateformes. Toutefois, elles considèrent que si le processus de sélection et

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		les modalités de coopération avec les signaleurs de confiance doivent être soumis au contrôle du régulateur, il n'est pas opportun que le règlement impose une désignation de ces « trusted flaggers » par le « Digital Services Coordinator » comme le suggère l'article 19.2. En effet, elles estiment qu'il ne revient pas aux pouvoirs publics, y compris s'il s'agit d'une autorité indépendante, de déterminer une liste de signaleurs de confiance, qui appartiennent essentiellement à la société civile. En revanche, il est souhaitable que les plateformes fournissent publiquement la liste des signaleurs de confiances avec qui elles travaillent. The French authorities consider that the obligation to work with trusted flaggers should not be imposed, but rather recommended. Furthermore, they consider it necessary to clarify that this system of trusted flaggers should not be interpreted as affecting or conditioning in any way the prerogatives of the public authorities duly authorised to intervene with platforms in accordance with Article 8 of the DSA (see comments above in recital 46). The French authorities note the value of cooperation between platforms and trusted alerts, which are given preferential treatment when dealing with platforms. However, they consider that while the selection process and the

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		arrangements for cooperation with trusted flaggers should be subject to the regulator's control, it is not appropriate for the Regulation to require the designation of these trusted flaggers by the Digital Services Coordinator, as suggested in Article 19.2. They believe that it is not up to the public authorities, including an independent authority, to determine a list of trusted flaggers, who are essentially members of civil society. However, it is desirable that platforms publicly provide the list of trusted alerts with which they work.
		NL *(Comments)*: We are considering advice to further spell out the procedure through which trusted flaggers are certified and how the criteria in (a), (b), and (c) should be interpreted. A possible option would be to task the Board with providing further guidance in this areas.
(a) it has particular expertise and competence for the purposes of detecting, identifying and notifying illegal content;	**HU** *(Drafting)*: a) it has particular expertise and competence for the purposes of detecting, identifying and notifying illegal **content under the legal system of the Member State of the Digital Services Coordinator**; **SE** *(Drafting)*: (a) it has particular expertise and	**HU** *(Comments)*: Trusted flaggers should demonstrate proficiency in the legal system of the MS of the awarding Digital Service Coordinator. It is highly unreasonable that a trusted flagger has extensive knowledge on possibly all Member States' legal system, therefore the special reporting status of the trusted flagger should also be confined to the services targeting the individual member state in

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	competence for the purposes of detecting, identifying and notifying manifestly illegal content;	which the trusted flagger was awarded the status. **SE** *(Comments)*: To maintain a safety margin and avoid over-removal, Sweden is of the opinion that trusted flaggers also shall relate to content that they consider to be manifestly illegal.
(b) it represents collective interests and is independent from any online platform;	**FR** (*Drafting*) ~~(b) it represents collective interests and is independent from any online platform;~~	**ES** *(Comments)*: Recital 46 should clarify that 'representing collective interests' does not only include organizations that represent a particular collective interest, such as the protection of intellectual property rights, but also those that defend general interests of users/consumers. **IT** *(Comments)*: A periodic review of the qualification of trusted flaggers could be envisaged in the manner specified in the guidelines ex sect. V. **EE** *(Comments)*: As a general remark, there needs to be greater clarity as to what is meant by "represents collective interests" here **FR** *(Comments)*: En l'état, l'article ne permet pas d'accorder le titre de signaleur de confiance aux titulaires de

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		droits, qui semblent pourtant légitimes pour identifier et signaler les contenus frauduleux. Nous proposons donc d'élargir le champ des Trusted flaggers aux titulaires de droits car certaines grandes marques étant déjà structurées pour faire ce travail. Par ailleurs, il est proposé de supprimer le critère « d'indépendance » qui pourrait conduire à exclure la possibilité d'être reconnu signaleur de confiance pour des associations qui bénéficieraient d'un soutien financier de plateformes. Compte tenu du rôle des signaleurs de confiance et du fait que la plateforme reste responsable de son choix de supprimer ou non le contenu signalé, le risque de conflit d'intérêt n'est pas caractérisé. As it stands, the article does not allow the title of Trusted Flagger to be granted to rights holders, who nevertheless seem legitimate to identify and report fraudulent content. We therefore propose to broaden the scope of Trusted Flaggers to include rights holders, as some major brands are already structured to do this work. In addition, it is proposed to delete the "independence" criterion which could lead to the exclusion of the possibility of being recognised as a trustworthy flagger for associations that benefit from financial support from platforms. Given the role of the trusted alerts and the fact

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		that the platform remains responsible for its choice of whether or not to remove the content reported, the risk of conflict of interest is not characterised.
(c) it carries out its activities for the purposes of submitting notices in a timely, diligent and objective manner.		
3. Digital Services Coordinators shall communicate to the Commission and the Board the names, addresses and electronic mail addresses of the entities to which they have awarded the status of the trusted flagger in accordance with paragraph 2.	**LV** *(Drafting)*: 3. Digital Services Coordinators shall communicate to the Commission and the Board the names, addresses and electronic mail addresses of the entities to which they have awarded the status of the trusted flagger in accordance with paragraph 2 **or revoked the status in accordance with paragraph 6**. **FR** *(Drafting)*: 3. ~~Digital Services Coordinators~~ Platforms referred to in paragraph 1 shall communicate to the Digital Services Coordinator of the Member State in which they are established, the Commission and the Board the names, addresses and electronic mail addresses of the entities to which they have awarded the status of the trusted flagger in accordance with paragraph 2.	**LV** *(Comments)*: This section should be supplemented by an indication that the Digital Services Coordinator also informs about changes in the status of trusted flaggers, such as revocation of status.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
4. The Commission shall publish the information referred to in paragraph 3 in a publicly available database and keep the database updated.	**AT** *(Drafting)*: 4. The Commission shall publish the information referred to in paragraph 3 in a publicly available **easily accessible** database and keep the database updated.	**NL** *(Comments)*: Will the database be accessible to the public as well? Although likely, 'database' doesn't mean it will be accessible through a browser for example. If necessary we reserve the right to make a drafting suggestion to ensure the public also has access to this list of trusted flaggers.
5. Where an online platform has information indicating that a trusted flagger submitted a significant number of insufficiently precise or inadequately substantiated notices through the mechanisms referred to in Article 14, including information gathered in connection to the processing of complaints through the internal complaint-handling systems referred to in Article 17(3), it shall communicate that information to the Digital Services Coordinator that awarded the status of trusted flagger to the entity concerned, providing the necessary explanations and supporting documents.		**EL** *(Comments)*: *In par. 5, the phrase ".. submitted a significant number of insufficiently precise or inadequately substantiated notices" requires clarification in order to harmonize the information process from the platforms to the responsible Digital Services Coordinator.* **NL** *(Comments)*: Does this article preclude online platforms from taking action against trusted flaggers that it has notified to a DSC under this article? Because that would mean the trusted flagger could continue to abuse its powers as long as the DSCs investigation and subsequent decision-making process is ongoing. Which can take quite a while given how administrative law usually works. We reserve the right to make a drafting

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		suggestion to ensure online platforms have for example the freedom to not process notices from such a trusted flagger without undue delay and priority once it has notified a trusted flagger under this paragraph
6. The Digital Services Coordinator that awarded the status of trusted flagger to an entity shall revoke that status if it determines, following an investigation either on its own initiative or on the basis information received by third parties, including the information provided by an online platform pursuant to paragraph 5, that the entity no longer meets the conditions set out in paragraph 2. Before revoking that status, the Digital Services Coordinator shall afford the entity an opportunity to react to the findings of its investigation and its intention to revoke the entity's status as trusted flagger	**FR** *(Drafting)*: 6. The ~~Digital Services Coordinator~~ platform referred to in paragraph 1 that awarded the status of trusted flagger to an entity shall revoke that status if it determines, following an investigation ~~either on its own initiative or on the basis information received by third parties, including the information provided by an online platform pursuant to paragraph 5~~, that the entity no longer meets the conditions set out in paragraph 2 or frequently submitted notices or complaints, through the notice and action mechanisms and internal complaints-handling systems referred to in Articles 14 and 17, that are manifestly unfounded. Before revoking that status, the ~~Digital Services Coordinator~~ platform shall afford the entity an opportunity to react to the findings of its investigation and its intention to revoke the entity's status as trusted flagger. The platform shall communicate that decision to the Digital Services Coordinator of the Member State in which the platform is established,	**DK** *(Comments)*: The provision seems to lack an obligation for the Digital Services Coordinators to communicate to the Commission and the Board in case they revoke a status as trusted flagger. **IT** *(Comments)*: We should reflect on the introduction of specific timing. **EL** *(Comments)*: *Regarding the possibility of comments from the trusted flagger for the revoking of its status, we believe that this procedure should be more clearly defined. In addition, clear time limits should be set.*

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	providing the necessary explanations and supporting documents.	
7. The Commission, after consulting the Board, may issue guidance to assist online platforms and Digital Services Coordinators in the application of paragraphs 5 and 6.	**FR** *(Drafting)*: 7. The Commission, after consulting the Board, may issue guidance to assist ~~online~~ platforms referred to in paragraph 1 ~~and Digital Services Coordinators~~ in the application of paragraphs ~~5~~ 2 and 6	**MT** *(Comments)*: Is it not advisable for this Article to also cater for scenarios where an online platform and a Digital Services Coordinator do not reach the same conclusion following due assessment/investigations? **NL** *(Comments)*: See our comments on paragraph 2. We may make a drafting suggestion to include paragraph 2 in here
	IT *(Drafting)*: ***8. online platforms shall avoid to give different treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council***	**IT** *(Comments)*: **IT** proposes a new paragraph to avoid circumvention of the rule and discriminatory applications.
Article 20 *Measures and protection against misuse*		**ES** *(Comments)*: It is positively valued that platforms have the obligation to suspend user accounts that

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		frequently provide illegal material or that submit notices that are manifestly unfounded. **NL** *(Comments)*: How can over removal be avoided, if platforms may use their own criteria for deciding whether content is illegal or otherwise unlawful? **LV** *(Comments)*: Measures and protection against misuse do not apply to small and medium businesses and hosting services that are not online platforms. However, provision in Article 14 does apply. Therefore, these hosting services will not be not adequately protected against the misuse of Article 14 by service recipients. **DE** *(Comments)*: We welcome the obligation of providers to suspend the provision of their services in the case of manifestly repeated misuse. This is of great significance especially against the background of manipulative defamation campaigns, not least before parliamentary elections. However, because the suspension of services involves a significant interference with the freedom of expression of users, stronger safeguards are necessary in order to avoid creating a form of censorship which can be imposed unilaterally by the platforms. From our

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		point of view, because of the outstanding importance of freedom of expression, there should be an upstream review of the decision by a body, other than the platform. With a view especially to para. 1, it has to be ensured that the hurdles for a suspension are high. At least in regard to very large platforms, we advocate to also include requirements and safeguards for "voluntary" account suspensions carried out by the platforms on the basis of their Community Standards. Very large platforms are in many cases essential for the exercise of the right to freedom of expression. Thus those platforms should not be free to suspend their services without legitimate grounds and procedural requirements (similar to Art. 20). A body, other than the platform, shall review a decision to suspend services beforehand. Also the question arises of how the obligation of the platforms to disable accounts in cases of repeated misuse can be enforced. As far as the definition of criminal content is concerned, there are considerable differences between the Member States, due to different sensitivities or particular historical experiences. Moreover, the interpretation of content often depends very much on the linguistic context. Thus, a centralised responsibility of one MS seems not to be appropriate, also in view of the many

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		different languages within the EU. Also we wonder which legal remedies are available to the platforms and affected users against possible unlawful orders to disable certain accounts in which jurisdictions? We advocate to clarify this in the regulation.
1. Online platforms shall suspend, for a reasonable period of time and after having issued a prior warning, the provision of their services to recipients of the service that frequently provide manifestly illegal content.	**IT** *(Drafting)*: 1. Online platforms shall suspend, for ~~*a reasonable period of time*~~ ***7 days*** and after having issued a prior warning, the provision of their services to recipients of the service that frequently provide manifestly illegal content. **LV** *(Drafting)*: 1. Online platforms shall suspend, for a reasonable period of time and after having issued a prior warning, the provision of their services to recipients of the service that frequently provide ~~**manifestly**~~ illegal content. **FR** *(Drafting)*: 1. Providers referred to in Article 13a shall apply measures against misuse of their services, such as suspension or termination of the provision of their services, in whole or in part. These measures may affect, among others, the ability to access information provided by other users, the ability to share and give access to	**DK** *(Comments)*: *'For a reasonable period of time'* should be specified or exemplified i.e. in the recitals. **ES** *(Comments)*: The terms "a reasonable period" and "frequently" could be more specific, in order to avoid disparity of criteria. The irrevocable termination of service to the recipient should be foreseen in cases of reiteration in the suspension. This provision should also apply to hosting services, such as cyberlockers, to fight against users that frequently upload illegal content and, subsequently, share the URLs in social networks. **SE** *(Comments)*: **SE** welcomes that the article refers to *manifestly* illegal content. **IT** *(Comments)*: Art. 20 introduces protective measures against abuses, which, in order to be anchored to the

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	information to others, and the ability to monetize it. These measures shall be adequately deterring, reasonable and proportionate with regard to the gravity of the infringements. ~~Online platforms shall suspend, for a reasonable period of time and after having issued a prior warning~~ They shall include at least suspension and, in the most serious cases, termination of~~,~~ the provision of their services to recipients of the service that frequently provide ~~manifestly~~ illegal content.	principle of proportionality and balance, must be limited within certain terms. To this end, Italy proposes to replace the generic time references indicated in paragraphs 1, 2, 3 with the indication of "7 days". Consequently, in paragraph 4 the reference to the determination in the general contract conditions of the "duration of the suspension" must be deleted. **LV** *(Comments)*: The purpose of "manifestly" is not clear in formulation of Para 1. It should not be up to the platform to decide what is "manifestly illegal" and what is "just" illegal. The gradation of illegality should not matter in the context of this paragraph that is relating to frequent misuse of platform services and frequent violation of EU and national laws on illegal content. We would prefer deletion of "manifestly". This provision should not be limited to "reasonable period of time" only, considering that nothing prevents to stop the provision of services indefinitely under platforms' terms and conditions for other violations **FR** *(Comments)*: Les mesures doivent être proportionnées mais aussi dissuasives: il ne faut pas exclure la possibilité, dans les cas les plus graves, de ne pas prévoir d'avertissement préalable, et il est

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		souhaitable d'imposer dans les cas les plus graves de résilier le compte plutôt que de le suspendre. Ceci n'interdit pas à l'utilisateur de créer un nouveau compte, mais le fait d'avoir perdu l'audience liée au compte précédent sera un facteur dissuasif. Measures against misuse should be both proportionate and dissuasive. For serious cases, prior warning should not be mandatory. In most serious cases, accounts should be terminated rather than suspended. It should be noted that account termination should not be understood as preventing the user from creating a new account; however, the loss of the previous account's audience will have a dissuasive effect. There is no reason to confine the scope of this obligation to manifestly illegal content. **DE** *(Comments)*: What is meant by "frequently"? Two or three times? Already including the cases that gave rise to the "prior warning"? Or is the number of cases dependent on how serious each case is? This should be clarified for the purpose of transparency and legal certainty and ideally specified in the legal act (if necessary in the recitals). If there is strong suspicion of criminal activity, a warning does not seem necessary before the

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		suspension, as in the case of criminals, in particular on transaction platforms, there is a strong risk that they continue the criminal activity after the warning
2. Online platforms shall suspend, for a reasonable period of time and after having issued a prior warning, the processing of notices and complaints submitted through the notice and action mechanisms and internal complaints-handling systems referred to in Articles 14 and 17, respectively, by individuals or entities or by complainants that frequently submit notices or complaints that are manifestly unfounded.	**AT** *(Drafting)*: 2. Online platforms ~~**shall**~~ **may** suspend, for a reasonable period of time and after having issued a prior warning, the processing of notices and complaints submitted through the notice and action mechanisms and internal complaints-handling systems referred to in Articles 14 and 17, respectively, by individuals or entities or by complainants that frequently submit notices or complaints that are manifestly unfounded. **IT** *(Drafting)*: 2. Online platforms shall suspend, for a ~~*reasonable period of time*~~ ***7 days*** and after having issued a prior warning, the processing of notices and complaints submitted through the notice and action mechanisms and internal complaints-handling systems referred to in Articles 14 and 17, respectively, by individuals or entities or by complainants that frequently submit notices or complaints that are manifestly unfounded. **EE** *(Drafting)*:	**AT** *(Comments)*: We suggest to change paragraph 2 to a "may"-provision, as manifestly unfounded notices or complaints might be burdensome for the platform to handle, but they are – contrary to manifestly illegal content disseminated to the public – not harmful per se. **BE** *(Comments)*: The text only refers to the obligation to give a prior warning before suspension. Shouldn't the recipient of service/individual or entities/complainants also **be notified** of the decision of suspension taken by the platform, **the reasons** of this decision and the **redress possibilities**? **DK** *(Comments)*: *'For a reasonable period of time'* should be specified or exemplified i.e. in the recitals. **ES** *(Comments)*: The terms "a reasonable period" and "frequently" could be more specific, in order to

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	2.Online platforms ~~shall~~ may suspend, for a reasonable period of time and after having issued a prior warning, the processing of notices and complaints submitted through the notice and action mechanisms and internal complaints-handling systems referred to in Articles 14 and 17, respectively, by individuals or entities or by complainants that frequently submit notices or complaints that are manifestly unfounded. **FR** *(Drafting)*: 2. ~~Online platforms shall~~ Providers may suspend, for a reasonable period of time and after having issued a prior warning, the processing of notices and complaints submitted through the notice and action mechanisms ~~and internal complaints-handling systems~~ referred to in Article~~s~~ 14 ~~and 17, respectively~~, by individuals or entities or by complainants that frequently submit notices ~~or complaints~~ that are manifestly unfounded.	avoid disparity of criteria. **IT** *(Comments)*: Art. 20 introduces protective measures against abuses, which, in order to be anchored to the principle of proportionality and balance, must be limited within certain terms. To this end, Italy proposes to replace the generic time references indicated in paragraphs 1, 2, 3 with the indication of "7 days". Consequently, in paragraph 4 the reference to the determination in the general contract conditions of the "duration of the suspension" must be deleted. **EE** *(Comments)*: The requirement to suspend the provision of services to recipients of the service that frequently provide manifestly illegal content, as foreseen under point 1, serves a clear purpose of hindering the spread of illegal content. However, we do not see a good reason for obliging the service provider to suspend the provision of their services to entities/individuals on other grounds under this Regulation. **PL** *(Comments)*: According to art. 20 online platforms have the possibility to suspend the processing of notices and complaints submitted via the notice and action mechanisms and internal complaint-handling system referred to in Articles 14 and 17

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		respectively by individuals or entities or by complainants frequently submitting manifestly unfounded notices or complaints. A similar power is not foreseen for hosting providers that are not online platforms, even though they may also be affected by the problem of complaint/notification handling under Article 14. Therefore, it should be clarified whether also hosting providers should have the powers indicated in Article 20 with regard to Article 14. **FR** *(Comments)*: Il n'est pas souhaitable d'imposer une suspension de l'accès à des mécanismes qui représentent des garanties pour les utilisateurs. The use of mechanisms that represent safeguards for users should not be restricted.
3. Online platforms shall assess, on a case-by-case basis and in a timely, diligent and objective manner, whether a recipient, individual, entity or complainant engages in the misuse referred to in paragraphs 1 and 2, taking into account all relevant facts and circumstances apparent from the information available to the online platform. Those circumstances shall include at least the following:	**AT** *(Drafting)*: 3. Online platforms shall assess, on a case-by-case basis and in a timely, diligent and objective manner, whether a recipient, **individual, entity or complainant** engages in the misuse referred to in paragraph~~s~~ 1 **and 2**, taking into account all relevant facts and circumstances apparent from the information available to the online platform. Those circumstances shall include at least the	**AT** *(Comments)*: We suggest to restrict the assessment only to misuses referred to in paragraph 1, as a consequence of our proposal to make paragraph 2 not obligatory to platforms. These two paragraphs handle totally different situations: whereas the dissemination of manifestly illegal content might be harmful to the public, the misuse defined in paragraph 2 is only burdensome for the platform.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	following: **FR** *(Drafting)*: 3. Before enforcing any of the measures against misuse of their services referred to in paragraphs 1 and 2, whether this misuse consists of an infringement against the applicable law or against their terms and conditions, ~~O~~online platforms shall conduct an assessment, on a case-by-case basis and in a timely, diligent and objective manner, ~~whether a recipient, individual, entity or complainant engages in the misuse referred to in paragraphs 1 and 2,~~ taking into account all relevant facts and circumstances apparent from the information available to the online platform. Those circumstances shall include at least the following: **IT** *(Drafting)*: 3. Online platforms shall assess, on a case-by-case basis ***within 7 days*** *and in a ~~timely~~*, diligent and objective manner, whether a recipient, individual, entity or complainant engages in the misuse referred to in paragraphs 1 and 2, taking into account all relevant facts and circumstances apparent from the information available to the online platform. Those circumstances shall include at least the following:	**FR** *(Comments)*: It should be clearly stated that the safeguards provided for in this article apply not only when the platform is obligated to suspend an account (in case of repeated dissemination of illegal content), but also every time the platform proactively decides to take measures against misuse. **IT** *(Comments)*: Art. 20 introduces protective measures against abuses, which, in order to be anchored to the principle of proportionality and balance, must be limited within certain terms. To this end, Italy proposes to replace the generic time references indicated in paragraphs 1, 2, 3 with the indication of "7 days". Consequently, in paragraph 4 the reference to the determination in the general contract conditions of the "duration of the suspension" must be deleted.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
(a) the absolute numbers of items of manifestly illegal content or manifestly unfounded notices or complaints, submitted in the past year;	**AT** *(Drafting)*: (a) the absolute numbers of items of manifestly illegal content ~~or~~ **~~manifestly unfounded notices or complaints~~**, submitted in the past year; **FR** *(Drafting)*: (a) the absolute numbers of items of ~~manifestly~~ illegal content or content infringing the terms and conditions or manifestly unfounded notices or complaints, submitted by the recipient in the past year; **LV** *(Drafting)*: (a) the absolute numbers of items of **~~manifestly~~** illegal content or manifestly unfounded notices or complaints, submitted in the past year;	**FR** *(Comments)*: Idem. **LV** *(Drafting)*: (a) the absolute numbers of items of **~~manifestly~~** illegal content or manifestly unfounded notices or complaints, submitted in the past year;
(b) the relative proportion thereof in relation to the total number of items of information provided or notices submitted in the past year;	**AT** *(Drafting)*: (b) the relative proportion thereof in relation to the total number of items of information provided **~~or notices submitted~~** in the past year; **FR** *(Drafting)*: (b) where relevant, the relative proportion ~~there~~of manifestly unfounded notices or complaints in relation to the total number of ~~items of information provided or~~ notices	**FR** *(Comments)*: La pertinence de ce critère est discutable: en ce qui concerne les contenus mis en ligne, l'abus peut en soi être très grave même s'il concerne une faible proportion des contenus mis en ligne par l'utilisateur ; le fait que l'utilisateur fournisse plus ou moins fréquemment des contenus ne devrait pas biaiser l'appréciation. Ce critère pourrait être conservé pour les abus

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	submitted by the recipient in the past year;	liés au mécanisme de notification ou de recours. The relevance of this criterion is debatable: where content provision is concerned, abuse can be very serious even if it only represents a small fraction of the content provided by the user; whether a given user is, or is not, a frequent provider of content is largely irrelevant for the purpose of appreciating the gravity of such an infringement. This criterion could however be applied to abuse relating to notice or redress mechanisms.
(c) the gravity of the misuses and its consequences;	**AT** *(Drafting)*: (c) **the nature of illegal content**, the gravity of the misuses and its consequences; **FR** *(Drafting)*: (c) the gravity of the misuses ~~and its consequences;~~	**AT** *(Comments)*: The nature of illegal content should be a contributing factor to the decision making process. The distribution of child pornography, for example, should result in a quicker suspension than other content, that creates no immediate harm to the life or safety of persons. **EL** *(Comments)*: *We consider that case c) is vague and needs clarification as it may has a subjective judgment in its interpretation.* **FR** *(Comments)*: Il est difficile pour la plateforme d'apprécier les conséquences de l'abus : il est proposé de ne conserver que le critère de gravité, qui peut

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		inclure les conséquences dans la mesure où la plateforme peut en avoir connaissance. The consequence of the abuse may not easily be identified by the platform. The French authorities suggest keeping only the gravity criterion, which should be understood to cover the consequence of the misuse insofar as the platform has actual knowledge of those consequences.
(d) the intention of the recipient, individual, entity or complainant.	**AT** *(Drafting)*: (d) the intention of the recipient~~**, individual, entity or complainant**~~. **LV** *(Drafting)*: Deleted **FR** *(Drafting)*: ~~(d) the intention of the recipient, individual, entity or complainant.~~	**IE** *(Comments)*: Suggest inserting at the beginning of this item "where it is possible to infer it," **SK** *(Comments)*: *We would like to point out that it might be very difficult to objectively assess the intention of the recipient, individual, entity or complainant in the context of notice & action mechanism. It might bring a risk of providing blanket excuse for online platforms to disregard frequent or repeated notices.* **IT** *(Comments)*: We are concerned about point (d), wondering how online platforms and online services providers check "the intention of the recipient, individual, entity or complainant"

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		EL *(Comments)*: *We consider that case d) is vague and needs clarification as it may has a subjective judgment in its interpretation.* **LV** *(Comments)*: How the platform will be able to assess the intent of a third party, and what would be the purpose for obliging a private entity to undertake this task? If a user publishes repeatedly illegal content with good intentions, it does not change the fact the content is illegal and the user ignored the warnings. Same with complainants – if the misuse comes "from heart", what effect should it have on platforms' decision? We would prefer deletion of this point **FR** *(Comments)*: Il est proposé de supprimer cette condition d'intentionnalité, car ce critère est difficile à caractériser de façon fiable pour la plateforme. The French authorities suggest removing the condition of intent, as it is very difficult for the platform to identify in a reliable fashion.
	IT *(Drafting)*: **e) the rights listed *of the Charter of fundamental rights of the EU are involved.***	**IT** *(Comments)*: **IT** proposes to include the rights of the Charter of fundamental rights
4. Online platforms shall set out, in a clear and detailed manner, their policy in respect of		**BG** *(Comments)*:

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COMMISSION PROPOSAL	**Drafting**	**Comments**
the misuse referred to in paragraphs 1 and 2 in their terms and conditions, including as regards the facts and circumstances that they take into account when assessing whether certain behaviour constitutes misuse and the duration of the suspension.		Считаме за удачно все пак да се дефинира някакъв максимален срок, напр. до 6 месеца. We consider it appropriate, however, to define a maximal time period, e.g. up to 6 months. **EL** *(Comments)*: *Regarding the duration of the suspension, we agree to be defined on terms and conditions of each platform, but, for reasons of uniformity, we propose the settlement of a limit up for that period (ceiling) which will apply to all platforms.*
Article 21 *Notification of suspicions of criminal offences*	**IT** *(Drafting)*: 4. Online platforms shall set out ***and regularly update / or keep update***, in a clear and detailed manner ***based on risk assessment***, their policy in respect of the misuse referred to in paragraphs 1 and 2 in their terms and conditions, including as regards the facts and circumstances that they take into account when assessing whether certain behaviour constitutes misuse and the duration of the suspension. **FR** *(Drafting)*: *Article ~~21~~ 15c* *Notification of suspicions of criminal offences*	**DK** *(Comments)*: We are do not think that micro and small enterprises should be exempted from this provision. The provision is limited to serious criminal offences and it does not seem like an unreasonable requirement, that they inform the law enforcement, if they become aware of such an offence. Rather the opposite. **SK** *(Comments)*: *Why did the EC decide to include article 21 in a form of a general obligation and not in a form of a possible option for member states? Why do you think that it is sufficient to state (only) in the recital 48 that „this Regulation does not provide the legal basis for profiling of recipients of the*

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		services with a view to the possible identification of criminal offences by online platforms" without any corresponding normative provision in article 21? **LU** *(Comments)*: Luxembourg wants to clarify that "illegal content" as defined in Article 2(g) is different than "criminal offence", and that provisions in the DSA relating to illegal content do not apply for criminal offences. The notion of "by its reference to an activity" therefore needs to be clarified in the definition of "illegal content" in order to avoid double procedures and obligations concerning a same item of content. See also suggestion concerning recital (48). **IT** *(Comments)*: Art. 20 introduces protective measures against abuses, which, in order to be anchored to the principle of proportionality and balance, must be limited within certain terms. To this end, Italy proposes to replace the generic time references indicated in paragraphs 1, 2, 3 with the indication of "7 days". Consequently, in paragraph 4 the reference to the determination in the general contract conditions of the "duration of the suspension" must be deleted. **DE** *(Comments)*: We support the inclusion of notification

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		obligations in the proposal. However from our point of view the requirement of "serious criminal offences involving a threat to the life or safety of persons" is too narrow and unclear. E.g. criminal offences endangering society and democracy as a whole need also to be covered. Also MS must be able to provide for further notification obligations regarding certain illegal content, like hate speech, under national law. This has to be clarified in the text. We wonder what is the difference between Art. 21 and the corresponding provision in the TCO Regulation [see Art. 13(4) there]. Art. 21 also raises questions of legal protection. We wonder what legal remedies are available to users when notifications are made under Art. 21. We also wonder what legal remedies are available to the service providers concerned to defend themselves against unlawful orders under Art. 21.
		BE *(Comments)*: This provision is one of the key elements to reinforce the relationship between intermediaries and national competent authorities. At this stage, Belgium would like to further examine the scope of this provision and would therefore raise the following questions : - Why this provision is limited to online

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		platforms? - How the **notion of serious criminal offences** is defined (EU or national level) and who is responsible to determine if it is a case of serious criminal offences? Should the online platform be able to determine whether the illegality constitutes a serious criminal offence or not, depending on the law of the country of its establishment or the law of all the different countries in which the content is disseminated? **PL** *(Comments)*: In the context of Article 21, it is important that platforms transmit accurate data. Therefore clarification is needed which categories of information, and to what extent, the platform will be required to provide. Transmitted data must enable effective combating of crime related to illegal content. At the same time it is extremely important to guarantee a balance between preventing and combating crime and users privacy and protection of freedom of speech **FR** *(Comments)*: Renforcement de l'article 21 : application à tous les hébergeurs. Strengthening of Article 21: application to all hosting services.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
1. Where an online platform becomes aware of any information giving rise to a suspicion that a serious criminal offence involving a threat to the life or safety of persons has taken place, is taking place or is likely to take place, it shall promptly inform the law enforcement or judicial authorities of the Member State or Member States concerned of its suspicion and provide all relevant information available.	**AT** *(Drafting)*: 1. Where an online platform becomes aware of any information giving rise to a suspicion that a serious criminal offence involving a threat to the life or safety of **a** person**s** has taken place, is taking place or is likely to take place, it shall promptly inform the law enforcement or judicial authorities of the Member State or Member States concerned of its suspicion and provide all relevant information available. **DK** *(Drafting)*: Where an online platform becomes aware of any information giving rise to a suspicion that a serious criminal offence involving a threat to the life or safety of **a person or** persons has taken place, is taking place or is likely to take place, it shall promptly inform the law enforcement or judicial authorities of the Member State or Member States concerned of its suspicion and provide all relevant information available. **NL** *(Drafting)*: 1. Where an online platform becomes aware of any information giving rise to a suspicion that a serious criminal offence involving a threat to the life or safety of ~~***persons***~~ ***an individual or persons*** has taken place, is taking place or is likely to take place, it shall	**BE** *(Comments)*: In order to be effective, shouldn't a single "point of contact" for the Member State be established for the notification pursuant art.21, which would then dispatch it directly to the relevant competent authority? **IE** *(Comments)*: It is considered that it is inappropriate to apply the derogation provided by Article 16 to this Article given the potential for threats of large scale loss of life the importance of which far outweigh the benefit of avoiding a burdensome administrative requirement. It is considered that it is not sufficient to rely on the goodwill of micro and small business, in that they **may** voluntarily carry out such informing, where a threat to life or public safety is at stake. **DK** *(Comments)*: The wording "any information giving rise to a suspicion that a serious criminal offence" is unclear. Does the provision only concern serious criminal offences that the recipient of the service may have committed, may be committing or is likely to commit? Or could it also be information that someone else may have committed, may be committing or is likely to commit serious criminal offences? Thus, we find that the recitals should provide guidance as to

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	promptly inform the law enforcement or judicial authorities of the Member State or Member States concerned of its suspicion and provide all relevant information available. **LV** *(Drafting)*: 1. Where an online platform becomes aware of any information giving rise to a suspicion that a **~~serious~~** criminal offence involving a threat to the life or safety of persons has taken place, is taking place or is likely to take place, it shall promptly inform the law enforcement or judicial authorities of the Member State or Member States concerned of its suspicion and provide all relevant information available. **FR** *(Drafting)*: 1. Where a provider of hosting service ~~an online platform~~ becomes aware of any information giving rise to a suspicion that a serious criminal offence involving a threat to the life or safety of persons has taken place, is taking place or is likely to take place, it shall promptly inform the law enforcement or judicial authorities of the Member State or Member States concerned of its suspicion and provide all relevant information available.	what information, besides the illegal content itself, the article refers to. **BG** *(Comments)*: Предлагаме текстът да се уеднакви с този от рецитал (48), като се посочи, че платформата може и чрез свои мерки да получи информация. Не считаме за правилно ограничаването само до живота и безопасността на хората, тъй като заплаха за стратегически обект или за здравето на хората също не е по-малко вредна? Виж коментара към (48) We propose to unify the text with that of recital 48, pointing out that the platform can also obtain information through its own measures. We do not consider a limitation only to offences involving a threat to the life or safety of persons to be justified, since a threat to a strategic site or to human health is no less harmful? View also comments to recital 48. **ES** *(Comments)*: It should be clarified that it also covers sexual exploitation crimes, particularly on minors. **FI** *(Comments)*: **FI** supports the obligation and even considers whether it should be applied to all platforms

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		irrespective of their size. However, the obligation should be more precise in order to help the platforms to adhere to it. For instance, does serious crime imply to a certain level of punishment? **LU** *(Comments)*: Does this provision mean that a SPOC has to be identified for law enforcement or judicial authorities of the Member States for online platforms to comply with this obligation ? **IT** *(Comments)*: Italy asks if the article precludes Member States from introducing or maintaining such reporting obligations in relation to offenses of which small and very small businesses become aware. Instead of an evaluation of the online platform, Italy suggests a list of serious crimes could be envisaged, such as child pornography or terrorism **EL** *(Comments)*: *We agree with the immediate notification of the competent authorities by an online platform when it becomes aware of any information giving rise to a suspicion that a serious criminal offence involving a threat to the life or safety of persons has taken place, is taking place or is likely to take place. We consider, however, that the phrase " it shall promptly inform " should be*

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		replaced by an explicit immediate time. **NL** *(Comments)*: **NL** would like to clarify this sub-paragraph and ensure it is consistent with corresponding recital 48 where the term "person" is employed. We would like to ensure this article covers situations of an individual nature, such as the live-streaming of an attack on one person. **LV** *(Comments)*: The Regulation contains a statement on serious crime, but the classification and severity gradation of criminal offenses and the definition of serious criminal offenses may differ in the criminal law of different Member States. What might be serious criminal offence in one Member State may not be serious criminal offence in another Member State and vice versa. In addition, there is no legal argument to state that particularly serious crimes should be reported but less serious crimes should not be reported. Finally, it is not possible to require online platforms to be able to distinguish when the reporting obligation occurs. Consequently, the obligation to report suspected criminal offenses in Article 21 of the Regulation should apply to any criminal offense, regardless of its classification.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		DE *(Comments)*: From our point it is unclear what "serious criminal offences involving a threat to the life or safety of persons" means. We strongly advocate for a minimum list of "serious offences", which can be supplemented nationally if necessary. We wonder whether online platforms may have to notify several MS, or whether the notification to one MS is sufficient. We are not sure whether online platforms are free to decide to which MS and which authorities they address their notification. This has to be clarified in the text. Also, we strongly advocate to clarify which information platforms are obliged to provide, such as the last-log-in IP and the time of the last log-in to enable the identification of the author of the content for the purpose of criminal investigations. There should also be obligations to inform the Digital Services Coordinators if the platform operator becomes aware of illegal content that contravenes national legal acts or such legal acts that implement international agreements or EU Law irrespective of whether these contraventions are sanctioned by criminal law or not. There could be a tool that enables the platforms to send such an information on illegal activity to all DSCs simultaneously.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
2. Where the online platform cannot identify with reasonable certainty the Member State concerned, it shall inform the law enforcement authorities of the Member State in which it is established or has its legal representative or inform Europol.	**LU** *(Drafting)*: 2. Where the online platform cannot identify with reasonable certainty the Member State concerned, it shall inform the law enforcement authorities of the Member State in which it is established or has its legal representative ~~or~~ **and** inform Europol. **FR** *(Drafting)*: 2. Where the provider of hosting service ~~online platform~~ cannot identify with reasonable certainty the Member State concerned, it shall inform the law enforcement authorities of the Member State in which it is established or has its legal representative or inform Europol.	**IE** *(Comments)*: It would be advisable to have both Member States advised in any event to enable swift cross border co-operation should it be required **LU** *(Comments)*: Luxembourg considers it is necessary that in cases where the online platform cannot identify where a criminal offence has arisen, that Europol be in any case informed.
For the purpose of this Article, the Member State concerned shall be the Member State where the offence is suspected to have taken place, be taking place and likely to take place, or the Member State where the suspected offender resides or is located, or the Member State where the victim of the suspected offence resides or is located.	**FR** *(Drafting)*: For the purpose of this Article, the Member State concerned shall be the Member State where the offence is suspected to have taken place, be taking place and likely to take place, or the Member State where the suspected offender resides or is located, or the Member State where the victim of the suspected offence resides or is located. For the purpose of this Article, each Member	

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	State shall notify to the European Commission and to the Council the list of its competent law enforcement or judicial authorities	
	FR *(Drafting)*: *Article 21a* *Data access and scrutiny* 1. The Digital Services Coordinator of establishment may require from providers of hosting services, of live streaming platform services or of private messaging services to provide all necessary information for the purpose of monitoring, implementing and enforcing the rules laid down in this Regulation. It may also request access to their data bases and algorithms and request explanations on those. Where a Digital Services Coordinator has reasons to suspect that a provider of hosting services, of live streaming platform services or of private messaging services has infringed this Regulation, it may request from that provider all necessary information for the purpose of assessing the matter. It may also request access to their data bases and algorithms and request explanations on those. When sending a request for information, the Digital Services Coordinator shall state the purpose of the request, specify what information is required and fix the time-limit within which	**FR** *(Comments)*: Article 21a: This article gives the regulators the power to access data for the purposes of supervising compliance with the DSA. The DSC of establishment shall have the power to access the necessary data to verify compliance with the regulation. The other DSCs shall have access to data related to a suspected infringement, so that they can have sufficient information when requesting the DSC of establishment, pursuant to Article 45, to assess the matter and take the necessary investigatory and enforcement measures to ensure compliance. Article 21b: Cet article reprend l'ensemble du reporting correspondant aux obligations réunies dans la section 2, en reprenant les éléments figurant aux articles 13 et 23. This article pools reporting for all obligations listed in section 2, while taking up elements from article 13 and 23. §1: Reprise article 13(1)]

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	the information is to be provided, and the penalties provided for in Article 42, paragraph 3, for supplying incomplete, incorrect or misleading information or explanations. 2. Providers of hosting services, of live streaming platform services or of private messaging services shall provide access to data pursuant to paragraph 1 through online databases or application programming interfaces, as appropriate. 3. Within 15 days following receipt of a request as referred to in paragraph 1, providers of hosting services, of live streaming platform services or of private messaging services may request the Digital Services Coordinator that has issued the request, to amend the request, where it considers that it is unable to give access to the data requested because it does not have access to the data. 4. The Digital Services Coordinator that has issued the request shall decide upon the request for amendment within 15 days and communicate its decision and, where relevant, the amended request and the new time period to comply with the request. 5. The Digital Services Coordinator that has issued the request takes due account of requests by providers of hosting services, of live	Les autorités françaises sont également attentives à ce que les rapports de transparence fournissent des indications, pays par pays, à l'opposé de données agrégées. [As in Article 13(1)]. The French authorities are also careful to ensure that transparency reports provide country-by-country indications, as opposed to aggregated data. §1(a): [Reprise article 13(1)(b)] Il faut élargir à toutes les notifications, pour éviter de contraindre la plateforme à faire une distinction entre contenus illégaux (seuls visés par les notifications de l' article 14) et contenus légaux mais contraires aux CGU. Il semble plus proportionné d'exiger des plateformes un reporting seulement par rapport, d'une part, aux catégories d'infractions harmonisées en droit de l'Union (ce qui permettra des comparaisons entre plateformes), et d'autre part, par rapport à leurs propres catégories de contenus autrement contraires aux CGU, qui peuvent englober des contenus contraires à la loi locale dans divers Etats membres. Par ailleurs, l'articulation entre le début du b) et la suite qui commence par « any action » est

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	streaming platform services or of private messaging services to treat specific items of information as confidential, especially when the provider considers that their disclosure would lead to significant vulnerabilities for the security of its service or the protection of confidential information, in particular trade secrets. *Article 21b* *Transparency reporting obligations* 1. Providers ~~of intermediary services~~ referred to in Article 13a shall publish, at least once a year, clear, easily comprehensible and detailed reports on any content moderation they engaged in during the relevant period. Those reports shall include, in particular, information on the following, categorised country by country, as applicable: (~~a~~b) the number of notices received with regard to content that is allegedly illegal or otherwise contrary to their terms of use ~~submitted in accordance with Article 14~~, categorised by the type of ~~alleged illegal~~ content concerned, and for each category, the number of ~~any~~ actions taken pursuant to the notices ~~by differentiating whether the action was taken on the basis of the law or the terms and conditions of the provider~~, and the average time needed for taking the action; the relevant categories shall include, on the one hand, categories of content that is not in	obscure dans le texte : une clarification est proposée. [As in Article 13(1)(b)] This reporting obligation should be extended to all notifications recieved, so as not to force the platform to distinguish between illegal content (targeted by article 14) and legal content restricted by its terms and conditions. It seems more proportionate to target online platforms' reporting obligations, firstly, on harmonized offenses in EU law (which will enable a comparison between different platforms) and secondly, on content that is prohibited by their own terms and conditions, which may include content prohibited by national law in various member States. Additionally, the link between the beginning of b) and the phrasing « any action » is unclear. The French authorities suggest a clarification. §1(b) : [Reprise article 13(1)(c)] [As in Article 13(1)(c)] §1(c) : [Reprise article 13(1)(d)] [As in Article 13(1)(d)] §1(d):

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	compliance with Union law, and on the other hand, any other categories of content that is not in compliance with the terms and conditions of the provider; (~~e~~b) the content moderation engaged in at the providers' own initiative, including the number and type of measures taken that affect the availability, visibility and accessibility of information provided by the recipients of the service and the recipients' ability to provide information, categorised by the type of reason and basis for taking those measures; (c~~d~~) the number of complaints received through the internal complaint-handling system referred to in Article 17, the basis for those complaints, decisions taken in respect of those complaints, the average time needed for taking those decisions and the number of instances where those decisions were reversed. (d~~a~~) the number of disputes submitted to the out-of-court dispute settlement bodies referred to in Article 18, the outcomes of the dispute settlement and the average time needed for completing the dispute settlement procedures; (~~e~~b) the number of suspensions imposed pursuant to Article 20, distinguishing between suspensions enacted for the provision of ~~manifestly~~ illegal content or content otherwise	[Reprise article 23(1)(a)] [As in Article 23(1)(a)] §1(e): [Reprise article 23(1)(b)] cf. article 20 [As in Article 23(1)(b)] See article 20 §1(f): [Reprise article 23(1)(c)] Proposition afin d'avoir plus de visibilité sur les mesures de filtrage mises en place par les services intermédiaires. Il s'agit de contrôler que les services qui annoncent mettre en place des mesures de filtrage des contenus illicites le font vraiment. [As in Article 23(1)(c)] Proposal to have more visibility on the filtering measures put in place by intermediary services, both in terms of type and number. The aim is to check that services which announce that they are putting in place measures to filter illegal content are actually doing so. §1(g): Si la transparence sur l'utilisation d'outils automatiques pour la modération des contenus est bienvenue, il est indispensable de prévoir

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	contrary to the terms and conditions of the provider, the submission of manifestly unfounded notices ~~and the submission of manifestly unfounded complaints~~; (~~f~~e) any use made of automatic means for the purpose of content moderation, including a specification of the precise purposes, indicators of the accuracy of the automated means in fulfilling those purposes and any safeguards applied and, as applicable, the number of removals they have enabled (g) the human resources allocated to the purpose of content moderation, including the number of moderators, their language skills, their training program, *etc*. (h) the share of takedowns, whether through automatic means or through the notice and action mecanism in accordance with Article 14, which have generated repeat infrigements. 2. When a provider considers that the publication of some information pursuant to paragraph 1 may cause significant vulnerabilities for the security of its service, such as circumvention of the moderation measures, the provider may remove such information from the reports. In that case, that provider shall transmit the complete reports to the Digital Services Coordinator of establishment and the Commission,	également une transparence sur les moyens humains dédiés à la modération (nombre de modérateurs, compétences linguistiques, formation, etc.). While transparency on the use of automatic tools for content moderation is welcome, it is also essential to provide transparency on the human resources dedicated to moderation (number of moderators, language skills, training, etc.). §1(h): Proposition afin d'avoir plus de visibilité sur les mesures de filtrage mises en place par les services intermédiaires. Il s'agit de contrôler que les services qui annoncent mettre en place des mesures de filtrage des contenus illicites le font vraiment. Proposal to have more visibility on the filtering measures put in place by intermediary services, both in terms of type and number. The aim is to check that services which announce that they undertake measures to filter illegal content are actually doing so. §2: Reprise de la disposition prévue à l'article 33, pour éviter les risques que les informations rendues publiques soient utilisées à des fins de contournement de la politique de modération ; la version non confidentielle devra être aussi

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	accompanied by a statement of the reasons for removing the information from the public reports. However, the descriptions referred to in points a) to h) shall be sufficient to enable the public, the recipients of the service and the right holders to obtain an adequate understanding of how the provider engaged content moderation. 3. The Commission may adopt implementing acts to lay down templates concerning the form, content and other details of reports pursuant to paragraph 1.	transmise aux DSC de destination. Néanmoins, les opérateurs devront tout de même s'assurer de communiquer des informations suffisamment utiles dans le cadre des rapports publics (notamment pour que les ayants droit puissent avoir les informations appropriées sur la lutte contre la contrefaçon). Provisions of article 33 should also apply here, in order to prevent the use of publicly available information for the purpose of circumventing content moderation policy. A non-confidential version should also be sent to the country-of-destination Coordinator. The French authorities also propose an addition to ensure that the platforms will not use confidentiality of information to remove any useful data from public reporting (e.g. so that right holders can have useful information on the fight against counterfeiting). §3: [Reprise article 23(4)] [As in Article 23(4)]

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Article 22 *Traceability of traders*	**RO** *(Drafting)*: Move the article to Section 1. **FR** *(Drafting)*: ~~Article 22~~ ~~Traceability of traders~~ **DE** *(Drafting)*: Article 22 Traceability of traders**, specific due diligence obligations**	**DK** *(Comments)*: From the Danish side we support the requirements in article 22. When consumers buy products or services on digital platforms, many businesses may be involved in a sale and sometimes there are insufficient information about the identity, address and contact information of the businesses. Consumers often find it difficult to understand who the contracting party is and thus to whom the consumer may complain over non-compliant products. In addition, authorities have difficulties enforcing the rules if it is not clear which company facilitates the sale. Online marketplaces should therefore make an effort to verify the information and identity of its business partners. While the requirements in Article 22 may very well be considered highly burdensome where imposed on smaller platforms, excluding the smaller platforms may on the other hand have negative consequences, where for instance fraudulent sellers migrate to these platforms. Has the Commission assessed the consequences of excluding micro- and small enterprises from the scope of this article? **ES** *(Comments)*: The rise of online marketplaces has had clear benefits both for consumers that have a bigger range of product at their disposal and for SMEs

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		that have a wider reach for their inventory. However, marketplaces have also brought with them an easy medium for nefarious sellers to bring dangerous or counterfeit products or illegal services to the masses. The DSA framework should include measures and obligations to tackle this problem, including evaluating their liability for making available unlawful and faulty third party products or imposing certain requirements, so that a reliable identity verification is performed before a trader is included in the marketplace. This verification should also apply to advertisers in the marketplace. Recital 50 is perhaps too lax, since it frees marketplaces from all responsibility. A balance should be struck in this regard. **SE** *(Comments)*: **SE** will come back to the provisions applible to online platforms that allow consumers to conclude distance contracts with traders. **SE** want to ensure these types of platforms take sufficient responsibility for products being sold on the platforms. **SK** *(Comments)*: *We have concerns about the relationship and parallel application of Art. 22 of the DSA and OMNIBUS directive (the Directive (EU)*

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		2019/2161)/ Art. 6a of the CRD (the Directive 2011/83/EU). Whereas, there is the principle 'lex specialis derogat lege generalis', the OMNIBUS will apply. OMNIBUS has a less requirements to identification of a trader (only a declaration is needed). What is the legal ground for applying additional requirements for identification of a trader according the DSA? **CZ** *(Comments)*: **CZ** appreciates the obligation of traceability of traders and the effort to protect European consumers. We agree that the access to traders via the platform is more effective than the direct contact. However, it is necessary that this obligation is proportionate towards both the traders and the platforms. Based on intense stakeholder input, **CZ** would like to state, that it would not support enlarging the scope of article 22 neither to non-professional traders nor to micro and small enterprises as it would go beyond the objectives and proportionality of this directive. **RO** *(Comments)*: **RO** is of the opinion that the scope of the traceability obligations should be broadened in order to include other intermediary services (i.e. advertising services) and better capture different market issues (e.g. counterfeiting).

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		IT *(Comments)*: Italy supports article 22 that should clearly include all digital services providers, not only larger platforms. The differentiated treatment of platforms depending on the size of the company would in fact entail gaps in protection for users, resulting in legal uncertainty that could undermine consumer confidence in electronic commerce. **FR** *(Comments)*: The French authorities propose to move Article 22 to a new Section 3A. Please refer to the incoming document on the specific obligations of marketplaces. **NL** *(Comments)*: **NL** strongly supports the introduction of the so-called Know Your Business Customer (KYBC) obligation as enshrined in Article 22. The proposed article strengthens consumer protection, particularly where in certain cases online platforms are held liable towards the consumer, where to the average consumer it seems the platform determines which information is provided and how that is done. At the same time, however, we have noticed how the inclusion of Article 22 in Chapter III, section 3, applicable to "online platforms", has given rise to confusion and calls from both

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		inside the Council and externally, from industry, to differentiate more clearly between speech-related content services (i.e. social media platforms) and product/services-related content services (i.e. online marketplaces). Whilst we are cognizant of the Commission's rationale to avoid making too much of a clear-cut distinction to ensure the future-proof character of the provision, especially against the backdrop of an increasing blending of services (e.g. influencers selling products on social media platforms), we are open to exploring possibilities to differentiate between services and the corresponding responsibilities for online platforms more clearly. We believe a similar confusion may exist for Articles 17 and 18, where it is unclear whether online marketplaces' existing systems are already deemed to be compliant with the obligations set out or whether are expected to set up new internal complaint handling systems. In addition, it is equally unclear whether online marketplaces are subject to the out-of-court dispute settlement rules spelled out under Article 18. **PL** *(Comments)*: We support that the DSA should take into consideration rules that already place specific

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		due diligence obligations on various online players, such as VAT collection rules, transparency requirements under the Platform-to-Business Regulation and the know-your-business-customer requirement under anti-money laundering rules. KYBC obligations should not be duplicated. **DE** *(Comments)*: We regret that the proposal does not provide for E-Commerce platforms and online market places to take a more proactive role in identifying and preventing unlawful advertising and illegal offers, such as not approved or illegaly traded products, offers violating consumer protection law or plagiarism. Especially in view of the numerous negative experiences in the Covid-19 pandemic, which the COM explicitly confirms in its new European Consumer Agenda, it seems unclear to us why the proposal does not contain corresponding due diligence obligations. Furthermore we wonder, what the consequences are if platforms do not comply with their obligation under the DSA, especially Art. 22. One consequence could be that they cannot invoke the liability privilege under Art. 5(1) in the event of damage to users caused by the infringement of Art. 22. It seems contradictory for platforms to be able to continue to invoke the civil liability privilege in the event of a breach of

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		their duty of care. We also wonder how circumvention strategies by traders posing as private individuals can be avoided.
1. Where an online platform allows consumers to conclude distance contracts with traders, it shall ensure that traders can only use its services to promote messages on or to offer products or services to consumers located in the Union if, prior to the use of its services, the online platform has obtained the following information:	**LU** *(Drafting)*: 1. Where an online platform allows consumers to conclude distance contracts with traders, it shall ensure that traders can only use its services to promote messages on or to offer products or services to consumers located in the Union if, prior to the use of its services, the online platform has obtained the following information, **where applicable**: **IT** *(Drafting)*: Where ~~an online platform~~ **a digital services provider** allows consumers to conclude distance contracts with traders, it shall ensure that traders can only use its services to promote messages on or to offer products or services to consumers located in the Union if, prior to the use of its services, the online platform has obtained the following information	**ES** *(Comments)*: It should be assessed whether the scope of the KYBC obligation could be expanded to other intermediaries, not only marketplaces. Specifically, web hosting, advertising or payment services could have similar obligations, which would facilitate the fight against unlawful activities, given that only traders who identify themselves adequately will make use of the aforementioned services. **FI** *(Comments)*: It is important that the obligations are proportionate to all platforms and that the obligations do not become too burdensome for micro and small platforms. However, the exclusion of the small and micro platforms from the application of the provisions of art. 22 that protect consumers is problematic in principle. This means that the consumers are less protected when they buy from small platforms, although nothing hinders the small platforms to adhere to art 22.

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		SK *(Comments)*: *The scope of the proposal could be extended also to other types of contracts (not solely consumer contracts)* **LU** *(Comments)*: Not all information listed in this paragraph will apply to all traders. For instance the Directives listed in paras (b) and (d) have specific scopes, and not all traders may be obliged by its provisions. In para (e), not all countries may require the registration of a trader. **IT** *(Comments)*: The same requirements should apply to Advertising Networks as well (included every form of affiliate marketing) given that several times the listing on the marketplace is lawful (i.e. a legit food supplement) however, the listing is advertised on a third-party website with unlawful claims (i.e. bombastic claims on miraculous COVID-19 curing properties of such food supplement). The detriment to European consumers and fair competition is the same than having the unlawful claims directly on the marketplace. However, those situations are far more difficult to enforce due to the nature of online. For an effective enforcement action on the immaterial field of play that is online, it's essential for European Authorities, to be put in

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		condition of easily obtaining the information listed in the points (a-b-c-d-e-f-g-f) also from online advertisers and any operator involved in affiliate marketing (including, but not limited to online marketplaces and marketing networks). With specific reference to a particularly critical sector such food, online platforms should be explicitly obliged to check also whether any food sellers on their platforms are registered as a Food Business Operator, in accordance to Art. 6 of Regulation (EC) No 852/2004. **NL** *(Comments)*: **NL** would like to ask how it is to be decided whether a third party is a trader or merely a consumer? Can this be based on the declaration made to the online platform by the third party as required in the new Article 7(4)(f) of the UCPD, as amended by the Directive (EU) 2019/2161 (the 'Omnibus' Directive)? And would this article supersede article 22.2, which additionally compels online platforms to verify the 'reliability' as to whether the submitted declaration of the trader indicating it is either a professional trader or simply a consumer? Is this sub-paragraph to be read so as to include consumer-to-consumer trading platforms and/or

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		collaborative economy platforms? Additionally, why are advertisers not included in this article? Problems including scams and deception of consumers also occur through online advertising. **DE** *(Comments)*: The proposal leaves open whether para. 1 also covers cases where a contract is initiated online but the contract is concluded offline. Is this situation covered by the wording "Where an online platform allows consumers to conclude distance contracts with traders"? Is it correct, that a platform "allowing" contracts to be concluded means that it is de facto generally allowed to conclude contracts on the platform, not necessarily the specific contract in question (e.g. Art. 22 also applies to a trader who concludes a sales contract for a product that is not allowed on the platform pursuant to its terms and conditions)?
		NL *(Comments)*: We are considering advice to broaden the scope of this provision to apply to all recipients of the service that offer product or services to consumers, and not just traders. We reserve the right to make according drafting suggestions in the future.

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(a) the name, address, telephone number and electronic mail address of the trader;	**HR** *(Drafting)*: "the name, address, ISO Country code of the country of residence, telephone number and electronic mail address of the trader"	**HR** *(Comments)*: Information on the country of residence of the trader is also important, and therefore should also be available
(b) a copy of the identification document of the trader or any other electronic identification as defined by Article 3 of Regulation (EU) No 910/2014 of the European Parliament and of the Council[15];	**DE** *(Drafting)*: (b) a copy of the identification document of the trader or any other electronic identification as defined by Article 3 of Regulation (EU) No 910/2014 of the European Parliament and of the Council, **where the trader is a natural person;**	**BE** *(Comments)*: The objective of this article is to ensure a correct identification of the trader. The general reference to article 3 of the eIDAS might be inaccurate/insufficient to assure an appropriate and serious identification of the trader. It would be more appropriate to ask for a **qualified** electronic signature or other **electronic identification means** that correspond to the **assurance level substantial or high** (and NOT assurance level "low") pursuant to eIDAS regulation. For example: it should be easy for a trader specialized in counterfeiting goods to provide a very convincing fake ID document to the platform. **NL** *(Comments)*: We are concerned about the individual traders who operate from their homes (and do not have

[15] Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC

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		a physical office address), thereby providing sensitive personal data to the online platform, such as a copy of identity documents. **NL** requests minimum safeguards in cases where such data is disclosed to third parties, including safeguards regarding the storage of this information. **DE** *(Comments)*: Such an identification document would only be useful, if the trader is a natural person. Otherwise register excerpts or certificates (cf. lit. e) would be appropriate.
(c) the bank account details of the trader, where the trader is a natural person;	**HR** *(Drafting)*: the bank account details of the trader, ~~where the trader is a natural person~~ **LV** *(Drafting)*: (c) the bank account details of the trader, **where the trader is a natural person**;	**BE** *(Comments)*: Why is this information required here? Under consumer law concerning distance contracts, the bank account details of the trader are not part of the precontractual information that has to be given to the consumer. **IE** *(Comments)*: What is the reason for the proviso "where the trader is a natural person" here. **DK** *(Comments)*: We do not understand why this requirement only applies to natural persons and not companies. **HR** *(Comments)*:

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		Can you please clarify why is this necessary? Trader could also be an entity (company or other entrepreneurship entity) and bank account details for that type of trader are also necessary, so the provision "where the trader is a natural person" should be removed **LV** *(Comments)*: Article 22 (c) should also apply to legal persons, given that a bank account may also be granted to a legal person. Legal persons also commit infringements in electronic commerce.
(d) the name, address, telephone number and electronic mail address of the economic operator, within the meaning of Article 3(13) and Article 4 of Regulation (EU) 2019/1020 of the European Parliament and the Council[16] or any relevant act of Union law;	**LV** *(Drafting)*: (d) **<u>if applicable,</u>** the name, address, telephone number and electronic mail address of the economic operator, within the meaning of Article 3(13) and Article 4 of Regulation (EU) 2019/1020 of the European Parliament and the Council or any relevant act of Union law;	**LV** *(Comments)*: "If applicable" should be added to this paragraph, given that Article 4 of Regulation 2019/1020 only applies to certain categories of goods.
(e) where the trader is registered in a trade register or similar public register, the trade register in which the trader is registered and its registration number or equivalent means of	**DE** *(Drafting)*: (e) where the trader is registered in a trade **central, commercial or companies** register or similar public register, the trade register in	**IT** *(Comments)*: With specific reference to a particularly critical sector such food, Italy suggests online platforms / services providers should check also whether

16 Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).

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identification in that register;	which the trader is registered and its registration number **or European unique identifier (EUID), if applicable**, or equivalent means of identification in that register;	any food sellers are registered as a Food Business Operator, in accordance to Art. 6 of Regulation (EC) No 852/2004. **DE** *(Comments)*: We wonder whether it would not be conceivable for the trader to provide the online platform with other register numbers that are required throughout the EU if no registration number from a central, commercial or companies register exists. We also wonder whether national and European legislation which obliges producers to have a national registration number in order to put specific products on the national market could also require platforms to ensure that traders provide for such a registration number, e.g. a registration number for producers in order to put electrical or electronic equipment, batteries or packaging on the national market. This should be clarified in the text.
(f) a self-certification by the trader committing to only offer products or services that comply with the applicable rules of Union law.	**IT** *(Drafting)*: (f) a self-certification ***or evidence*** by the trader committing to only offer products or services that comply with the applicable rules of Union law, ***including licenses necessary for the supply of products and services protected by intellectual property rights, exclusives or other***	**DK** *(Comments)*: Could this for an example be a commitment only to offer products that comply with Union product safety rules? We find this to be an important aspect. **IT** *(Comments)*:

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	agreements with the right holders, if any.	**IT** expresses doubts about the effectiveness of a self-certification, which is a burden for platforms and traders with little protection from scams. Intellectual property aspects have to be taken into consideration.
2. The online platform shall, upon receiving that information, make reasonable efforts to assess whether the information referred to in points (a), (d) and (e) of paragraph 1 is reliable through the use of any freely accessible official online database or online interface made available by a Member States or the Union or through requests to the trader to provide supporting documents from reliable sources.	**IT** *(Drafting)*: 2. The online platform shall, upon receiving that information, make ~~*reasonable*~~ ***best*** efforts to assess whether the information referred to in points (a), (d) and (e) of paragraph 1 is reliable through the use of any freely accessible official online database or online interface made available by a Member States or the Union or through requests to the trader to provide supporting documents from reliable sources **DE** *(Drafting)*: …through the use of any freely accessible **or moderately priced** official online database or online interface made available by a Member States or the Union or…	**HR** *(Comments)*: Clarification needed: Does "through requests to the trader to provide supporting documents from reliable sources" prescribes an obligation to provide these documents on the language of the country of establishment of the trader or should a trader be obligate to translate these documents? **IT** *(Comments)*: In line with Copyright directive we suggest to refer to "best efforts". **NL** *(Comments)*: Why does the assessment in this paragraph only apply to the information provided in points (a), (d) and (e) of paragraph 1? Ibid, see comment under Article 22.1 **DE** *(Comments)*: Considering para. 2, we wonder, how verification of the commercial user is carried out by platforms for traders established in third

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		countries. We also wonder, how traders can be prevented from disguising themselves as private users in order to circumvent the obligation to provide information under Art. 22 (esp. traders who plan to engage in illegal activity would have an incentive to do so). We don´t know if in all countries the databases of reference are publicly operated and freely accessible. If for a country no such freely accessible database exists, platforms that are not micro or small enterprises should be required to also use databases of reference that cost reasonable fees and require registration.
	AT *(Drafting)*: **2a. Before giving access to traders to offer products or services or to display advertising on their online interfaces, the online platform shall make reasonable efforts to prevent fraudulent practices on their platform, such as offers or advertisements of fake shops operators.**	
3. Where the online platform obtains indications that any item of information referred to in paragraph 1 obtained from the trader concerned is inaccurate or incomplete, that platform shall request the trader to correct the information in so far as necessary to ensure that all information is accurate and complete, without	**MT** *(Drafting)*: Where the online platform obtains indications, **or has sufficient reason to believe,** that any item of information referred to in paragraph 1….	**MT** *(Comments)*: The reasoning behind the suggested amendment is that the text in its current format seems to imply that an online platform has to obtain such information or have potential inaccuracies pointed out for its attention.

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delay or within the time period set by Union and national law.		
Where the trader fails to correct or complete that information, the online platform shall suspend the provision of its service to the trader until the request is complied with.		
4. The online platform shall store the information obtained pursuant to paragraph 1 and 2 in a secure manner for the duration of their contractual relationship with the trader concerned. They shall subsequently delete the information.		**BG** *(Comments)*: Удачно е да се определи минимален срок (6 месеца). В противен случай може да има договорки за няколко дни например. It is appropriate to set a minimal time period (6 months). Otherwise, there may be agreements which cover just several days, for example. **HR** *(Comments)*: We propose adding a strict deadline that goes beyond the duration of the contractual relationship with the trader concerned, in order for the duration of storing of information to be in line with GDPR Regulation. **NL** *(Comments)*: This will mean that trades that abuse a platform for a few trades whereby they mislead consumers and then delete their account will remain untraceable. We are considering if this is

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		the right balance, and if not, how it can be improved. **DE** *(Comments)*: We advocate, that the information obtained pursuant to para. 1 and 2 in certain cases has to be stored for a reasonable limited time period after the termination of the contractual relationship with the trader as it might be needed for civil or criminal law purposes.
		MT *(Comments)*: Article 22(4) could give rise to situations whereby traders' data might be deleted prior to the raising of a notice of illegal content. Moreover, should a trader delete its account after the creation and initial seeding of particular illegal content, tracing could be jeopardised. Malta believes that some safeguards in this respect should be introduced, for instance, a time-delay before deletion. This would act as a short buffer (e.g. 3 months) in case some illegalities are discovered after the trader deletes its account. It should be clarified that in the interest of avoiding jeopardised traceability, data should not be immediately deleted upon service termination by the trader or by the online platform, and that this article **should be** without prejudice to sector-specific legislation that may

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		establish longer storage requirements.
5. Without prejudice to paragraph 2, the platform shall only disclose the information to third parties where so required in accordance with the applicable law, including the orders referred to in Article 9 and any orders issued by Member States' competent authorities or the Commission for the performance of their tasks under this Regulation.		**DK** *(Comments)*: It is important that relevant authorities i.e. market surveillance authorities may require the information on traders for enforcement purposes. As we read article 22(5) it will be possible for national authorities to require such information. Market surveillance authorities would have a great benefit of access to information on traders selling goods to the EU via online platforms. Since the online platforms are obligated to obtain different information on the traders, the online platforms should also be obligated to provide the information to any competent market surveillance authority that works under any EU product legislation.
6. The online platform shall make the information referred to in points (a), (d), (e) and (f) of paragraph 1 available to the recipients of the service, in a clear, easily accessible and comprehensible manner.	**HR** *(Drafting)*: The online platform shall make the information referred to in points (a), (d), (e) and (f) of paragraph 1 available to the recipients of the service and orders issued by Member States' competent authorities or the Commission, in a clear, easily accessible and comprehensible manner **LU** *(Drafting)*: 6. The online platform shall make the	**FI** *(Comments)*: By this provision the regulation of information obligations would become fragmented in EU and information obligations would be regulated by many different EU instruments as well as national legislation implementing them. Part of the information obligations in para 6 is overlapping with Directive 2011/83/EU art. 6 a, which is applied irrespective of the size of the platform.

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	information referred to in points (a), ~~(d),~~ (e) and (f) of paragraph 1 available to the recipients of the service, in a clear, easily accessible and comprehensible manner.	**HR** *(Comments)*: Provision from paragraph 5. is added for the purpose of making these provisions more precise because the current wording of "recipients" is not completely precise. **LU** *(Comments)*: We are not convinced that the information in point (d) should be made available to the recipient of the service. **NL** *(Comments)*: Has the Commission considered the risk of requiring online platforms to publish such information where traders act from their personal home address? What is its assessment of the adherence of this obligation with existing data protection and privacy rules?
	DE *(Drafting)*: **6. (a). The online platform shall take reasonable, technically and organisationally possible and, where appropriate, automated measures to prevent that illegal content in relation to the promotion of messages on or the offer of products or services to consumers will be disclosed on its online interface**.	**DE** *(Comments)*: The draft lacks a clear set of responsibilities of the platforms for combating illegal content. Thus, the detection and taking of action against illegal content and the supply of illegal goods will depend primarily on effective notices of the users themselves. More obligations for platforms that allow for transactions are advisable, esp. obligations to act proactively against infringements (e.g. in general against supply of

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		illegal products or services, counterfeits, illegal hate speech or specifically against illegal trade in specimens or products of protected and highly endangered wild animals; illicit trade of drugs or drug precursors). This would increase the likelihood that certain types of illegal content are removed consistently and rapidly. To the extend that it is possible for them to do so at economically reasonable expense and efforts, platforms should ensure that no fake shops and other (clearly illegal) or fraudulent offers appear on their services. A corresponding proposal is inserted as a new para. 6a. The effort required and to be demanded of the platforms should be dependent on the respective size of the service provider and should not disproportionately burden small providers.
7. The online platform shall design and organise its online interface in a way that enables traders to comply with their obligations regarding pre-contractual information and product safety information under applicable Union law.	**DE** *(Drafting)*: 7. **The design of websites and digital services of online platforms should be fair, transparent and user-friendly; the use of dark patterns is prohibited.** The online platform shall design and organise its online interface in a way that enables traders to comply with their obligations regarding pre-contractual information and product safety information under applicable Union law. **The online platforms ensures by design that offers for**	**FI** *(Comments)*: The application of para 7 to bigger platforms seems not logical, as the obligations in consumer protection and product safety apply to all traders irrespective of the size of the platform they use to offer their services. However, micro and small platforms may adhere to para 7 obligation if they consider it a competitive advantage. **DE** *(Comments)*: The online platform should ensure that offers can only be uploaded if the design interface has

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	products or services to consumers can only be uploaded on the online platform if the relevant design interface for the obligations regarding pre-contractual information and product safety information under applicable Union law are filled out.	been completed for the legally required information (mandatory field). It goes without saying that the platform is not responsible in any way for the content, only that any content is specified in the mandatory field. Further obligations for the fair, appropriate and user-friendly design of websites and digital services should be established in this context. "Fair" in this context means precise, intelligible, transparent, easily accessible, simple and clear language and a design adapted to the possibilities of the respective means of communication. This includes stronger measures against misleading "design tricks" and "mind tricks", such as so-called "dark patterns". "Dark pattern" means a user interface designed or manipulated with the substantial effect of subverting or impairing user autonomy, decision-making or choice. [California Privacy Rights Act von 2020 (CPRA)]. A corresponding definition in Article 2 DSA has already been proposed above.
	EE *(Drafting)*: 8. By XXXX, the Commission shall report on the evaluation of this Article to the Council. The evaluation shall be carried out, in particular, with a view to assessing the scope of this Article, and whether this Article should also	**EE** *(Comments)*: We propose to add the review clause to article 22 as to take into account the overall impact of the Article on the service providers excluded from the scope of the Article, including the possible transfer of illegal activities to such

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	apply to micro and/or small enterprises within the meaning of the Annex to Recommendation 2003/361/EC. **AT** *(Drafting)*: **Article 22a** **Duty to inform about the role of the platform** **1. At the earliest opportunity and directly before the conclusion of the distance contract with a third party supplier, online platforms that allow consumers to conclude distance contracts with traders must inform the consumer, in a prominent manner, that the consumer will be entering into a contract with the third party and not with the online marketplace.** **2. If the consumer can only conclude distance contracts with third party traders and not with the platform, an information that eliminates any confusion about contractual roles at the earliest opportunity and in a prominent manner shall be deemed sufficient.**	platforms as a result of tighter scrutiny of traders on large platforms. **AT** *(Comments)*: Since Article 5 (3) does not contain an information duty of the online marketplace, it will not give rise to liability of the online marketplace if it fails to inform about the fact that the consumer will enter a contract with a third party. Therefore it is necessary to provide for a positive obligation. If the online marketplace violates its information duty, the consumer can either exercise the rights and remedies for the non-performance against the online marketplace (see ECJ C-149/15) or the online marketplace is liable for damages caused by the consumer's misconception.
Article 23 *Transparency reporting obligations for providers of online platforms*	**FR** *(Drafting)*: ~~Article 23~~ ~~Transparency reporting obligations for providers of online platforms~~	**CZ** *(Comments)*: **CZ** accepts the concept of transparency reporting of the regulation of illegal content, which will improve the possibilities of the public to follow and assess whether the application of the regulation is conducted in a way that is

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		legitimate and necessary in democratic society. **NL** *(Comments)*: This article is important for **NL**, because it sets out various transparency reporting obligations. In addition, **NL** values meaningful transparency that is useful for supervision, research and also for citizens themselves. Since each of these groups requires different levels of information, it should be (made) clear in which way and for whom the information concerning transparency is targeted and in which ways the transparency will be meaningful. **DE** *(Comments)*: We are in favour of a distinction between transaction functions and interaction functions of platforms, in particular in Art. 23. The risk situation is very different for both functions. We think that a graduation of transparency obligations could be appropriate.
1. In addition to the information referred to in Article 13, online platforms shall include in the reports referred to in that Article information on the following:	**IT** *(Drafting)*: 1. In addition to the information referred to in Article 13 ***and based on risk assessment set out in Article 26,*** online platforms shall include in the reports referred to in that Article information on the following:	**BE** *(Comments)*: We wonder if it would not also be useful that **the origin** of any content, and in particular content suggested by recommender systems or search engines, is clearly stated on all platforms, especially as regarding content from media services, since this type of content, produced by

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		a media or broadcasting company meets a certain quality standard? **ES** *(Comments)*: Reports should include information on the number of people who perform content moderation in each Member State and in each of the Member States official languages. **SK** *(Comments)*: *Does DSA foresee recommendations for the online platforms on how to evaluate the accuracy of automated means of content moderation? Will this also entail a human evaluating the results?* **IT** *(Comments)*: There are doubts about the exclusion of micro and small enterprises, it is unclear why they should not be covered when provide online services **FR** *(Comments)*: moved to Article 21a
(a) the number of disputes submitted to the out-of-court dispute settlement bodies referred to in Article 18, the outcomes of the dispute settlement and the average time needed for completing the dispute settlement procedures;		**DK** *(Comments)*: We find it confusing, that the requirement to report on complaints received in accordance with article 17 (internal-complaint-handling system) is found in article 13, when only online

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		platforms are subject to article 17? Thus, this requirement logically should be set out in article 23. Especially also bearing in mind that the obligation to report on disputes submitted to out-of-court dispute settlement bodies in article 18 is included in article 23. **FR** *(Comments)*: moved to Article 21a
(b) the number of suspensions imposed pursuant to Article 20, distinguishing between suspensions enacted for the provision of manifestly illegal content, the submission of manifestly unfounded notices and the submission of manifestly unfounded complaints;	**IT** *(Drafting)*: (b) the number of suspensions imposed pursuant to Article 20, distinguishing between suspensions enacted for the provision of ~~***manifestly***~~ illegal content, the submission of manifestly unfounded notices and the submission of manifestly unfounded complaints;	**IT** *(Comments)*: Italy proposes to delete the adjective "manifestly". **FR** *(Comments)*: moved to Article 21a
(c) any use made of automatic means for the purpose of content moderation, including a specification of the precise purposes, indicators of the accuracy of the automated means in fulfilling those purposes and any safeguards applied.		**FR** *(Comments)*: moved to Article 21a
	IT *(Drafting)*: ***(d) the number of legal disputes, the outcomes of the legal settlement, the number of***	**IT** *(Comments)*: **IT:** relations should include information on all legal disputes (not only Out-of-court dispute). It

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	appeals. Particular evidence should be given to judgments in the IP field, with at least the information on the references of the judgement. **DE** *(Drafting)*: **(d) organisation, personnel resources, specialist and linguistic expertise in the units responsible for content moderation and processing notices and complaints, as well as training and support of the persons responsible for content moderation and processing notices and complaints** **(e) information about which groups of users are particularly affected by illegal content and information about which groups of users share illegal content particularly frequently or make it available to the public and whether and how users have coordinated to disseminate illegal content.**	wold be helpful to provide information on the total number of legal disputes, results and appeals. With particular reference to judgments in the IP field, it would be important the publication of the judgment, or at least to indicate the references of the judgement. **DE** *(Comments)*: We advocate that these reports also have to include a description of the platforms' examination processes. Since there is a lack of requirements for the detailed design of the testing procedure and qualification of the personnel, transparency requirements could be helpful to promote certain minimum standards. Also, with view of the special vulnerability of specific groups of users, e.g. women, existing information regarding the groups of users that are particularly affected and those that share particularly frequently illegal content, should be displayed in the report.
2. Online platforms shall publish, at least once every six months, information on the average monthly active recipients of the service in each Member State, calculated as an average over the period of the past six months, in accordance with the methodology laid down in the delegated acts adopted pursuant to Article	**IT** *(Drafting)*: 2. Online platforms shall publish, at least once every six months, information on the average monthly active recipients of the service in each Member State, calculated as an average over the period of the past six months, in accordance with the methodology laid down in	**LU** *(Comments)*: Luxembourg considers this 6-monthly transparency reporting obligation a disproportionate burden for the objective that should be achieved. Moreover, **we don't consider it in line with the Internal Market objective of the Regulation to require a**

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25(2).	the delegated acts adopted pursuant to Article 25(2). ***The report shall be published and publicly available in a specific section of their website.***	**Member State by Member State reporting**. If at all possible depending on the methodology used, this should be for the EU as a whole – as Article 25(1) sets out. **IT** *(Comments)*: **IT** proposes to integrate the text in order to increase transparency. **FR** *(Comments)*: moved to Article 25 **DE** *(Comments)*: The user data in each MS referred to in para. 2 could be trade or business secrets. We wonder if disclosure to the COM or the respective Digital Services Coordinator does not suffice.
3. Online platforms shall communicate to the Digital Services Coordinator of establishment, upon its request, the information referred to in paragraph 2, updated to the moment of such request. That Digital Services Coordinator may require the online platform to provide additional information as regards the calculation referred to in that paragraph, including explanations and substantiation in respect of the data used. That information shall not include personal data.		**SK** *(Comments)*: *Why is it necessary for the online platform to provide Digital Services Coordinator with explanations and substantiation of data used for calculation of average monthly users given that harmonized methodology based on delegated acts will be used for the calculations? We would like to point out that it might be duplication of work for the online platforms and means additional administrative costs.* **NL** *(Comments)*:

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		Does this paragraph provide the DSC the competence to request this information or should the competence to request this information? **FR** *(Comments)*: moved to Article 25
4. The Commission may adopt implementing acts to lay down templates concerning the form, content and other details of reports pursuant to paragraph 1.		**DK** *(Comments)*: Under further scrutiny. **FR** *(Comments)*: moved to Article 21a
	FR *(Drafting)*: **SECTION 3** **ADDITIONAL PROVISIONS APPLICABLE TO ONLINE PLATFORMS**	
Article 24 *Online advertising transparency*	**IT** *(Drafting)*: *Article 24* *Online ~~advertising~~* ***paid communication*** *transparency*	**ES** *(Comments)*: It should be taken into account that these new transparency obligations in online advertising are additional to those already established by Article 6 of Directive 2000/31. Clarification is required. **SE** *(Comments)*: **SE** welcomes the objetives and general outline of the article. **SE** is of the view that online advertising that can be targeting based on specific criterions, can be helpful for end-users

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		as long as it garanties sufficient transparency on why targeted advertising is shown to the end-user. **CZ** *(Comments)*: **CZ** welcomes the general emphasis on ensuring more transparency in online advertising. At the same time, political considerations should not prevail over the interests of the business. **IT** *(Comments)*: The principle of transparency of promotional communications is an essential safeguard of their correctness (art. 3 Dir.2006/114/CE, art. 7 dir.- 2005/29/CE) regardless of the size of the company dealing with them. These considerations suggest that Article 24 should also apply to both micro-enterprises and small enterprises. The definition of "advertising" does not coincide with Article 2, letter a) of Directive 2006/114 / EC, nor with "commercial communication" referred to in Article 2, letter f) Directive 2000/31/EC. This misalignment could generate uncertainty, therefore we suggest referring to the notion of "**paid communication"** **MT** *(Comments)*: Article 24 imposes certain obligations on online platforms. In its reply to question 2 in document WK2289, the Presidency suggested that

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		'Interpersonal Communications Services' will be considered as out of scope of the definition of 'online platform'. Malta, therefore, presumes that the rules related to Article 24 (related to 'online platforms') would not apply to Number Independent Interpersonal Communications Services and the related apps through which these services are conveyed. However, it is noted that certain apps providing Number Independent Interpersonal Communications Services display online adverts on their interface (e.g. Facebook Messenger). In this regard, the relationship between the scope of the definition of 'online platforms', the issue of 'Interpersonal Communications Services', and the scope of Article 24 might need to be reconsidered in view of a possible loophole. **EL** *(Comments)*: *General comment about Article 24:* *Regarding online advertising transparency, we consider that online platforms should make a clear reference in their interface to the content of the ad (e.g distinguishing between commercial and political online advertising, paid and unpaid advertising) and ensure that paid advertisements or paid placement in the context of search results ranking should be identified in a clear, concise, and intelligible*

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		manner. The transparency requirements should include the obligation to disclose who is paying for the advertising, including both direct and indirect payments or any other contributions received by providers of online services. Those requirements should apply also to platforms, even if they are established in third countries. Also, consumers and public authorities should be able to identify who should be held accountable in case of, for example, false or misleading advertisement. *It should also be ensured that any algorithmic advertising design options that include information about individuals do not pose a risk of infringing on users' privacy and commercial privacy.* *Finally, we believe that the article should reflect the extension of purpose in relation to Article 6 of the ECD, meaning the inclusion of the provision of information for non-commercial purposes (for example for political purposes).* **NL** *(Comments)*: This article is important for **NL**, because it sets out various transparency reporting obligations. In addition, **NL** values meaningful transparency that is useful for supervision, research and also for citizens themselves. Since each of these groups requires different levels of information, it

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		should be (made) clear in which way and for whom the information concerning transparency is targeted and in which ways the transparency will be meaningful. Has the Commission considered to include a traceability requirement akin to Article 22 concerning the advertisers whose advertisements are displayed on online platforms? Such a requirement could enhance the accuracy of the transparency provided and enhance the traceability of advertisers (in the event of illegal content). We reserve the right to make drafting suggestions addressing this matter in the future. **DE** *(Comments)*: Art. 24 provides for new transparency requirements for personalised advertising. In our view, these requirements do not go far enough. Considerable questions arise about the practice of personalised advertising. Some online platforms rely on a business model of comprehensive tracking and profiling of users in order to generate-revenue through personalised advertising. Instead of personalised advertising, however, platforms could generate revenue with context-based advertising or with new technological solutions. Users should at least have a right to use online platforms without personalised advertising. We should ban personalised advertising in particular towards

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		minors (i.e. under 18). Any additional identification obligation for all users should however not be introduced. Minors are even less aware of the existence of personalised advertising and how businesses use them to generate revenue. Because of the business inexperience of children and young people, rules on transparency with regard to personalised advertising only are not sufficient. The provisions on advertising are limited to (partly) new requirements for better transparency only. But also with regard to illegal advertising. content of third parties, the question of strengthening the responsibility in particular of large platforms arises. This also applies, for example, to affiliate marketing, i.e. the commis-sion-based referral of customers to the platform via linked pages of the affiliate.
Online platforms that display advertising on their online interfaces shall ensure that the recipients of the service can identify, for each specific advertisement displayed to each individual recipient, in a clear and unambiguous manner and in real time:	**DK** *(Drafting)*: Online platforms that display advertising on their online interfaces shall ensure that the recipients of the service can identify, for each specific advertisement displayed, including user-generated advertisements, to each individual recipient, in a standardized, clear, visually salient and unambiguous manner.	**BE** *(Comments)*: How do these obligations relate to the obligations concerning commercial communications in article 28b of the AVMS directive? **DK** *(Comments)*: The Danish Competition and Consumer Authority has empirical evidence that consumers

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	IT *(Drafting)*: Online platforms that display ~~advertising~~ **paid communication** on their online interfaces shall ensure that the recipients of the service can identify, for each specific ~~advertisement~~ **paid communication** displayed to each individual recipient, in a clear and unambiguous manner and in real time:	find it particularly difficult to identify and understand when user-generated (i.e. Influencers) content on platforms are commercial. Evidence also shows that besides a clear and unambigous label of commercial intent, a standardized way to disclose advertisements improves this. Finally the evidence shows that visually prominence is necessary. **FI** *(Comments)*: Although the art. 24 provisions regulate advertising on online interfaces of platforms and cover also non-commercial purposes, the proposed art. 24 provisions are somewhat overlapping with e-Commerce Directive Art 6 points a) and b) on commercial communication which are applied on all intermediaries and platforms irrespective of their size. The relation of E-commerce directive Art. 6 points a) and b) and DSA art. 24 is not clear. It is important that the obligations in DSA are proportionate to all platforms and that the obligations do not become too burdensome for micro platforms. However, the exclusion of the small and micro platforms from the entire application of the provisions of art. 24 that protect consumers is problematic in principle. This means that the consumers are less protected

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		when they use small platforms. **LU** *(Comments)*: Luxembourg would welcome further clarifications on the articulation between this provision and Article 28b of the Audiovisual Media Services Directive (which is of minimum harmonisation and has been transposed in national laws). The cross-references are circular. Which text applies to which kind of provider for what service ? For a commercial advertising on a video-sharing platform, does the DSA or the AVMSD apply? **CZ** *(Comments)*: **CZ** is of the opinion that this provision is burdensome for third parties running the advertising system, as they have to provide the information to the platforms. Therefore, very large online platforms should have the obligation to create a system for exchange of this information. This obligation may be put in connection with art. 34 on standards. See **CZ** comments or article 30. **NL** *(Comments)*: Does this article imply that online platforms should 'make reasonable efforts' verify the identity of their advertisers (similarly to article 22 concerning traceability of traders)? Given the broad definition of the term 'advertisement' in

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		Article 2(n), does this provision apply to other forms than 'traditional' display ads, such as paid search results, paid ranking, personalised sponsored offers, etc.? Could the Commission clarify the scope of this provision and provide concrete examples of practices falling inside and outside its scope? **DE** *(Comments)*: Art. 24 states that "for each specific advertising" the information should be presented separately. We welcome such specific information for every advertisement , because only this provides added value for the consumer. General statements about advertising in Terms and Conditions, on the other hand, are of no special use for consumers. The information should be clear, non-disruptive and user-friendly. It is not yet entirely clear what this transparency obligation should look like in concrete terms. We also wonder what the presentation of "meaningful information" (lit. c) could look like in practice.
(a) that the information displayed is an advertisement;	**DK** *(Drafting)*: that the information displayed is an advertisement (displayed in real time); **IT** *(Drafting)*:	**DE** *(Comments)*: We wonder what the added value is here, compared to the existing regulations like Art. 6 of Directive 2000/31/EC and Art. 7(2) of

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	(a) that the information displayed is an ~~advertisement~~ **paid communication**;	Directive 2005/29/EC).
(b) the natural or legal person on whose behalf the advertisement is displayed;	**DK** *(Drafting)*: the natural or legal person on whose behalf the advertisement is displayed (displayed to the consumer in real time); **IT** *(Drafting)*: (b) the natural or legal person on whose behalf the ~~advertisement~~ **paid communication** is displayed;	**HU** *(Comments)*: As data processing is mandatory and specifically applies to natural persons, it would also be necessary, in view of the requirement of legal certainty, to determine which personal data must be made available to the public in the case of a natural person advertiser in order to achieve the identification described here. **DE** *(Comments)*: We wonder how it is ensured that the actual client of the advertisement and not an intermediary person or advertising company must be displayed.
(c) meaningful information about the main parameters used to determine the recipient to whom the advertisement is displayed.	**DK** *(Drafting)*: meaningful information about the main parameters used to determine the recipient to whom the advertisement is displayed in a specific section of the online interface that is directly and easily accessible from the page where the query results are presented. **IT** *(Drafting)*: (c) meaningful information about the main	**BE** *(Comments)*: Could you give examples of what constitutes "meaningful information" ? **DK** *(Comments)*: The DCCA find that it is necessary to specify what is meant by showing this information *in real time*. We are concerned that this information will drown in other information and only present noise to the consumer if it is

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	parameters used to determine the recipient to whom the ~~advertisement~~ **paid communication** is displayed. **FR** *(Drafting)*: (c) meaningful information about the main parameters used to determine the recipient to whom the advertisement is displayed, including the method used and the data collected..	displayed in real time. As can be argued is the case with the current cookie laws. Rather we suggest that it should be directly and easily accessible from the advertisement content. **HR** *(Comments)*: What exactly would constitute "meaningful information about the main parameters"? **FR** *(Comments)*: The French authorities consider that additional information should be provided on advertising targeting: specify the targeting elements to be communicated (method [contextual, behavioural, geo-adapted, personalised], processes used [contextual adaptation, cookies, IP address, geo-location, etc.], data processed, members of the processing chain, *etc*.). **PL** *(Comments)*: It is necessary to clarify what are the criteria for 'meaningful information about the main parameters' (see our comments on recital 52). Poland also notes that in the course of work on the DSA, it is necessary to ensure that the adopted advertising solutions are consistent with the existing, or planned, EU legislations. **DE** *(Comments)*: It should be further specified which parameters should be reported by the platforms.

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		This should include at least all parameters that are directly or indirectly linked to discrimination characteristics such as gender, sexual orientation, age or origin. Moreover, we advocate for a right of users to actively change their advertising profile. Art. 24 should therefore be amended to include an obligation for the online platform to allow users to make changes to their advertising profile.
	IT *(Drafting)*: ***The relevant information shall be publicly available and searchable in a specific section of their website.***	**DK** *(Comments)*: We suggest that article 24, specifies label practices for platforms that allow users to upload commercial content. Thus, platforms should be responsible for labelling advertisements as such on their platform interface in a uniform, unambiguous and visually salient way. Platforms that allow users to upload content to their interface without platform supervision, should be required to develop a salient standardized disclosure label or content frame, which can be easily activated upon upload by users, who use the platforms for commercial practices. **IT** *(Comments)*: **IT** proposes to refer to a specific section of the website, in order to guarantee the widest knowledge of the information.

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Section 4 **Additional obligations for very large online platforms to manage systemic risks**	**FR** *(Drafting)*: Section 4 Additional obligations for very large online platforms, live-streaming platforms, private messaging providers and search engines to manage systemic risks	**FR** *(Comments)*: Section 4 obligations, notably risk assessment and mitigation obligations, which target larger actors raising major issues, allow for a precise adaptation of regulation to various types of activity. Therefore, these obligations should also apply to live-streaming services, messaging services and search engines, provided they exceed the threshold. **IT** *(Comments)*: Italy presents two main considerations: - For greater legal clarity, the definition of "very large online platforms" should be introduced in Article 2; also, it would be useful to receive more detail as regards the criteria used to identify very large platforms -It is not clear what language regime applies to the reports that the platform is required to draw up and publish. Is the choice of language discretionary? Or does it necessarily have to use the language of the country in which it has the establishment? The ability of the public to read such reports will depend on the language regime chosen by the platform. For example, if the publications were in Dutch, they would be inaccessible to the Italian public. It would be useful to provide for the reports to be translated into English. This comment is relevant to the

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		following articles: 30, 33 **NL** *(Comments)*: As a general remark, **NL** supports the choice of making VLOPs subject to stricter measures, in connection with their size and social impact. The fact that VLOPs will be checked through independent audits and that independent investigators will be given the opportunity to look into systemic risks on their platform is positive as well.
Article 25 *Very large online platforms*	**FR** *(Drafting)*: *Article 25* *Very large online platforms, live streaming platforms, private messaging providers and search engines*	**IE** *(Comments)*: Given the Commission have stated that the platforms are being identified by reach alone and not the size of the organisation this title is probably misleading and should read for example "Platforms with significant public influence" **ES** *(Comments)*: We deem correct the threshold of 10% of users in the EU (45 millions) for the determination of additional obligations in order to address systemic risks, due to the influence of these VLOPs in the shaping of public debate, in the economic transactions and in the dissemination of information. **CZ** *(Comments)*:

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		Given the diversity of digital services, **CZ** welcomes that the Commission chose asymmetric due diligence obligations on different types of digital service providers with the strictest rules applied only for very large online platforms. Therefore, we can avoid unnecessary regulation of SMEs due to problems of a few large platforms. However, **CZ** perceives as assymetric to set further obligations for the VLOPs. In our view, the IA clearly shows why the proposal is constructed this way and so diverging too much from the proposal would make it disproportionate. 6 % of annual turnover fines seems rather dissuasive. **CZ** is ready to continue a constructive dialogue on the article but always based purely on the IA. **IT** *(Comments)*: The distinction between online platforms and very large online platforms provided by Section 4 appears not perfectly clear. It would be relevant that each online platform – irrespective to its dimension – respects the provision provided in Section 4. If you consider the criterion provided in paragraph 1 (i.e. "services to a number of average monthly active recipients of the service in the Union equal to or higher than 45 million") there might be online platforms providing, for instance, 44 million number of average monthly active recipients of

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		the service in the Union may not 'cause societal risks' or 'different in scope and impact' (recital 54). We are not sure that those online platforms are not able to cause societal risks. We are concerned on that definition able to partially exclude several online platforms. **FR** *(Comments)*: Idem
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.	**FR** *(Drafting)*: 1. This Section shall apply to online platform~~s~~ services, live streaming platform services, private messaging services and search engine services which reach ~~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 also apply to online marketplaces services which reach a number of average monthly active recipients of the service in one Member State equal to or higher than 5 million, calculated in accordance with the methodology set out in the delegated acts referred to in paragraph 3.	**DK** *(Comments)*: From the Danish side we support the focus on the platforms' reach. However, the regulation seems to lack a definition of *active recipients* and how these are calculated. **LU** *(Comments)*: Luxembourg generally supports the criterion of number of users as a good indicator for increased risk and therefore stricter obligations. This is the logic that should also apply when thinking about derogations (and not number of employees or size of company) eg in Article 16. However, the threshold should be fixed in relation to the platform economy and not in relation to the EU's population. Also, it is unclear what "recipients of the service" exactly means: are users of a VLOP's business users included?

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		IT *(Comments)*: On a general level, the proposed approach to separate online platforms from the very large online platforms based solely on their audience reach raises some questions. Experience shows that also small emerging platforms present significant risks to individuals (in particular, minors). There is also a risk of 'migration' from large platforms to smaller platforms when e.g. individuals or groups of individuals are banned from VLOPs just because of their illegal behaviour. In such cases the type of activity should also be considered in the identification of the platforms that should be subject to more detailed obligations. -We are aware that the details of the methodology will be provided by the Commission's implementing act, however, some basic criteria should be provided already by the regulation. -How many/which platforms are estimated as being above the 45 mln users threshold? **NL** *(Comments)*: We have several questions about this aspect of the proposal. For example, it is not clear which companies are considered VLOPs. The proposed threshold of 45 million users and the definition of what constitutes a user will only be worked

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		out in concrete terms after the proposal has been adopted, which makes the scope unclear. Could the Commission share insight into its latest thinking of the criteria which might define what an active recipient of a service is, how individual companies and especially groups of companies will be treated, or otherwise share the available data & sample of services that it has used as a basis for her claim that it will encompass 20+ services? **LV** *(Comments)*: In relation to Para 4 of this Article, it is not entirely clear whether this Section applies to any of VLOPs with 45 million users or only the ones that have been designated by the DSC under Para 4. If the designation is a precondition for application of the Section 4, then it needs to be clearly stated in Para 1 that defines the scope. **FR** *(Comments)*: Il est souhaitable de clarifier qu'on raisonne en termes de services et non d'entreprises, qui peuvent fournir plusieurs services (le calcul d'audience se fait au niveau du service). It should be clarified that this section applies to services, not enterprises, as these may offer various services. The threshold calculation should be made service by service. Les autorités françaises pourront revenir par

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		ailleurs avec d'autres observations sur la notion de « bénéficiaire actif du service » qui semble poser des difficultés d'interprétation. The French authorities may also submit further comments on the concept of "active recipients of the service", which seems to cause difficulties of interpretation. Enfin, elles proposent un seuil spécifique pour les places de marché, alternativement au nouveau paragraphe 7. Finally, they propose a specific threshold for marketplaces, as an alternative to the new paragraph 7. **DE** *(Comments)*: We wonder whether such a "rigid" criterion ("average monthly active recipients of the service in the Union equal to or higher than 45 million") is appropriate with a view to all the upcoming "niche platforms" that do have a heavy impact at least on specific areas (bubbles), whithout having 45 mio. monthly active recipients in the EU. We therefore wonder whether, in addition to the purely quantitative approach, there is a need for a qualitative approach that makes it possible to differentiate according to the level of risk (and allows for a differentiation between transactions and interactions specifically).

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		We also wonder whether the scope of Art. 25 should focus also on other digital service providers such as search engines.
2. The Commission shall adopt delegated acts in accordance with Article 69 to adjust the number of average monthly recipients of the 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 or, after adjustment by means of a delegated act, of its population in the year in which the latest delegated act was adopted. 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.		**DK** *(Comments)*: Under scrutiny. We are looking into the introduced possibilities for the Commission to adopt delegated acts, but understand the technical nature of them as highlighted by COM. **LU** *(Comments)*: Luxembourg is not convinced that this delegated act is sufficiently framed. It seems to aim at modifying essential elements of the DSA (the scope of application of the DSA to VLOPs), which is contrary to the Treaty and the Comitology Regulation. For any delegated act, the DSA needs to define the objectives, content, scope and duration of the delegation of power which is not the case here.
3. The Commission shall adopt delegated acts in accordance with Article 69, after consulting the Board, to lay down a specific methodology for calculating the number of average monthly active recipients of the service in the Union, for the purposes of paragraph 1. The methodology shall specify, in particular,		**IT** *(Comments)*: It is necessary to include in the regulation the specific methodology for calculating the number of average monthly active recipients of the service in the Union, which might be further revised or amended in later stage

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how to determine the Union's population and criteria to determine the average monthly active recipients of the service in the Union, taking into account different accessibility features.		**NL** *(Comments)*: As things stand we cannot support this delegation of power. We need more guidance from the Commission as to how it will determine what is 'average' and what is 'an active monthly recipient'. **DE** *(Comments)*: We take a critical stance re. this aspect. The adoption of delegated acts transfers important decisions for the scope of the DSA to the COM, and pushes them back in time.
4. The Digital Services Coordinator of establishment shall verify, at least every six months, whether the number of average monthly active recipients of the service in the Union of online platforms under their jurisdiction is equal to or higher than the number referred to in paragraph 1. On the basis of that verification, it shall adopt a decision designating the online platform as a very large online platform for the purposes of this Regulation, or terminating that designation, and communicate that decision, without undue delay, to the online platform concerned and to the Commission.	**LU** *(Drafting)*: 4. The Digital Services Coordinator of establishment~~t~~ shall verify, at least every **two years** ~~six months~~, whether the number of average monthly active recipients of the service in the Union of online platforms under their jurisdiction is equal to or higher than the number referred to in paragraph 1. On the basis of that verification, it shall adopt a decision designating the online platform as a very large online platform for the purposes of this Regulation, or terminating that designation, and communicate that decision, without undue delay, to the online platform concerned and to the Commission. **IT** *(Drafting)*:	**LU** *(Comments)*: Luxembourg is not convinced that a verification every six years is proportionate and constitutes a heavy burden for DSCs. We therefore propose that verifying whether a VLOP fulfills the criteria of monthly active recipients is only to be verified by the DSC every two years. **EL** *(Comments)*: *While paragraph 1 of the article states that the article also includes third country platforms that provide services to the Union, the reference to the coordinator of establishment in that paragraph may be confusing. For this reason it should be clarified which coordinator is responsible for verification in the case of a third*

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	4. The Commission shall ensure that the list of designated very large online platforms is published in the Official Journal of the European Union and keep that list updated. The obligations of this Section shall apply, or cease to apply, to the very large online platforms concerned from four months after that publication. ***The designation process should be open and transparent with a timely consultation on the provisional decision and the assessment completed within a statutory deadline.*** **FR** *(Drafting)*: 4. ~~Online platforms~~ Providers of services mentioned in paragraph 1 shall publish, at least once every six months, information on the average monthly active recipients of the service in each Member State, calculated as an average over the period of the past six months, in accordance with the methodology laid down in the delegated acts adopted pursuant to Article 25(2). 5. Providers of services mentioned in paragraph 1 ~~Online platforms~~ shall communicate to the Digital Services Coordinator of establishment, upon its request, the information referred to in paragraph 2, updated to the moment of such request. That Digital Services Coordinator may require the online platform to	*country platform* **IT** *(Comments)*: In order to better clarify the scope of the process of designating the online platform as a "very large online platform" it is advisable to clarify the role of the Coordinator of Digital Services as a regulatory/ ex ante designation authority and strengthen the process. -it would be appropriate to provide for a time limit instead of the wording *"without undue delay",* but above all, there should be a deadline (as well as for the communication of the decision) for its adoption following the completion of the verification. **NL** *(Comments)*: Should the DSC of establishment adopt a decision every six months to reconfirm the designation of an online platforms as a VLOP or can this decision be understood to carry until a decision is made to terminate the designation as VLOP? How does the Commission assess the administrative burden for DSCs to perform this assessment every six months? In order to perform this assessment with such frequency DSCs should be able to perform the assessment at least partially through automated means, which requires a certain level of standardization

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	provide additional information as regards the calculation referred to in that paragraph, including explanations and substantiation in respect of the data used. That information shall not include personal data. 6. The Digital Services Coordinator of establishment shall verify, at least every six months, whether the number of average monthly active recipients of the service in the Union of online platforms under their jurisdiction is equal to or higher than the number referred to in paragraph 1. On the basis of that verification, it shall adopt a decision designating the online platform as a very large online platform for the purposes of this Regulation, or terminating that designation only if the platorm doesn't reach anymore the number of recipients referred to in paragraph 1 during one year after the first verification, and communicate that decision, without undue delay, to the online platform concerned and to the Commission. 7. Where a Digital Service Coordinator considers for a given online platform that, though it [does not reach the number of recipients referred to in paragraph 1 but / provides its service to a number of average monthly active recipients of the service in the Union equal to or higher than XX million, calculated in accordance with the methodology	in the reporting by platforms. Will the Commission use the implementing acts mentioned in Article 23 (4) to achieve such standardization? **LV** *(Comments)*: See comment above for Para 1. In relation to the designation, in case where the number of users of a designated VLOP has dropped below 45 million, does the DSC have to revoke the designation? The text is not clear on that. **FR** *(Comments)*: §4: [Reprise article 23(2)] [As in article 23(2)] §5 : [Reprise article 23(3)] [As in article 23(3)] §6: Les autorités françaises proposent d'indiquer que pour exempter une plateforme des obligations de cette section au motif qu'elle ne répondrait plus à la définition de très grande plateforme, il faut que les seuils ne soient plus atteints sur une longue période (et non au bout de 6 mois). Le délai pourrait être augmenté d'un

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	set out in the delegated acts referred to in paragraph 3, and] the functioning and use made of its services raises systemic risks as mentioned in Article 26, it may request the Board to assess the matter. Within X months following that request, if the Board confirms the existence of such risks, [the Board shall adopt a decision recommending the designation of / the Digital Service Coordinator of establishment shall adopt a decision designating] the online platform as a very large online platform for the purposes of this Regulation and communicate that decision, without undue delay, to the online platform concerned and to the Commission. The decision contains a statement of reasons explaining why the functioning and use made of its services raises systemic risks as mentioned in Article 26.	an. The French authorities propose to indicate that in order to exempt a platform from the obligations of this section on the grounds that it no longer meets the definition of a very large platform, the thresholds must no longer be met over a long period of time (and not after 6 months). The period could be increased by one year. §7: Les autorités françaises proposent de prévoir une clause subsidiaire de rappel pour rattraper certains acteurs en dessous du seuil de 45 millions de bénéficiaires actifs mensuels moyen, lorsque la prévention des risques systémiques qu'ils emportent le justifie. The French authorities propose to provide for a subsidiary recall clause to catch certain players below the threshold of 45 million average monthly active beneficiaries, where this is justified by the prevention of the systemic risks they entail.
The Commission shall ensure that the list of designated very large online platforms is published in the Official Journal of the European Union and keep that list updated. The	**FR** *(Drafting)*: 8. (without change)	**DE** *(Comments)*: For VLOPs, the obligations defined in Art. 26 et seqq. apply four months after the list of designated VLOPs has been published in the OJ.

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obligations of this Section shall apply, or cease to apply, to the very large online platforms concerned from four months after that publication.		This time frame seems too short, as the comprehensive obligations of Art. 26 et seqq. are challenging to be put into practice by those VLOPs. To us, six months seem a more appropriate time frame here.
Article 26 *Risk assessment*		**ES** *(Comments)*: We welcome the assessment of systemic risks in VLOPs, due to their social and economic impact and their business model, frequently based on advertising. **SK** *(Comments)*: *In general, we support the obligation of very large online platforms to assess systemic risks. We would additionaly welcome the creation of certain standards / uniform indicators against which this risk assessment performed by the platforms could be evaluated, as such standards do not currently seems to be set.* **LU** *(Comments)*: Luxembourg generally supports the approach taken in this article. It allows for nuanced and future-proof risk assessments, irrespective of underlying the business model (which may evolve rapidly) while taking account of the impact on EU laws, fundamental rights and values.

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		CZ *(Comments)*: **CZ** supports the obligation of very large online platforms to assess systemic risks stemming from the functioning of their services, as well as the emphasis on mitigating these risks. We also support the aim to set harmonized rules for the assessments and transparency parameters of online platforms, which will enable effective supervision of these self-assessments and subsequent elimination of revealed shortcomings. **NL** *(Comments)*: This is an essential article for **NL**, since it periodically maps risks related to for example the exercise of fundamental rights and it also touches upon misinformation. The **NL** does find it important to get more clarification on the risks that are now mentioned, the part of the sentence saying "shall include the following systemic risks" is quite unclear/vague. Additionally, can DSCs also identify systemic risks and order VLOPs to take mitigating measures irrespective of the VLOP's own yearly risk assessment cycle? It is important that DSCs can order VLOPs to act on identified systemic risks regardless of the yearly risk assessment cycle of VLOPs. **PL** *(Comments)*:

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		The scope of the regulation includes various platforms operating in the e-commerce sector or intermediary accommodation services. Such platforms have little or no influence over various risks such as spreading of disinformation. It seems, therefore, that the addressees of Article 26 are in particular social networks. In this aspect, Poland notes that social networks may, on their own initiative, assess the credibility of published content. In such a situation, however, they should ensure that their users are fully informed of the tools used by the platform (transparency). Caution is advised in terms of platforms' assesment powers and blocking access to such information. Such an uncontrolled approach would give away the tools to censor speech. Services run by Internet platforms should be spaces for the free exchange of information and views. These services should also allow for public review and criticism. However, their role should not be to pass judgment on what is true and what is not. There should always be a possibility to appeal to the courts in case of doubts about the decisions taken by the moderation systems of the platforms. In this context, it seems reasonable that the minimal quality requirements for documents for assessing risks arising from the activities of a

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		given platform should be laid down by a binding legal standard or, alternatively, that the quality assessment and the manner in which it is carried out should be subject to supervision, or at least evaluation, by the national Digital Services Coordinators, European Board for Digital Services or other public authorities designated by the regulation. **DE** *(Comments)*: The obligation to a “risk assessment” and “risk management” is central in the DSA compliance regime. However to effectively counteract systemic risks, more detailed requirements are needed. The current concept seems to be too “high-level”.
1. Very large online platforms shall identify, analyse and assess, from the date of application referred to in the second subparagraph of Article 25(4), at least once a year thereafter, any significant systemic risks stemming from the functioning and use made of their services in the Union. This risk assessment shall be specific to their services and shall include the following systemic risks:	**SK** *(Drafting)*: *Very large online platforms shall identify, analyze and assess, from the date of application referred to in the second subparagraph of Article 25(4), at least* ~~*once a year*~~ ***every six months*** *thereafter, any significant systemic risks stemming from the functioning and use made of their services in the Union. This risk assessment shall be specific to their services and shall include the following systemic risks:* **IT** *(Drafting)*:	**IT** *(Comments)*: A shorter deadline is proposed to safeguard the principle of proportionality and for necessary coordination with Article 25(4) (which provides for a review by the Digital Services Coordinator every six months on the relevant numerical threshold of the user base for the purpose of designation as a "very large online *platform*"). **NL** *(Comments)*: **NL** favors using uniform conceptual definitions across different EU platforms and policies. Can

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	Very large online platforms shall identify, analyse and assess, from the date of application referred to in the second subparagraph of Article 25(4), at least once ~~*a year*~~ ***every six months*** thereafter, any significant systemic risks stemming from the functioning and use made of their services in the Union. This risk assessment shall be specific to their services and shall include the following systemic risks: **FR** *(Drafting)*: 1. Very large online platforms shall identify, analyse and assess, from the date of application referred to in the second subparagraph of Article 25(4), at least once a year thereafter, any ~~significant~~ systemic risks stemming from the functioning and use made of their services in the Union. This risk assessment shall be specific to their services and shall include the following systemic risks:	the Commission explain why the definitions given in the European Democracy Action Plan were not used for systemic risks in Article 26(1)(c). **FR** *(Comments)*: The mere fact that it is a systemic risk already makes it significant. **DE** *(Comments)*: The concept of "systemic risks" as named in Art. 26 (1) lit. a - c is fragmentary. For example, systemic risks for consumers or for children and young and other vulnerable people are missing (cybermobbing, hate speech, cybergrooming; in this respect, lit. b and c seem not comprehensive enough). Another systemic risk that should be named is the specific risk of being discriminated, e.g. for women or other groups, by digital violence and/or hate speech. We therefore think, that the list has to be more detailed, as it is one of the cornerstones of the DSA's compliance standards. Without a more detailed list, it will be problematic for supervision to prevail.
(a) the dissemination of illegal content through their services;	**SE** *(Drafting)*: (a) the dissemination of manifestly illegal content through their services	**IE** *(Comments)*: It is assumed that this reference to illegal content can only be with regard either to a form of

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	FR *(Drafting)*: (a) (without change)	generic illegal content considered in the round or if it is intended to be specifically then to risks relating content which is illegal Europe wide or in the Member State of Establishment. In any event some clarification may be of assistance as Recital 57 appears to be silent on the matter just mentioning European and national law without stating which national laws it refers to. Under the Country of Origin principle, national law should be limited to that of the country of establishment in this instance. **DE** *(Comments)*: It should be ensured that violations of legal requirements on distribution channels (e.g. dispensing of narcotic drugs through pharmacies) are also included in the obligations. We suggest that this provision differentiates between offering illegal / non-conform products on the one hand and social interaction on the other hand. This is because illegal transactions touch upon different rights and freedoms and occur in different ways and forms than social interactions. In our view, a differentiated system would create more transparency and comparability. Furthermore, it would make it easier for VLOPs to take early and targeted action.
	FR *(Drafting)*:	**FR** *(Comments)*:

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	(a') the funding of illegal content, including models based on advertisement; (a'') the harm caused or likely to be caused by the content, depending on the nature of the content or the method of dissemination ;	The French authorities suggest adding funding of illegal content via advertisement as a systemic risk the very large online platforms should assess. Such an obligation to assess the risks linked to the funding of certain content would encourage platforms to prevent authors of illegal or undesirable content from receiving advertising revenues, in a "follow the money" logic. This could be achieved pursuant to article 27.1 b), which already enjoins them to take measures to limit the advertising associated with certain content. §1(a''): The French authorities further suggest that the systemic risks pertaining to dissemination of illegal content include the potential harm which a specific content may provoke, depending on its nature or on the way it was disseminated (a''); in addition to the analysis of the effect of the dissemination itself provided in (a).
(b) any negative effects for the exercise of the fundamental rights to respect for private and family life, freedom of expression and information, the prohibition of discrimination and the rights of the child, as enshrined in Articles 7, 11, 21 and 24 of the Charter respectively;	**SE** *(Drafting)*: (b) any negative effects for the exercise of the fundamental rights to respect for private and family life, freedom of expression and information, the prohibition of discrimination, the right to gender equality and the rights of the child, as enshrined in Articles 7, 11, 21, 23 and 24 of the Charter respectively;	**SE** *(Comments)*: **SE** is of the view that article 23 of the Charter should be emphasized, i.e. that equality between women and men (namely gender equality) must be ensured. **SK** *(Comments)*: *We are not sure how exactly the assessment under this article and recital 57 should be*

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	LU *(Drafting)*: (b) any negative effects for the exercise of ~~the~~ fundamental rights, **in particular the rights** to respect for private and family life, freedom of expression and information, the prohibition of discrimination and the rights of the child, as enshrined in Articles 7, 11, 21 and 24 of the Charter respectively; **IT** *(Drafting)*: (b) any negative effects for the exercise of the fundamental rights to respect for private and family life, freedom of expression and information, the prohibition of discrimination and the rights of the child, as enshrined in Articles 7, 11, ***17,*** 21 and 24 of the Charter respectively; **EE** *(Drafting)*: (b) any negative effects for the exercise of fundamental rights as enshrined in the Charter. Or alternatively as a compromise: (b) any negative effects for the exercise of ~~the~~ fundamental rights, in particular but not limited to respect ~~to respect~~ for private and family life, freedom of expression and information, the prohibition of discrimination and the rights of the child, as enshrined in Articles 7,11, 21, and 24 of the Charter respectively;	*performed and what should be the framework reference (benchmark) for such an assessment. We believe a clarification is needed.* **LU** *(Comments)*: This assessment shall not be limited to the fundamental rights mentioned, but shall cover all fundamental rights with a specific focus on those mentioned explicitly. **IT** *(Comments)*: Online platforms have to conduct a risk assessment, periodically updated (at least one time per year) in order to present which are the key points and accordingly is going to act against, particularly to the rights of the Charter of fundamental rights of the EU. Online service providers have to communicate the risk assessment periodically to the European Commission and EU Member States Digital Services Coordinators. *It is needed to add Article 17 of the Charter of fundamental rights of the EU.* **EE** *(Comments)*: We believe that the risk assessment should also include the impact of the service on the exercise of all fundamental rights enshrined in the Charter of Fundamental Rights, such as the protection of personal data (article 8), freedom of assembly and of association (article 12) and

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	FR *(Drafting)*: (b) any negative effects for the exercise of the fundamental rights to respect for private and family life, freedom of expression and information, the prohibition of discrimination and the rights of the child, as enshrined in Articles 7, 11, 17(2), 21, ~~and~~ 24 and 38 of the Charter respectively; **DE** *(Drafting)*: "[…] rights of the child, **the protection of the environment**, as enshrined in Articles 7,11, 21 ~~and,~~ 24 **and 37** of the Charter respectively;"	equality between women and men (article 23). **LV** *(Comments)*: Systemic risks may affect not only the rights referred to in point (b), but also a number of other rights. Accordingly, we call for consideration to be given to supplementing this subparagraph with other fundamental rights or keeping this paragraph more general, referring to the Charter. For example, given the nature of digital technologies and the large amount of information they collect about users in their digital environment, it is essential to ensure strong protection of personal data. Given that, in accordance with Article 8 of the Charter of Fundamental Rights, the right to the protection of personal data is separated from the right to privacy, the risk assessment may also reflect an assessment of the impact on data protection. **FR** *(Comments)*: Les autorités françaises souhaitent clarifier la notion de « risques systémiques » afin qu'elle couvre clairement, au-delà des risques sur les libertés publiques, les risques sur les produits, les atteintes au droit de propriété intellectuelle et la diffusion de fausses informations, y compris lorsqu'elles ne découlent pas de manipulations intentionnelles. Les autorités françaises proposent de compléter d'une part le point 1(b)

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		ainsi que le considérant 57, en visant les articles l'article 17 paragraphe 2 (« la propriété intellectuelle est protégée ») et 38 de la Charte (« un niveau élevé de protection des consommateurs est assuré dans les politiques de l'Union »). The French authorities wish to clarify the concept of "systemic risks" so that it clearly covers, in addition to risks to public freedoms, risks to products, infringements of intellectual property rights and the dissemination of false information, including when they do not result from intentional manipulation. The French authorities propose supplementing point 1(b) and recital 57 by referring to Articles 17(2) ("intellectual property shall be protected") and 38 of the Charter ("a high level of consumer protection shall be ensured in the Union's policies"). **DE** *(Comments)*: We wonder whether it is right to assume that lit. b does – at least *also* – include legal content, and what examples could be meant here (hate speech?). The risk assessment should also cover negative effects on the environment.

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(c) intentional manipulation of their service, including by means of inauthentic use or automated exploitation of the service, with an actual or foreseeable negative effect on the protection of public health, minors, civic discourse, or actual or foreseeable effects related to electoral processes and public security.	**CZ** *(Drafting)*: intentional manipulation of their service, including by means of inauthentic use or automated exploitation of the service, with an actual or foreseeable systemic negative effects on the protection of public health, minors, civic discourse, or actual or foreseeable effects related to electoral processes and public security, **in particular in relation to the risk of the intentional manipulation of their service, including by means of inauthentic use or automated exploitation of the service.** **FR** *(Drafting)*: (c) ~~intentional~~ manipulation of their service, including by means of inauthentic use or automated exploitation of the service, and dissemination of disinformation or misinformation with an actual or foreseeable negative effect on the protection of public health, minors, ~~civic discourse~~ fundamental rights, or actual or foreseeable effects related to electoral processes and public security.	**CZ** *(Comments)*: The EDPS notes that the services of very large online platforms may pose systemic risks for "the protection of public health, minors, civic discourse, or actual or foreseeable effects related to electoral processes and public security" independently of whether they are manipulated or not. **EE** *(Comments)*: As a general note, we believe that the phrase "intentional manipulation" is not sufficiently clearly defined and "actual" or, moreover, "foreseeable negative effect" on the protection of public health, minors or civic discourse is very hard to prove. It is also unclear why the actual or foreseeable effects related to electoral processes and public security are not also limited to "negative effects". Thus, it will be extremely difficult for the service providers as well as to competent authorities to assess whether or not relevant mitigation measures are "reasonable, proportionate and effective". **NL** *(Comments)*: **NL** sees that online platforms have a big responsibility in addressing online mis- and disinformation on their platforms. The Netherlands favors using uniform conceptual definitions across different EU platforms and

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		policies. Can the Commission explain why the definitions given in the European Democracy Action Plan were not used for the type of systemic risks mentioned in art. 26(1)(c)? **LV** *(Comments)*: Disinformation and misinformation are very significant systemic risks in the online environment, which have a negative impact on civil discourse, electoral processes, public security and fundamental rights. Accordingly, in para (c) or at least recital 57, it should be mentioned that the disinformation and misinformation are recognized as systemic risks under this Article. **FR** *(Comments)*: Il est très important de ne pas se limiter aux initiatives intentionnelles de désinformation, et de couvrir l'ensemble des phénomènes de dissémination des fausses informations susceptibles d'engendrer un préjudice d'ampleur systémique. Par ailleurs, les autorités françaises proposent de remplacer la notion de « discours civique », qui peut engendrer des difficultés d'interprétation, par les termes « droits fondamentaux » (selon la Charte de l'UE, la Convention européenne des droits de l'homme, etc.). The French authorities consider this article

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		should not be limited to intentional disinformation initiatives, but should cover the whole range of phenomena of dissemination of false information that can cause systemic harm. Furthermore, the French authorities propose to replace the notion of "civic discourse", which may lead to difficulties of interpretation, by the terms "fundamental rights" (according to the EU Charter, the European Convention on Human Rights, etc.).
	DE *(Drafting)*: **(d) adverse effects on children and adolescents, particularly on health, the physical, mental and moral development, on the exploitation of weaknesses and inexperience, on adverse financial consequences and possible addictive behavior.**	**DE** *(Comments)*: In Art. 26 (1) lit a-c systemic risks i.a. for children and young people are missing (cybermobbing, hate speech, cybergrooming; in this respect, lit. b and c seem not comprehensive enough).
2. When conducting risk assessments, very large online platforms shall take into account, in particular, how their content moderation systems, recommender systems and systems for selecting and displaying advertisement influence any of the systemic risks referred to in paragraph 1, including the potentially rapid and wide dissemination of illegal content and of information that is incompatible with their terms and conditions.	**SE** *(Drafting)*: When conducting risk assessments, very large online platforms shall take into account, in particular, how their content moderation systems, recommender systems and systems for selecting and displaying advertisement influence any of the systemic risks referred to in paragraph 1, including the potentially rapid and wide dissemination of manifestly illegal content and of information that is incompatible with their	**FR** *(Comments)*: Guidelines should be issued not only for risk mitigation measures, as provided for in Article 27, paragraph 3, but also for risk assessment. Les autorités françaises suggèrent d'ajouter à l'évaluation des risques systémiques les fonctionnalités de partage qui facilitent la dissémination virale des contenus. The French authorities suggest adding to the

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	terms and conditions. **FR** *(Drafting)*: 2. When conducting risk assessments, very large online platforms shall take into account, in particular, how their content moderation systems, recommender systems, information-sharing system, and systems for selecting and displaying advertisement influence any of the systemic risks referred to in paragraph 1, including the potentially rapid and wide dissemination of illegal content and of information that is incompatible with their terms and conditions.	systemic risk assessment the sharing features that facilitate the viral dissemination of content. **EL** *(Comments)*: *We consider it helpful if the Commission (perhaps in cooperation with the Board and DSCs), issues general guidelines regarding conduction of risk assessments.*
	FR *(Drafting)*: 3. The Commission, in cooperation with the Digital Services Coordinators, may issue general guidelines on the application of paragraph 1 in relation to specific risks, in particular to present best practices and recommend possible measures related to risk assessment. When preparing those guidelines the Commission shall organise public consultations	
Article 27 *Mitigation of risks*		**IT** *(Comments)*: The respective roles (in term of obligations and duties) to ensure transparency of VLOPs, DSC and the Commission should be further clarified with reference to art. 27 and art. 33.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		DE *(Comments)*: We welcome the proposed catalog of measures to reduce systemic risks. However, the platforms are largely "free" to decide which specific measures they take. In our view, however, certain minimum requirements should be made mandatory. For example e-commerce platforms and online marketplaces should be obliged to take appropriate measures to remove illegal products. There should also be mandatory restrictions for the use of training data used for algorithmic systems. The reports required by para. 2 should contain information on how the platforms fulfill these requirements.
1. Very large online platforms shall put in place reasonable, proportionate and effective mitigation measures, tailored to the specific systemic risks identified pursuant to Article 26. Such measures may include, where applicable:	**AT** *(Drafting)*: 1. Very large online platforms shall put in place reasonable, proportionate and effective mitigation measures, tailored to the specific systemic risks identified pursuant to Article 26. **According to the identified risk, the measures shall include:** **SE** *(Drafting)*: 1. Very large online platforms shall put in place reasonable, proportionate and effective mitigation measures, tailored to the specific systemic risks identified pursuant to Article 26. In the assessment on whether a measure is	**SE** *(Comments)*: **SE** is of the view that freedom of expression should explicitly be included in the assessment of proportionality. **EE** *(Comments)*: We believe this point needs more clarity as to whether the list of possible measures is a closed list or not. **NL** *(Comments)*: **NL** sees the mitigation of risks as an important way to create a safer and better online environment. While flexibility in the measures

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	reasonable, proportionate and effective, special consideration shall be given the right to freedom of expression. Such measures may include, where applicable: **EE** *(Drafting)*: *1.Very large online platforms shall put in place reasonable, proportionate and effective mitigation measures, tailored to the specific systemic risks identified pursuant to Article 26. The decision as to the choice of specific mitigation measures shall remain with the very large online platform. Such measures may include but are not limited to one or more of the following, where applicable*	platforms need to take is a positive thing, attention needs to be paid especially to the efficacy of such measures **PL** *(Comments)*: Catalogue in Article 27(1) should be extended by an additional point concerning the possibility for platforms to engage in educational activities aimed at increasing the users' knowledge and ability to resist to manipulation of platform services (e.g. educational materials, involvement in information campaigns). Very large platforms should also feel responsible for raising awareness among users of their services.
(a) adapting content moderation or recommender systems, their decision-making processes, the features or functioning of their services, or their terms and conditions;	**FR** *(Drafting)*: (a) adapting content moderation systems and resources dedicated to content moderation, in accordance with best state of the art technical developments ~~or recommender systems, their decision-making processes, the features or functioning of their services, or their terms and conditions,~~ to ensure in particular adequate mitigation of the risk of dissemination of illegal content;	**FR** *(Comments)*: Proposition de scinder le (a) par souci de clarification, pour faire apparaître un item dédié à la modération. The French authorities suggest dividing item a) into two items to underline the specific issue of content moderation.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
(b) targeted measures aimed at limiting the display of advertisements in association with the service they provide;	**FR** *(Drafting)*: (b) adapting recommender systems, their decision-making processes, the features or functioning of their services, or their terms and conditions ;	**FR** *(Comments)*: Les mesures que peut recouvrir cet item pourraient être clarifiées. It could be useful to clarify what measures are referred to in this item.
	FR *(Drafting)*: (c ~~b~~) targeted measures aimed at limiting the display of advertisements in association with the service they provide;	
(c) reinforcing the internal processes or supervision of any of their activities in particular as regards detection of systemic risk;	**FR** *(Drafting)*: (d~~c~~) reinforcing the internal processes or supervision of any of their activities in particular as regards detection of systemic risk;	
(d) initiating or adjusting cooperation with trusted flaggers in accordance with Article 19;	**FR** *(Drafting)*: (e~~d~~) initiating or adjusting cooperation with trusted flaggers in accordance with Article 19;	
(e) initiating or adjusting cooperation with other online platforms through the codes of conduct and the crisis protocols referred to in Article 35 and 37 respectively.	**FR** *(Drafting)*: (f~~e~~) initiating or adjusting cooperation with other online platforms through the codes of conduct and the crisis protocols referred to in Article 35 and 37 respectively.	

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COMMISSION PROPOSAL	**Drafting**	**Comments**
2. The Board, in cooperation with the Commission, shall publish comprehensive reports, once a year, which shall include the following:	**FR** *(Drafting)*: 2. The management body shall approve and review periodically, at least once a year, the strategies and policies for taking up, managing, monitoring and mitigating the risks identified in article 26 to which the very large platform is or might be exposed to. The management body shall devote sufficient time to consideration of risk issues. The management body shall be actively involved in and ensure that adequate resources are allocated to the management of the risks identified in article 26.	**FR** *(Comments)*: The supervisory board and head management will be accountable for the implementations of obligations in Articles 26 and 27. The precisions regarding sufficient time to consider risks and the involvement of the management body may be specified by the Commission in guidelines, as it is the case in the banking model.
	FR *(Drafting)*: ~~2~~3. The Board, in cooperation with the Commission, shall publish comprehensive reports, once a year, which shall include the following:	
(a) identification and assessment of the most prominent and recurrent systemic risks reported by very large online platforms or identified through other information sources, in particular those provided in compliance with Article 31 and 33;		
(b) best practices for very large online		

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COMMISSION PROPOSAL	**Drafting**	**Comments**
platforms to mitigate the systemic risks identified.		
3. The Commission, in cooperation with the Digital Services Coordinators, may issue general guidelines on the 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.	**SE** *(Drafting)*: 3. The Commission, in cooperation with the Digital Services Coordinators, may issue general guidelines on the 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, including the right to respect for private and family life and the right to freedom of expression and information, enshrined in the Charter of all parties involved. When preparing those guidelines the Commission shall organise public consultations. **IT** *(Drafting)*: The Commission, in cooperation with the Digital Services Coordinators, ~~***may***~~ issue general guidelines on the 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	**SE** *(Comments)*: **SE** is of the view that, as in article 26.1.b, the right to respect for private and family life and the right to freedom of expression should be explicitly mentioned in the article. **IT** *(Comments)*: In order to define a minimum common level of measures and subsequent (wording as it stands), we suggest that the Commission and the Digital Services Coordinators issue guidelines in application of paragraph 1. **DE** *(Comments)*: We wonder whether para. 3 should be designed with a more binding character than just offering COM the opportunity to issue such "guidelines". Without specific requirements, it seems obvious to us that considerable disputes with several VLOPs about this issue are about to rise (and need to be solved in court, which will likely delay any actions by another couple of years). We advocate for a binding instrument to concretize the requirements of Art. 27. Also the COM should be obliged to adopt such a binding decision within 12 months after the publication

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	Commission shall organise public consultations **FR** *(Drafting)*: 4. The Commission […]	of the DSA.
Article 28 *Independent audit*		**HU** *(Comments)*: We recommend considering the possibility of a registration of independent audit bodies at EU level. **EL** *(Comments)*: *General comment on article 28:* *While recital 61 describes a procedure for the audit report and specifically "the report should be transmitted to DSC and the Board without delay, together with risk assessment and the mitigation measures….should include an audit opinion ....", this is not described in the article. We consider the description of the procedure in the article crucial as the articles are the reference points for the obligations and actions of the obligors.* **NL** *(Comments)*: **NL** is positive about mandatory audits that VLOPs have to undergo. However, we do have question marks as to how to safeguard the impartiality of external organisations that will be tasked with the auditing of VLOPs, given the

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		article stipulates that such audits are paid for/are at the expense of VLOPs **DE** *(Comments)*: We wonder how the independence of the performing organisations and the comparability of the audit reports can be assured. From our point of view further safeguards are needed, to ensure sufficient quality of the audits. What does "audit" mean? Is this procedure a statutory audit for companies? If not what kind of minimum professional qualification is necessary? Can only EU organisations provide such an audit? We also wonder about the relationship between Art. 28 and Art. 58 et seqq. How does the (non-) implementation of the operational recommendations of the independent body relate to the supervision of the COM pursuant to Art. 58 et seq.? We assume that a negative audit report does require a failure to comply with due diligence or other obligations set out by Art. 26. We wonder whether the auditing and supervision procedures are applicable cumulatively.
1. Very large online platforms shall be subject, at their own expense and at least once a year, to audits to assess compliance with the	**IT** *(Drafting)*: Very large online platforms shall be subject, at	**ES** *(Comments)*: The obligation to carry out an independent

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COMMISSION PROPOSAL	**Drafting**	**Comments**
following:	their own expense and at least once ***every six months*** ~~*a year*~~, to audits to assess compliance with the following:	annual audit is positively valued. However, the audit should also be carried out when it is appreciated that the risks have increased considerably by supervening circumstances or factors.
(a) the obligations set out in Chapter III;		
(b) any commitments undertaken pursuant to the codes of conduct referred to in Articles 35 and 36 and the crisis protocols referred to in Article 37.		
2. Audits performed pursuant to paragraph 1 shall be performed by organisations which:	**FR** *(Drafting)*: 2. Audits performed pursuant to paragraph 1 and to article 30(4) shall be performed by organisations which:	**BE** *(Comments)*: We are not totally convinced about the criteria these auditing organisations have to meet to ensure independence. Shouldn't there be required that those organisms are accredited (as it is the case in other instruments) or that they meet more precise criteria? **BG** *(Comments)*: От текста не става ясно кой има ангажимент за определяне на одиторите – всяка ДЧ или ЕК, както и кой ги ангажира и сключва договор с тях – платформата или друг?

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		It is not clear from the text who is engaged in appointing the auditors - each MS or EC, as well as who engages them and concludes a contract with them - the platform or another entity? **FR** *(Comments)*: See Article 30 below. **LV** *(Comments)*: We have doubts that the quality of audits is going to be ensured without providing more strict rules of the choice of auditing companies. We think the influence of VLOPs should be considered on the possible audit providers, especially if the audit is financed by the VLOPs themselves. Since the monitoring of effectiveness of rules in Chapter III relies great deal on the audits, it is crucial to ensure the quality and reliability of the process and the results.
(a) are independent from the very large online platform concerned;		**DK** *(Comments)*: It should be specified in the recitals what specific requirements the organization must meet in order to meet the obligation to be independent from the VLOP. **EL** *(Comments)*: *For reasons of uniformity and transparency, specific criteria should be defined on the basis*

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		of which the independence of organizations from the platforms will be demonstrated **DE** *(Comments)*: We wonder, what specific kind of organisation (what professional category) is considered "independent organization"? We wonder whether screening or certification procedures for independent organisations, including through reference to such procedures in other legal acts would be helpful.
(b) have proven expertise in the area of risk management, technical competence and capabilities;	**IT** *(Drafting)*: (b) have proven expertise in the area of risk management, technical competence and capabilities ***[as well as the risk assessment]***;	
(c) have proven objectivity and professional ethics, based in particular on adherence to codes of practice or appropriate standards.	**FR** *(Drafting)*: (c) [without change] (d) comply with an industry standard as defined in article 34, paragraph (d).	**FR** *(Comments)*: Lorsque des normes en matière d'audit auront été définies, il est souhaitable d'imposer que l'auditeur y soit conforme. Once audit standards have been defined, it would be useful to make them mandatory for auditors referred to in this paragraph.
3. The organisations that perform the audits	**IT** *(Drafting)*:	

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shall establish an audit report for each audit. The report shall be in writing and include at least the following:	The organisations that perform the audits shall [***identify and make public the name of its legal representative and its references. It*** establish***es*** an audit report for each audit. The report shall be in writing and include at least the following:	
(a) the name, address and the point of contact of the very large online platform subject to the audit and the period covered;		
(b) the name and address of the organisation performing the audit;		
(c) a description of the specific elements audited, and the methodology applied;	**FR** *(Drafting)*: (c) a description of the specific elements audited, and the methodology applied; where the European Commission, has recommended a methodology or where a code of conduct applies, the methodology should be defined accordingly.	**FR** *(Comments)*: The scope of this audit is new; it is important that, as the expertise of all stakeholders (including the Commission) will grow, some standards may be imposed for a more effective monitoring of the activity of large platforms (including, as the case may be, via codes of conducts).
(d) a description of the main findings drawn from the audit;	**FR** *(Drafting)*: (d) a description of the main findings drawn from the audit; where the European	

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	Commission, has recommended a methodology for this output methodology or where a code of conduct applies, the methodology should be defined accordingly.	
(e) an audit opinion on whether the very large online platform subject to the audit complied with the obligations and with the commitments referred to in paragraph 1, either positive, positive with comments or negative;		
(f) where the audit opinion is not positive, operational recommendations on specific measures to achieve compliance.	**IT** *(Drafting)*: (f) where the audit opinion is not positive, operational recommendations on specific measures to achieve compliance ***and the time-limit to achieve compliance***.	
4. Very large online platforms receiving an audit report that is not positive shall take due account of any operational recommendations addressed to them with a view to take the necessary measures to implement them. They shall, within one month from receiving those recommendations, adopt an audit implementation report setting out those measures. Where they do not implement the	**FR** *(Drafting)*: 4. (without change)	**IT** *(Comments)*: Italy suggests better specifying the operator's obligations in case of a non-positive audit report, moreover paragraph 4 should provide for the Commission action when online platforms and online services providers do not implement the operational recommendations or when they do not do within the time-limit provided in the recommendations.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
operational recommendations, they shall justify in the audit implementation report the reasons for not doing so and set out any alternative measures they may have taken to address any instances of non-compliance identified.		It is not clear what happens if alternative measures are not considered sufficient: sanctions?
	FR *(Drafting)*: 5. The Digital Services Coordinators of establishment may trigger the audit mentioned in paragraph 1 when the very large platform fails to do so or in case of a serious delay.	**FR** *(Comments)*: When a large platform fails to launch the audit in due time, it should be possible for the DSC to impose it, instead of initiating a lengthy infraction procedure.
Article 29 *Recommender systems*		**ES** *(Comments)*: It is positively valued that users will be able modify the options of the recommendation systems and, in particular, that they can receive recommendations not based on profiling. However, VLOPs should be encouraged to prioritize relevant and reliable content obtained from authoritative sources. Information that comes from unreliable sources must be treated with lower priority by recommendation algorithms, and even tagged, so that users are offered different viewpoints and contribute to their critical thinking and literacy, respecting the plurality and diversity of opinions. **SK** *(Comments)*: *We believe that article 29 should explicitly cover also online advertising (mention that online*

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		advertising is coved in this article). The way article 29 is structured now does not provide any clarity as to whether online advertising is included. Online advertising has its own definition in DSA as opposed to definition of "information" that are provided by recommender systems (art. 2 letter o). **IT** *(Comments)*: It should be clarified that the recommendation systems should be designed in a way to prevent and favouring any systemic risks (as foreseen in Article 26) **NL** *(Comments)*: We are supportive of the idea of empowering users in being aware of the recommender systems that shape their personalized feeds, as well as providing them with the relevant tools to influence these recommender systems. Since **NL** values meaningful transparency that is useful for supervision, research and also for citizens themselves, and each of these groups requires different levels of information, it should be (made) clear in which way and for whom the information concerning transparency is targeted and in which ways the transparency will be meaningful. In addition, it needs to be clarified how supervision concerning this will be regulated.

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		Could the Commission clarify how this transparency and opt-out requirement relates to the transparency requirements regarding the main parameters determining ranking within the meaning of Regulation (EU) 2019/1150 and Directive (EU) 2019/2162? Where does it differ from and/or overlap with these transparency requirements? **PL** *(Comments)*: Poland supports the solutions indicated in Article 29 for online platforms to present the parameters of their recommender systems in an easily understandable way, so that the recipients of content can understand how the information presented to them is ranked. At the same time, the possibility to change the parameters of such recommendations should be guaranteed to the recipients, so that they can obtain information that is not based on user profiling. **DE** *(Comments)*: Recommender systems have the potential to be unfair, discriminatory, intransparent, distorting and misleading in favor of provider interests. They can lead to a perpetuation of market structures and limit consumer choice. VLOPs recommender systems have the potential to steer and manipulate markets and user groups, including voters. At the same time, non-

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		transparent recommender systems can lead to any discrimination underlying the systems going undetected. Against this background, we welcome the transparency obligation with regard to the recommender systems used by the VLOPs. But we also think that further requirements are needed: A set of minimum standards for recommender systems should be included, such as fairness, neutrality, freedom from discrimination. We also wonder whether a search engine that provides a hit list and thus implicates that the top hit is the most relevant one, is such a "recommender system"? We also wonder why the obligations in Art. 29 should be limited to VLOPs. Does Art. 29 also applie to online-ads?
1. Very large online platforms that use recommender systems shall set out in their terms and conditions, in a clear, accessible and easily comprehensible manner, the main parameters used in their recommender systems, as well as any options for the recipients of the service to modify or influence those main parameters that they may have made available, including at least one option which is not based on profiling,	**DK** *(Drafting)*: Very large online platforms that use recommender systems shall, set out in their terms and conditions, in a clear, accessible and easily comprehensible manner, the main parameters used in their recommender systems, as well as any options for the recipients of the service to modify or influence those main parameters that they may have made available,	**IE** *(Comments)*: There is a concern that the use of the word "may" in this section does not make it clear that it is necessary that a VLOP include "at least one option which is not based on profiling, within the meaning of Article 4 (4) of Regulation (EU) 2016/679." **DK** *(Comments)*:

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within the meaning of Article 4 (4) of Regulation (EU) 2016/679.	including at least one option which is not based on profiling, within the meaning of Article 4 (4) of Regulation (EU) 2016/679. Very large online platforms shall also make this information directly and easily accessible from a specific section of the online interface from the page where the information is being prioritized according to the recommender system. **EE** *(Drafting)*: 1.Very large online platforms that use recommender systems shall set out in their terms and conditions, in a clear, accessible and easily comprehensible manner, the main parameters used in their recommender systems, as well as any options for the recipients of the service to modify or influence those main parameters that they ~~may~~ have made available, including at least one option which is not based on profiling, within the meaning of Article 4 (4) of Regulation (EU) 2016/679.. **PL** *(Drafting)*: Very large online platforms that use recommender systems or any other systems used to determine the order of presentation of content, including that which decrease the visibility of content, shall set out in their terms and conditions, in a clear, accessible and easily comprehensible manner, the main parameters	DIRECTIVE (EU) 2019/2161 (“better enforcement and modernisation of Union consumer protection rules”) sets similar information requirements for the ranking systems on online marketplaces. However, here the directive requires that the information be accessible from the online interface. As very few consumers actively interact with the terms and conditions, a similar requirement should be included in this regulation, for it to have any effect on consumer protection. **SK** *(Comments)*: *We suggest to examine the introduction of the "opt-out" option as a preferred option (“by default”), especially for very large online platforms. This approach allows users to set a preference and type of algorithm for displaying customized, personalized content on the platform as per the data minimalism standards.* *We would like to give into a consideration if this article should contain also possibility for platforms to use other place than terms and conditions to set out their main parameters. It could increase chance to display them in a place that platforms would identify as more user friendly.* **EE** *(Comments)*: We believe that only having the possibility to

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	used in ~~their recommender~~ these systems~~,~~. NEW 2. The main parameters referred to in paragraph 1 shall include, at minimum: (a) the main criteria used by the relevant recommender system, (b) how these criteria are weighted against each other, (c) the optimisation goal of the relevant recommender system, (d) explanation of the role that the behaviour of the recipients of the service plays in how the relevant recommender system functions. NEW 3. Very large online platforms shall provide options for the recipients of the service to modify or influence parameters referred to in paragraph 2, ~~as well as any options for the recipients of the service to modify or influence those main parameters that they may have made available,~~ including at least one option which is not based on profiling, within the meaning of Article 4 (4) of Regulation (EU) 2016/679. **FR** *(Drafting)*: Very large online platforms that use recommender systems shall set out in their terms and conditions, in a clear, accessible and easily comprehensible manner in a specific section of the online interface that is directly and easily accessible from the page where the content is displayed, the main parameters used in their recommender systems, as well as any options for	opt in or out from profiling does not give users much actual control over the content they see.. **PL** *(Comments)*: 1. Definition of "main parameters" should be made more specific. We propose including a non-exhaustive catalogue of information that should be revealed. 2. In order to increase users' choice, safety, and control over their experience, they should always be able to modify parameters of recommender systems, not only when the platform grants them this right on the platform's own initiative. The scope of available options may remain at a platform's discretion. **FR** *(Comments)*: Les autorités françaises souhaitent que les informations relatives aux principaux paramètres des systèmes de recommandation soient accessibles « dans une section spécifique de l'interface en ligne qui est directement et aisément accessible à partir de la page sur laquelle les offres sont présentées », et non dans les conditions générales. Cette formulation est cohérente avec l'obligation de même nature prévue à l'article 6 bis para 1 (a) de la directive (UE) 2011/83, telle que modifiée par la directive (UE) 2019/2161 « Omnibus » à compter de 2022.

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	the recipients of the service to modify or influence those main parameters that they may have made available, including at least one option which is not based on profiling, within the meaning of Article 4 (4) of Regulation (EU) 2016/679.	The French authorities would like the information on the main parameters of the recommendation systems to be accessible "in a specific section of the online interface which is directly and easily accessible from the page on which the offers are presented", and not in the general terms and conditions. This wording is consistent with the similar obligation in Article 6a(1)(a) of Directive (EU) 2011/83, as amended by Directive (EU) 2019/2161 "Omnibus" starting in 2022. **DE** *(Comments)*: We wonder why the information about “recommender systems” for users should only be set out in the companies’ general terms and conditions as the information in that case is too hard to find for the users. We advocate that the information is displayed with the suggested content Also it should be further specified which parameters should be named by the platforms. This should include at least all parameters that are directly or indirectly linked to discrimination characteristics such as gender, sexual orientation, age or origin. The same applies to relevant payments by the content author (in particular commission payments) or other business relationships or ownership structures between the platform and the content author.

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2. Where several options are available pursuant to paragraph 1, very large online platforms shall provide an easily accessible functionality on their online interface allowing the recipient of the service to select and to modify at any time their preferred option for each of the recommender systems that determines the relative order of information presented to them.	**DK** *(Drafting)*: Where several options are available pursuant to paragraph 1, very large online platforms shall provide, in a specific section of the online interface where the information is presented, a directly and easily accessible functionality allowing the recipient of the service to select and to modify at any time their preferred option for each of the recommender systems that determines the relative order of information presented to them. **PL** *(Drafting)*: ~~2.~~ 4. ~~Where several options are available pursuant to paragraph 1,~~ ~~v~~Very large online platforms shall provide an easily accessible functionality on their online interface allowing the recipient of the service: (a) to select and to modify at any time their preferred option for each of the recommender systems that determines the relative order of information presented to them~~.,~~ b) to select third party recommender systems.	**DK** *(Comments)*: This wording corresponds to the requirements for online marketplaces as in DIRECTIVE (EU) 2019/2161 (“better enforcement and modernisation of Union consumer protection rules”) **ES** *(Comments)*: One of the options should consider the promotion of contents labelled by trusted flaggers or other 3rd party recommenders as verified or deem of a certain quality. Users will be able to choose to follow the contents indicated by these recommenders along with their preferred recommender option: the platform personalized recommendations, reverse chronological order or others. **NL** *(Comments)*: Given the importance of default settings how users interact with the services provided, did the Commission consider stipulating the default? **PL** *(Comments)*: See comments above. Also with this goal in mind, very large online platforms should enable users to select third party recommender systems, i.e. mandate another provider to curate content for them, if

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		they do not like the parameters used by the platform. This would imply that very large online platforms must make their recommender systems interoperable with third parties. In order to create appropriate technical standards, we recommend introducing specific competences for the European Commission or another appropriate body to oversee and approve technical requirements for interoperability. **DE** *(Comments)*: Should VLOPs be required to display whether a product or service offered has been awarded a Type I environmental label (ISO 14024), and should they be required to offer a filter function for users to search for products and services with such labels?
	DE *(Drafting)*: **3. Recommender systems shall not be preinstalled by default. In advance to providing their consent to a recommender system, users have to be provided with the information and options pursuant to paragraph 1 in a clear and unambiguous manner. Recommender systems on the basis of profiling within the meaning of Article 4 (4) of Regulation (EU) 2016/679 may not be used on children and adolescents.**	**DE** *(Comments)*: Furthermore we would suggest that recommender systems should not to be preinstalled by default. To ensure full compliance with the requirements of the General Data Protection Regulation (e.g. privacy by default and design and data minimisation) users of very large online platforms should opt in rather than opt out to the use of a recommender system. In any case there should be at least the requirement of an opt-in in a recommender system based on profiling.

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		Also we think, that users should have the right to select between different recommender systems. There should be no recommender system by default. Users when using the service for the first time should be presented all the information and options for recommender system and should make their own choice. Recommender systems on the basis of profiling within the meaning of Article 4 (4) of Regulation (EU) 2016/679 may not be used on children and adolescents. An additional identification obligation for users should however not be introduced.
Article 30 *Additional online advertising transparency*		**CZ** *(Comments)*: As mentioned at the working party, we are of the opinion that repositories in Article 30 may reveal business secrets and knowhow of advertising companies for example by having the possibility to see the sequence of different adverts on one product in time or by revealing the profiling techniques used. Therefore, we see this obligation as unnecessary and potentially harmful. Furthermore, the declared research purpose does not seem justified enough given the big dangers associated with giving out business secrets. **EL** *(Comments)*: *General comment about Article 30:*

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		We agree with the provision of additional transparency obligations in the case of online advertisements however it should be clarified whether it concerns all types of advertisements and whether it includes sponsorships **IT** *(Comments)*: Besides transparency obligations laid down in Art.30, and taking into account the obligations enshrined in Art.24, would it be possible to require VLOPs to comply with some qualitative obligations in respect of advertising, somehow in line with the ones adopted in the AVMSD for VSPs? It is worth considering that some VLOPs display large amounts of advertising, either equivalent or larger than VSPs within the scope of AVMSD (lex specialis). The topic may deserve a further analysis, in order to verify whether AVMSD provisions (art. 28b) need any adaptation to VLOPs. **NL** *(Comments)*: This article is important for **NL**, because it sets out various transparency reporting obligations. In addition, **NL** values meaningful transparency that is useful for supervision, research and also for citizens themselves. Since each of these groups requires different levels of information, it should be (made) clear in which way and for

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		whom the information concerning transparency is targeted and in which ways the transparency will be meaningful. **PL** *(Comments)*: As part of Article 30 of the DSA, it should be noted that obligations relating to advertising are also in the draft Digital Markets Act - hereafter DMA. Some very large online platforms will also be subject to the provisions of the DMA. It is therefore important to ensure that the rules on online advertising clearly indicate which rules should apply when a very large online platform is also subject to the DMA rules. User protection should be strengthened, in particular to prevent the spread of disinformation and to ensure transparency of online advertising. In addition, Article 30 of the proposal should be supplemented by measures to ensure the transparency of funding for online advertising; Article 30(2)(b) is a good but insufficient step in this direction.
1. Very large online platforms that display advertising on their online interfaces shall compile and make publicly available through application programming interfaces a repository containing the information referred to in paragraph 2, until one year after the	**CZ** *(Drafting)*: Very large online platforms that display advertising on their online interfaces shall compile **~~and make publicly available through application programming interfaces~~** a	**DK** *(Comments)*: As we understand, the repository will be available through API. As the use of API requires a certain technical specialist expertise, the provision will not provide the standard user

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advertisement was displayed for the last time on their online interfaces. They shall ensure that the repository does not contain any personal data of the recipients of the service to whom the advertisement was or could have been displayed.	repository containing the information referred to in paragraph 2, until ~~**one year**~~ **six months** after the advertisement was displayed for the last time on their online interfaces. They shall ensure that the repository does not contain any personal data of the recipients of the service to whom the advertisement was or could have been displayed. **IT** *(Drafting)*: 1. Very large online platforms that display advertising on their online interfaces shall compile and make publicly available through application programming interfaces a repository containing the information referred to in paragraph 2, until one year after the advertisement was displayed for the last time on their online interfaces. They shall ensure that the repository does not contain any personal data of the recipients of the service to whom the advertisement was or could have been displayed. ***The repository shall be published and publicly available in a specific section of their website***. **FR** *(Drafting)*: 1. Very large online platforms that display advertising on their online interfaces shall compile and make ~~publicly~~ available to relevant authorities and vetted researchers that meet the requirements listed in paragraph 4 or article 31,	with access to the repository and should therefor be made "easily accessible". Thus, we find that the wording *"publicly available"* is misleading. **ES** *(Comments)*: This transparency requirement is positively valued. However, information should also be disaggregated by country (Country-by-Country Report). It should be taken into account that online advertising is the main business model for very large platforms, whose intention is to keep users active for as long as possible by maximizing interactions, which encourages the appearance of harmful content such as disinformation. **LU** *(Comments)*: Luxembourg is not convinced by the added value or proportionality of this register. Who will use the information contained in this register? What benefit will flow from this for a safer online environment and the Internal Market? **CZ** *(Comments)*: For the reasons stated in our comment to article 30, we suggest that the repository is not publicly available. **IT** *(Comments)*: **IT** proposes to refer to a specific section of the

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	through application programming interfaces a repository containing the information referred to in paragraph 2, until one year after the advertisement was displayed for the last time on their online interfaces. They shall ensure that the repository does not contain any personal data of the recipients of the service to whom the advertisement was or could have been displayed.	website, in order to guarantee the widest knowledge of the information **FR** *(Comments)*: The benefits of public access to such an API are debatable. Specifically item e) of paragraph 2 would jeopardise advertisers' business secrets, since the public would have access to information that is sensitive to them. The French authorities therefore suggest restricting such access to the regulator and vetted researchers. **DE** *(Comments)*: We wonder whether a longer time frame could be more appropriate and more useful. It could also be useful to differentiate between political and commercial ads in transparency matters. Art. 30 is of particular importance in relation to political ads. This is the area where the risk for the shaping of public opinion and discourse and democracy occurred and became apparent.
2. The repository shall include at least all of the following information:		**IT** *(Comments)*: It would be correct to provide for the same traceability required by Art. 22 for traders. **DE** *(Comments)*: In our view, the listed parameters seem not to be sufficient. We advocate that other important

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		parameters should be included. Also, it has to be secured that the actual principal (and not an intermediary) is made public.
(a) the content of the advertisement;	**FR** *(Drafting)*: (a) the content of the advertisement (in particular, the name of the product, service or brand and the object of the advertisement);	**FR** *(Comments)*: Details of the information expected.
(b) the natural or legal person on whose behalf the advertisement is displayed;		**HU** *(Comments)*: As data processing is mandatory and specifically applies to natural persons, it would also be necessary, in view of the requirement of legal certainty, to determine which personal data must be made available to the public in the case of a natural person advertiser in order to achieve the identification described here.
(c) the period during which the advertisement was displayed;		
(d) whether the advertisement was intended to be displayed specifically to one or more particular groups of recipients of the service and		

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if so, the main parameters used for that purpose;		
(e) the total number of recipients of the service reached and, where applicable, aggregate numbers for the group or groups of recipients to whom the advertisement was targeted specifically.	**FR** *(Drafting)*: (e) the total number of recipients of the service reached in each country and, where applicable, aggregate numbers for the group or groups of recipients to whom the advertisement was targeted specifically.	**FR** *(Comments)*: (e) The French authorities deem useful to distinguish recipients reached based on their country.
	CZ *(Drafting)*: **3. Very large online platforms are to provide a functioning online tool for automatic or semi-automatic feed in of the demanded information.** **AT** *(Drafting)*: **3. Before allowing persons to to display advertising on their online interfaces, very large online platforms shall make reasonable efforts to prevent fraudulent practices on their platform, such as advertisements of fake shops operators.** **FR** *(Drafting)*: 3. When very large online platforms sell advertising for display on their online interface, the contract signed with the buyer or the buyer's representative includes a clause providing that the platform guarantees that no content adjacent	**AT** *(Comments)*: This is complementing Art. 22 for VLOPs that are not online marketplaces, but for example social networks. **FR** *(Comments)*: Paragraph 3 : See Recital 63a : « Very large online platforms generally associate advertisements with content uploaded by users, for example by inserting an advertisement before or during a video content uploaded by a user, or by interweaving this advertisement between several non-advertising pieces of content. This practice allows for advertisements to be associated with illegal content or content that violates the terms and conditions. This situation is problematic in three respects. First, it can lead, when advertising revenues are shared with content authors, to advertising financing illegal content or content that violates

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	to the advertisement is incompatible with the terms and conditions of the platform or with the law of the Member States of residence of the recipients of the service to whom the advertisement will be displayed. Any clause to the contrary shall be null and void. 4. Very large online platforms that display advertising on their online interfaces shall conduct at their own expense, upon the request of advertisers, independent audits performed by organisations complying with the criteria set out in Article 28(2), on a reasonable frequency, under fair and proportionate conditions agreed upon between platforms and advertisers, to : (a) conduct a quantitative and qualitative assessment of cases where advertising is associated with illegal content or with content incompatible with their terms and conditions; (b) detect fraudulent use of their services to fund illegal activities; (c) assess the performance of their tools in terms of brand safety. The report shall include (i) an audit opinion on the performance of their tools in terms of brand safety, either positive, positive with comments or negative; (ii) and, where the audit opinion is not positive, operational recommendations on specific measures to achieve compliance.	the terms and conditions. On the other hand, in order to increase their advertising revenues, platforms may be encouraged, through their prescription and recommendation mechanisms, to promote illicit content or content that is contrary to the general terms of use, given that such content is often the one that generates the most engagement, reactions or sharing; the economic model of financing through advertising may thus indirectly contribute to the promotion of illicit or otherwise undesirable content for profit-making reasons. Finally, the fact that their advertisements are associated with illicit or undesirable content that is prohibited by the platform's terms and conditions considerably damages the brand image of the buyers of advertising space. To prevent this type of abuse, very large online platforms should ensure that the content to which they associate advertisements is indeed legal, and more generally, complies with their general terms of use. In order to be fully effective, this guarantee should be given contractually to the purchasers of advertising space, who will be able, in the event of a breach, to seek compensation from the platform for the damage to their brand image, thus contributing to the fight against the financing and distribution of illegal content. Given the power of the very

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	These platforms shall make available to advertisers, upon their request, the results of that audit.	large platforms, which does not allow their partners to effectively negotiate the content of contracts, it is appropriate to require that such a clause be systematically included in contracts for the sale of advertising space." Paragraph 4 : Proposal to address the recurring difficulties of advertisers in obtaining information on the quality and performance of their advertising campaigns, which remain continuously dependent on the tools and metrics provided by the platforms, without any possibility for them to test and verify these "proprietary" indicators of the platforms ("black box" effect). To this end, advertisers are asking for the ability to audit these proprietary metrics by third parties independent from the platforms. The objective of these independent brand safety audits is to allow brands and advertisers to verify the accuracy and precision of the reports established unilaterally by the platforms..
Article 31 *Data access and scrutiny*		**ES** *(Comments)*: In some cases, online platforms allow the provision of an underlying physical service, as is the case of short-term tourist rental platforms. The principle of country of origin should be maintained but mechanisms that allow competent national authorities, including local entities, to fulfill their functions and guarantee

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		equal conditions and consumer protection in their respective areas should be established. This article and article 9 (orders to provide information) do not seem to cater for the needs of competent authorities to access data related to the operation of these services. **PL** *(Comments)*: Poland supports the provisions on access to data for scientific purposes in Article 31, and at the same time calls for an extension of the scope of this provision to provide access to data also for scientific purposes other than those of 'identification and understanding of systemic risks'. In addition, consideration should be given to streamlining researchers' access to data held by platforms. In this respect it may be considered to waive the requirement to request to Digital Services Coordinator or the Commission to allow access to data, as this can be a significant bureaucratic barrier. In addition to making platform-owned data more accessible to researchers, it is worth considering solutions to enable wider access to economically and socially valuable platform-owned data also for legitimate public entities, e.g. for public interest purposes. The biggest online platforms hold a large amount of data with under-utilised potential for science, the economy and society, so enabling access to this non-secret data will

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		contribute to building a data-driven economy, and in the case of public entities, access to the data will allow better decision-making in the area of public policies. **DE** *(Comments)*: It has to be assured that GDPR requirements are fully respected at all times. Also it has to be specified, what kind of data lies in the scope of Art. 31. In our view the algorithmic systems used by the platforms, including the training data and training algorithms, should also be covered
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.	**HU** *(Drafting)*: 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 **and the source code or the algorithm (operating method) of the recommender systems that** are necessary to monitor and assess compliance with this Regulation. **FR** *(Drafting)*: 1. ~~Very large online platforms shall provide the Digital Services Coordinator of establishment or the Commission, upon their~~	**DK** *(Comments)*: We can support that competent authorities are given access to data that are necessary to monitor and assess compliance with the DSA. We can accept the Commission's proposal to give data access to vetted researchers, but it is important that this is done under reasonable conditions and a well-defined framework. Any requirement to grant access to researchers should be balanced, proportional and in full respect of trade secrets. It is important that there is not imposed any requirements resulting in the publication of any confidential information, trade secrets or information maintaining the

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	~~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.~~The Digital Services Coordinator of establishment, or the Digital Services Coordinators of destination, or the Commission may require information from service providers mentioned in Article 25 to provide all necessary information for the purpose of monitoring, implementing and enforcing the rules laid down in this Regulation. They may also request access to their data bases and algorithms and request explanations on those. When sending a request for information, they shall state the purpose of the request, specify what information is required and fix the time-limit within which the information is to be provided, and the penalties provided for in Article 42, paragraph 3 and Article 59, paragraph 2, for supplying incomplete, incorrect or misleading information or explanations.	security of the platforms' services. **HU** *(Comments)*: Recommender systems are working on AI / Machine Learning principles, therefore both training data and ML algorithms should be scrutinized in order to properly assess the possible violation of the Regulation. **ES** *(Comments)*: A maximum period should be specified instead of using the expression "within a reasonable period". **FR** *(Comments)*: The French authorities suggest taking as a model paragraph 1 of article 19 of the DMA, which gives details about regulatory powers regarding data access, including algorithms, and provides for sanctions where requests for information are refused or inadequately met. The French authorities deem necessary that country of destination Coordinators be granted powers to access data, in order to ensure that regulation takes local issues into account. **DE** *(Comments)*: We welcome the fact that COM is involved in the act of monitoring and assessing compliance with the DSA. This can be very helpful, especially when specific MS authorities are

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		overstrained with the duty to act as unionwide monitoring authority in charge for all other MS. However, with regard to the necessary protection of personal data it should be clarified that access is granted only to anonymised or, where strictly necessary, at least pseudonymised data.
2. Upon a reasoned request from the Digital Services Coordinator of establishment or the Commission, very large online platforms shall, within a reasonable period, as specified in the request, provide access to data to vetted researchers who meet the requirements in paragraphs 4 of this Article, for the sole purpose of conducting research that contributes to the identification and understanding of systemic risks as set out in Article 26(1).	**FR** *(Drafting)*: 2. Upon a reasoned request from the Digital Services Coordinator of ~~establishment~~ the Member State where the academic institutions they are affiliated with are established or from the Commission, very large online platforms shall, within a reasonable period, as specified in the request, provide access to data to vetted researchers who meet the requirements in paragraph~~s~~ 4 of this Article, for the sole purpose of conducting research that contributes to the identification and understanding of systemic risks as set out in Article 26(1) and to independent evaluation of the adequacy and efficiency of mitigation measures referred to in Article 27.	**BE** *(Comments)*: Could you please specify who will be accreditating the vetted researchers ? Where would the accreditation procedure, if any, be mentioned in the text of the Commission's proposal? **BG** *(Comments)*: От текста не става ясно кой привлича и сключва договор с анализаторите, както и кой им дава статут на доказани? It is not clear from the text who recruits/engages and concludes a contract with the vetted researchers, as well as who gives them the status of a "vetted researcher"? **ES** *(Comments)*: A maximum period should be specified instead of using the expression "within a reasonable period".

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		It is not clear who vet the researchers or how the process occurs. **PL** *(Comments)*: We suggest including safeguards along the following lines.: 1. Define "reasoned request" to set parameters around what information can be requested and shared with vetted researchers, in line with the GDPR data minimisation principle. 2. Allow online platforms to take additional measures to protect the privacy of data subjects (e.g. through pseudonymization), where appropriate. 3. Set limits on what can be done with the data and clarify that the data should not be further shared/disclosed, in line with the GDPR purpose-limitation principle **LV** *(Comments)*: It is essential to provide a level playing field between the competent authorities of the Member States and other bodies in obtaining information regardless establishment of the very large platform. Thus in Article 31, it is important to stipulate a clear procedure for the transfer of research data from Member States of the establishment to researchers in the recipient countries.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		FR *(Comments)*: Cette disposition confie au DSC d'établissement (ou à la Commission) le rôle de transmettre les demandes des chercheurs. Il semble plus efficace de décentraliser ce rôle au niveau du DSC de l'Etat dont sont issus les chercheurs, qui est le mieux à même d'apprécier leur demande. **En outre, il est nécessaire de ne pas restreindre le champ des recherches à l'évaluation des risques systémiques, et de l'étendre à celle des mesures d'atténuation des risques.** Under the current provision, the DSC of establishment (or the Commission) is in charge of transmitting the requests of researchers. It seems more efficient to decentralize this role, and give it to the DSC of the researchers' Member State, as the latter is in the best position to assess their request. **In addition, the scope of research should not be restricted to systemic risk assessment, but should be extended to cover the mitigation of said risks.** **DE** *(Comments)*: It has to be secured that the list leaves space for any new kind of research questions. We wonder, however, why access to data for researchers is bound to a "reasoned request" from the DSC of

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		establishment or the COM. A direct entitlement to get access to data for non-commercial research should be established and would be useful. VLOPs could be obliged to provide certain interfaces for non-commercial researchers to get the data. It has to be secured that misuse of the data is prevented However, with regard to the necessary protection of personal data it should be clarified that access is granted only to anonymised or, where strictly necessary for research purposes, at least pseudonymised data.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
3. Very large online platforms shall provide access to data pursuant to paragraphs 1 and 2 through online databases or application programming interfaces, as appropriate.	**HU** *(Drafting)*: Very large online platforms shall provide access to data **and source code** pursuant to paragraphs 1 and 2 through online databases or application programming interfaces, **or code repositories** as appropriate. **FR** *(Drafting)*: 3. When required to do so, v~~V~~ery large online platforms shall provide access to data pursuant to paragraphs 1 and 2 through online databases or application programming interfaces, as appropriate.	**FR** *(Comments)*: Il ne faut pas se restreindre strictement à ces deux solutions, car on ne peut exclure qu'à l'avenir, ou dans des cas particuliers, d'autres solutions soient regardées comme plus appropriées. These two solutions should not be the only ones listed, since other solutions may be deemed more appropriate in the future, or in specific cases.
4. In order to be vetted, researchers shall be affiliated with academic institutions, be independent from commercial interests, have proven records of expertise in the fields related to the risks investigated or related research methodologies, and shall commit and be in a capacity to preserve the specific data security and confidentiality requirements corresponding to each request.	**FR** *(Drafting)*: 4. In order to be vetted by a Digital Services Coordinator in a given Member State, researchers shall be affiliated with academic institutions in this Member State, be independent from commercial interests, have proven records of expertise in the fields related to the risks investigated or related research methodologies, and shall commit and be in a capacity to preserve the specific data security and confidentiality requirements corresponding to each request.	**DK** *(Comments)*: The provision fails to address *who* will decide and *how* it will be decided that a researcher is vetted. **EL** *(Comments)*: *We believe that it should be clarified in the article by whom the accreditation of the research is done and how the fulfillment of the criteria is proved, especially as far as the independence from commercial interests is concerned.* **LV** *(Comments)*: Research can be conducted not only by

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		academic institutions but also by various other institutions like think tanks, consulting companies, NGOs, investigative journalists and other representatives of civil society. Thus, information gathering rights for research purposes should not be limited only to academic staff. In our opinion the scope of norms that relate to research data gathering could be expanded to include more actors. The competence for the conformity assessment of researchers should be left to the Member States. The most important criteria for requesting data for research purposes are the existence of the study and the legitimate purpose of information request. For example, the current text of Art.31 and Para 4 in particular excludes organizations like NATO Strategic Communications Centre of Excellence from conducting its research work in areas like Ad data, user activity, log data, deleted accounts, view/interaction data that are linked to research on intentional manipulation of platform services. For more details please see NATO StratCom letter *WK 5285 2021* **FR** *(Comments)*: Il semble utile de préciser que le rôle de délivrer l'agrément revient aux DSC des Etats membres des institutions académiques auxquelles sont affiliés les chercheurs, et non au DSC

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		d'établissement. It seems useful to clarify that the vetting should be granted by Digital Services Coordinators of Member States in which the researchers' academic institutions are located, rather than by the country of establishment's DSC **DE** *(Comments)*: The requirement of the "proven records of expertise in the fields related to the risks investigated or related research methodologies" seems problematic. We wonder what the purpose of such a requirement is at all. The potential misuse is minimised by the requirements of researchers to be "affiliated with academic institutions" and to be "independent from commercial interests". In addition to that, it seems unclear to us, in which specific way (by what objective criteria) "records of expertise in the fields related to the risks investigated or related research methodologies" can be proven. Furthermore the freedom of research must be preserved. And finally, this requirement excludes young researchers from access to data.
5. The Commission shall, after consulting the Board, adopt delegated acts laying down the technical conditions under which very large online platforms are to share data pursuant to	**FR** *(Drafting)*: 5. The Commission shall, after consulting the Board, adopt delegated acts laying down the	**DK** *(Comments)*: Under scrutiny. We are looking into the possibilities for the Commission to adopt

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COMMISSION PROPOSAL	**Drafting**	**Comments**
paragraphs 1 and 2 and the purposes for which the data may be used. Those delegated acts shall lay down the specific conditions under which such sharing of data with vetted researchers can take place in compliance with Regulation (EU) 2016/679, taking into account the rights and interests of the very large online platforms and the recipients of the service concerned, including the protection of confidential information, in particular trade secrets, and maintaining the security of their service.	technical conditions under which service providers mentioned in Article 25~~very large online platforms~~ are to share data pursuant to paragraphs 1 and 2~~ and the purposes for which the data may be used~~. Those delegated acts shall lay down the specific conditions under which such sharing of data with vetted researchers can take place in compliance with Regulation (EU) 2016/679, taking into account the rights and interests of the service providers mentioned in Article 25~~very large online platforms~~ and the recipients of the service concerned, including the protection of confidential information, in particular trade secrets, and maintaining the security of their service. **NL** *(Drafting)*: The Commission shall, after consulting the Board, adopt ~~***delegated***~~ ***implementing*** acts laying down the technical conditions under which very large online platforms are to share data pursuant to paragraphs 1 and 2 and the purposes for which the data may be used. Those ~~***delegated***~~ ***implementing*** acts shall lay down the specific conditions under which such sharing of data with vetted researchers can take place in compliance with Regulation (EU) 2016/679, taking into account the rights and interests of the very large online platforms and the recipients of the service concerned, including the protection	delegated acts, but understand the technical nature of them as highlighted by COM. **SK** *(Comments)*: *Who will determine what extent and what type of data will be provided to the vetted researchers based on their reasoned request to the Digital Services Coordinator of country of establishment or the Commission?* **FR** *(Comments)*: Delegated acts should not restrict the purposes for data use beyond what is specified in this article. As far as the regulator is concerned, this could impede him from accessing the data necessary to exercise efficiently its mission. As far as researchers are concerned, it is the role of the DSC issuing the reasoned request as provided for in paragraph 2 to assess whether their requirement is adequate and proportionate. **NL** *(Comments)*: We can support delegating this power. However, the technical conditions under which very large online platforms are to share data will be general conditions that ensure uniform application of the regulation. We therefore feel these conditions need to be laid down in implementing acts, not delegated acts.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	of confidential information, in particular trade secrets, and maintaining the security of their service.	
6. Within 15 days following receipt of a request as referred to in paragraph 1 and 2, a very large online platform may request the Digital Services Coordinator of establishment or the Commission, as applicable, to amend the request, where it considers that it is unable to give access to the data requested because one of following two reasons:	**FR** *(Drafting)*: 6. Within 15 days following receipt of a request as referred to in paragraph 1 and 2, a service provider mentioned in Article 25~~very large online platform~~ may request the Digital Services Coordinator of establishment, or the Digital Services Coordinators of destination or the Commission, as applicable, to amend the request, where it considers that it is unable to give access to the data requested because one of following two reasons or, in case of a request referred to in paragraph 1, for the reason stated in the following (a):	**IE** *(Comments)*: Consideration should be given to widen the two reasons for a request to amend the reasoned request on the grounds that the reasoning behind the request is flawed. **FR** *(Comments)*: Platforms should not be allowed to refuse access by the regulator to data requested for regulatory purposes by invoking considerations relating to service security or trade secrets. The regulator shall, in turn, ensure strict confidentiality of said data (see new item 8 below).
(a) it does not have access to the data;		
(b) giving access to the data will lead to significant vulnerabilities for the security of its service or the protection of confidential information, in particular trade secrets.		**DK** *(Comments)*: It is very important to maintain these safeguards, ensuring the respect of trade secrets, confidential information, and the security of the provided services.

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		SK *(Comments)*: *What is the intention in practical application given that future DGA should remove barriers to sharing confidential data as well?*
7. Requests for amendment pursuant to point (b) of paragraph 6 shall contain proposals for one or more alternative means through which access may be provided to the requested data or other data which are appropriate and sufficient for the purpose of the request.		
The Digital Services Coordinator of establishment or the Commission shall decide upon the request for amendment within 15 days and communicate to the very large online platform its decision and, where relevant, the amended request and the new time period to comply with the request.	**FR** *(Drafting)*: The Digital Services Coordinator of establishment or the Digital Services Coordinators of destination or the Commission shall decide upon the request for amendment within 15 days and communicate to the very large online platform its decision and, where relevant, the amended request and the new time period to comply with the request.	
	FR *(Drafting)*: 8. . The Digital Services Coordinator that has issued the request, or when applicable, the Commission, take due account of requests by a service provider mentioned in Article 25 to treat	**FR** *(Comments)*: Paragraph 8 : The regulator shall take due account of requests to preserve the confidentiality of information that is sensitive regarding service security or business secrets

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	specific items of information as confidential, especially when the plaform considers that their disclosure would lead to significant vulnerabilities for the security of its service or the protection of confidential information, in particular trade secrets.	
Article 32 *Compliance officers*	**LU** *(Drafting)*: ~~*Article 32*~~ ~~*Compliance officers*~~	**SK** *(Comments)*: *We preliminary do not support this article. We consider it to be a duplicity to the Art. 10 with very strict additional requirements on internal matters of VLOPs.* **LU** *(Comments)*: We consider that what ultimately matters is the compliance of the VLOP, irrespective of how they are organised internally. We also want to avoid that for each EU legislation, we end up with companies having to appoint dedicated compliance officers for each. The high level of prescriptiveness is also very intrusive into the internal set-up of a company. Conversely, we wonder if DSCs would be able to cooperate with other officers or staff members who are *not* the compliance officer. Therefore we propose that the single point of contact pursuant to Article 10 fulfills the role of direct interlocutor for DSCs and the Commission. We therefore propose to delete this article. **RO** *(Comments)*:

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		General comment: We need to ensure the independence of the compilance officer. This independecy is questionable in case the person is an employee of the VLOP.
1. Very large online platforms shall appoint one or more compliance officers responsible for monitoring their compliance with this Regulation.	**FR** *(Drafting)*: 1. Very large online platforms shall have a compliance function independent from the operational functions and which shall have sufficient authority, stature and resources. The management body of the platform shall appoint, as a head of this entity, a compliance officer who shall be an independent senior manager with distinct responsibility for the compliance function, responsible before the management body for monitoring compliance with this Regulation. The Compliance officer shall not be removed without prior approval of the management body in its supervisory function. The Compliance officer can report directly to the management body in its supervisory function, independent from senior management, and can raise concerns and warn that body, where appropriate, where specific risks mentioned in article 26 or non-compliance to this regulation affect or may affect the very large online	**ES** *(Comments)*: We value positively the obligation to designate one or more compliance officers. However, in case of designating more than one, it should be specified who would be the point of contact for the national digital services coordinator. **FR** *(Comments)*: The aim is to strengthen the guarantees of independence of the compliance officer (independence from operational functions, dismissal or transfer only with the approval of the board of directors/supervisory board, explicit possibility to report directly to the board of directors/supervisory board). In order to continue the logic of risk assessment and supervision of risks, we propose to create an obligation for very large platforms to establish an independent compliance function within the company, modelled on the head of the risk function such as it exists in the banking regulation. There will therefore only be one compliance officer, placed at management level,

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	platform, without prejudice to the responsibilities of the management body in its supervisory and/or managerial functions.	who will lead the compliance function. We will also propose definitions of "management body", "management body in its supervisory function" and "senior management", in order to ensure consistency of the text. **LV** *(Comments)*: **LV** is skeptical regarding this requirement. The absence of compliance officer does not exempt VLOPs from complying with the requirements of DSA, and for communication with the VLOP the MS will have information on its contact point under Art.10. We do not see the added value of this provision in comparison to the administrative burden it creates.
2. Very large online platforms shall only designate as compliance officers persons who have the professional qualifications, knowledge, experience and ability necessary to fulfil the tasks referred to in paragraph 3. Compliance officers may either be staff members of, or fulfil those tasks on the basis of a contract with, the very large online platform concerned.	**RO** *(Drafting)*: Very large online platforms shall only designate as compliance officers persons who have the professional qualifications, knowledge, experience and ability necessary to fulfil the tasks referred to in paragraph 3. Compliance officers ~~may either be staff members of, or~~ shall fulfil those tasks on the basis of a contract with, the very large online platform concerned. **FR** *(Drafting)*: 2. Very large online platforms shall only designate as compliance officers persons who	**RO** *(Comments)*: We sugest that this task can only be fulfilled by a third party, on a contractual basis. Such third party has to prove it has no connection with the VLOP in terms of sponshorship, or support of any kind from the VLOP or from subsidiaries or related companies. **FR** *(Comments)*: In line with the logic of the text and in view of the importance of the compliance officer's functions, these do not seem to be outsourceable

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	have the professional qualifications, knowledge, experience and ability necessary to fulfil the tasks referred to in paragraph 3. ~~of, or fulfil those tasks on the basis of a contract with, the very large online platform concerned~~.	to third parties and we propose the deletion of the provisions allowing this. **EL** *(Comments)*: *It should be clarified in the article whether, in the event that the compliance officer performs his duties under a contract, if he will be able to be appointed in charge of more than one platforms.* **NL** *(Comments)*: If the compliance officer is working on a contract basis then it will have an incentive to keep the VLOP happy. The guarantee of independence (paragraph 4) is then insufficient to actually guarantee independence. We are still considering whether this is a good idea and reserve the right to make drafting suggestion to change this.
	FR *(Drafting)*: 3. The management body defines, oversees and is accountable for the implementation of the governance arrangements that ensure effective independence of the compliance function, including the segregation of duties in the organisation and the prevention of conflicts of interest, and prudent management of systemic risks identified in article 26.	**FR** *(Comments)*: Paragraph 3: Making the board responsible for the internal organisation of the company in order to mitigate risks. The board of directors/supervisory board would also be responsible for establishing a governance structure that ensures the independence of the compliance function and the prudent management of the risks identified through Article 26.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
3. Compliance officers shall have the following tasks:	**FR** *(Drafting)*: 4. Compliance officers shall have the following tasks :	
(a) cooperating with the Digital Services Coordinator of establishment and the Commission for the purpose of this Regulation;		
(b) organising and supervising the very large online platform's activities relating to the independent audit pursuant to Article 28;		
(c) informing and advising the management and employees of the very large online platform about relevant obligations under this Regulation;		
(d) monitoring the very large online platform's compliance with its obligations under this Regulation.		**DE** *(Comments)*: We wonder if the compliance officer should also be responsible for monitoring the online platform´s compliance with commitments undertaken pursuant to the codes of conduct referred to in Art. 35 and 36 and the crisis protocols referred to in Art. 37.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	FR *(Drafting)*: After (d) (e) ensuring that all risks mentioned in article 26 are identified and properly reported, and that adequate mitigation measures are taken pursuant to article 27. Compliance officers shall be actively involved in elaborating the very large online platform's risks assessment and mitigation strategy.	**FR** *(Comments)*: (e): Clarification of the role of the compliance officer: The compliance officer should be actively involved in risk assessment, design and monitoring of risk mitigation measures.
4. Very large online platforms shall take the necessary measures to ensure that the compliance officers can perform their tasks in an independent manner.	**RO** *(Drafting)*: Very large online platforms shall take the necessary measures to ensure that the compliance officers ~~can~~ perform their tasks in an independent manner.	**DK** *(Comments)*: This requirement should be elaborated. **NL** *(Comments)*: To ensure compliance officers can conduct their work in full independence, we believe there should be some sort of safeguard that ensures they are impervious to the human resources decisions made by VLOPs (such as dismissal, suspension etc.) We are not sure, however, if the TFEU, Article 114 in particular, would provide for the appropriate legal basis to legislate on such safeguards? **LV** *(Comments)*: The compliance officer either in capacity of staff or contractor will nevertheless be paid by the VLOP, therefore this requirement is questionable.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
5. Very large online platforms shall communicate the name and contact details of the compliance officer to the Digital Services Coordinator of establishment and the Commission.	**RO** *(Drafting)*: Very large online platforms shall communicate the name and contact details of the compliance officer to the Digital Services Coordinator of establishment and the Commission. In addition, very large online platforms will provide the grounds for the selection of the compliance officer.	**LV** *(Comments)*: Art.10 states that service providers have to establish a contact point for communication with MS authorities, the Commission and the Board. This provision seemingly is necessary only for supervision of compliance with Art.32 and not for communication purposes.
6. Very large online platforms shall support the compliance officer in the performance of his or her tasks and provide him or her with the resources necessary to adequately carry out those tasks. The compliance officer shall directly report to the highest management level of the platform.	**FR** *(Drafting)*: 6. Very large online platforms shall support the compliance officer in the performance of his or her tasks and provide him or her with the resources necessary to adequately carry out those tasks. ~~The compliance officer shall directly report to the highest management level of the platform.~~	
	AT *(Drafting)*: ***Article 32a*** **Points of contact established by very large online platforms** **Very large online platforms shall make their points of contacts referred to in Article 10 also accessible for professional entities which are under a specific relationship with the**	

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	platform such as business users. Direct communication shall also be possible in the language of the terms and conditions which govern the contractual relationship between the platform and the business user concerned. A substantive written response to the request should be provided within two weeks.	
Article 33 *Transparency reporting obligations for very large online platforms*		**NL** *(Comments)*: This article is important for **NL**, because it sets out various transparency reporting obligations. In addition, **NL** values meaningful transparency that is useful for supervision, research and also for citizens themselves. Since each of these groups requires different levels of information, it should be (made) clear in which way and for whom the information concerning transparency is targeted and in which ways the transparency will be meaningful **PL** *(Comments)*: See our comments in art. 13. Reporting strengthens the transparency of platforms in terms of their content moderation practices. At the same time, we are of the view that this obligation should be proportional. The reports should be standardised and driven by the need to monitor the obligations imposed on intermediaries under the DSA.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
1. Very large online platforms shall publish the reports referred to in Article 13 within six months from the date of application referred to in Article 25(4), and thereafter every six months.	**SK** *(Drafting)*: *Very large online platforms shall publish the reports referred to in Article**s** 13 **and 23** within six months from the date of application referred to in Article 25(4), and thereafter every six months.*	**DK** *(Comments)*: The provision only refers to reporting obligations in article 13 and the additional obligations set out in section 4. We were wondering if the transparency obligations in article 23 (online platforms) do not apply to the very large online platforms? If it applies to VLOP's, the article should also refer to this article as well. **SK** *(Comments)*: *Please double-check if this article should not explicitly refer also to article 23, but only to art. 13.*

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COMMISSION PROPOSAL	**Drafting**	**Comments**
2. In addition to the reports provided for in Article 13, very large online platforms shall make publicly available and transmit to the Digital Services Coordinator of establishment and the Commission, at least once a year and within 30 days following the adoption of the audit implementing report provided for in Article 28(4):	**SK** *(Drafting)*: *In addition to the reports provided for in Article**s** 13 **and 23**, very large online platforms shall make publicly available and transmit to the Digital Services Coordinator of establishment and the Commission, at least once a year and within 30 days following the adoption of the audit implementing report provided for in Article 28(4):* **IT** *(Drafting)*: 2. In addition to the reports provided for in Article 13, very large online platforms shall make publicly available and transmit to the Digital Services Coordinator of establishment and the Commission, at least once ~~*a year*~~ ***every six months*** and within 30 days following the adoption of the audit implementing report provided for in Article 28(4): **FR** *(Drafting)*: 2. In addition to the reports provided for in Articles 13 and 21a, service providers mentioned in Article 25 shall make publicly available and transmit to the Digital Services Coordinator of establishment, the Digital Services Coordinators of destination and the Commission, at least once a year and within 30 days following the adoption of the audit implementing report provided for in Article 28(4):	**SK** *(Comments)*: *Please double-check if this article should not explicitly refer also to article 23, but only to art. 13.* **IT** *(Comments)*: In line with previous amendments, we suggest to reduce the reporting time. **FR** *(Comments)*: The country of destination Coordinator should also have access to the confidential version of the reports, not just to the publicly available version. **DE** *(Comments)*: We wonder about the level of detail with which risk mitigation measures have to be reported. It seems unclear to us whether platforms do only have to report on best practices, as indicated by Art 27(2) lit. b, or whether the reporting obligation more generally covers all risk mitigation measures identified and implemented, as noted by Art 33(2) lit. b.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
(a) a report setting out the results of the risk assessment pursuant to Article 26;		
(b) the related risk mitigation measures identified and implemented pursuant to Article 27;		**DE** *(Comments)*: We wonder if the reports of VLOPs should also cover the commitments and measures undertaken pursuant to the codes of conduct referred to in Art. 35 and 36 and the crisis protocols referred to in Art. 37.
(c) the audit report provided for in Article 28(3);		
(d) the audit implementation report provided for in Article 28(4).		
	FR *(Drafting)*: After (d) (e) a report on the implementation of the objectives defined in the codes of conduct.	**FR** *(Comments)*: The report should also touch upon the implementation of the codes of conduct.
3. Where a very large online platform considers that the publication of information pursuant to paragraph 2 may result in the disclosure of confidential information of that	**FR** *(Drafting)*: 3. Where a very large online platform considers that the publication of information pursuant to paragraph 2 may result in the	**FR** *(Comments)*: §3: As in article 21 (b), the French authorities propose this addition to ensure that the platforms will not use confidentiality of information to

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COMMISSION PROPOSAL	**Drafting**	**Comments**
platform or of the recipients of the service, may cause significant vulnerabilities for the security of its service, may undermine public security or may harm recipients, the platform may remove such information from the reports. In that case, that platform shall transmit the complete reports to the Digital Services Coordinator of establishment and the Commission, accompanied by a statement of the reasons for removing the information from the public reports.	disclosure of confidential information of that platform or of the recipients of the service, may cause significant vulnerabilities for the security of its service, may undermine public security or may harm recipients, the platform may remove such information from the reports. In that case, that platform shall transmit the complete reports to the Digital Services Coordinator of establishment, the Digital Services Coordinators of destination and the Commission, accompanied by a statement of the reasons for removing the information from the public reports. However, the descriptions referred to in paragraph 2 shall be sufficient to enable the public, the recipients of the service and the right holders to obtain an adequate understanding of how the provider engaged content moderation. ~~After paragraph 3 :~~ 4. In addition to paragraph 2, very large online platforms shall also transmit to the Digital Services Coordinator of establishment, the Digital Services Coordinators of destination and the Commission the audit report provided for in Article 30(4). 5. The Digital Services Coordinator of establishment shall publish, at least once a year, a report on the implementation and compliance with the provisions of this Regulation by the service providers mentioned in Article 25 in its	remove any useful data from public reporting (e.g. so that right holders can have useful information on the fight against counterfeiting). Paragraph 4: See Article 30 above. Paragraph 5: The regulator should publish each year a report on the implementation of the DSA by service providers mentioned in Article 25in its jurisdiction, in order to provide a counter-assessment to the reports published by platforms themselves.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	jurisdiction, including an assessment of the systemic risks specific to those providers and the measures adopted to mitigate these risks. For the purposes of drawing up this report, the Digital Services Coordinator of establishment shall be given access to all necessary information, including access to, and explanations relating to, its databases and algorithms.	
	FR *(Drafting)*: After paragraph 3 : 4. In addition to paragraph 2, very large online platforms shall also transmit to the Digital Services Coordinator of establishment, the Digital Services Coordinators of destination and the Commission the audit report provided for in Article 30(4). 5. The Digital Services Coordinator of establishment shall publish, at least once a year, a report on the implementation and compliance with the provisions of this Regulation by the service providers mentioned in Article 25 in its jurisdiction, including an assessment of the systemic risks specific to those providers and the measures adopted to mitigate these risks. For the purposes of drawing up this report, the Digital Services Coordinator of establishment shall be given access to all necessary information, including access to, and explanations relating to,	**FR** *(Comments)*: Paragraph 4: See Article 30 above. Paragraph 5: The regulator should publish each year a report on the implementation of the DSA by service providers mentioned in Article 25in its jurisdiction, in order to provide a counter-assessment to the reports published by platforms themselves.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	its databases and algorithms	
Section 5 **other provisions concerning due diligence obligations**		**SK** *(Comments)*: *We do not clearly understand roles of the EC and the Board redards to codes in Art. 35 and 36 and protocols in Art. 37. Why are there differences in the definitions of their roles?* *(Art. 35 (1): the EC and the Board encourage and facilitate drawing up of codes of conduct…;* *Art. 36 (1) (only) the EC shall encourage and facilitate drawing up the codes of coduct for online advertising…;* *Art. 37: the Board may recommend the EC to initiate the drawing up crisis protocols…the EC shall encourage and facilitate drawing up the crisis protocols…)* *We would welcome a uniform approach or explanation of the differences.* **NL** *(Comments)*: Generally speaking, **NL** is positive about the Commission supporting the drawing up of codes of conduct and having these serve as a means of combating systemic risks which can apply to forms of content that are not illegal but harmful such as disinformation. It is also positive that compliance with such codes is included in the independent audits. Furthermore, we endorse the additional

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		transparency rules for online advertisements. We are, however, favourable to the possibility of a legal basis in the DSA that would allow for the codification – either at Union level (for instance in the form of a Regulation) or national level (national legislation/co-regulation) of these Codes of Conduct, should they turn out to be little effective, or in case parties fail to adhere to the commitments as spelled out in these codes.
Article 34 *Standards*		**IT** *(Comments)*: In the Italian version it would be preferable to maintain "standard" as in English instead of "norme". **PL** *(Comments)*: 1. We agree that certain elements of the DSA may require the development of technical standards to support the implementation of the obligations under the DSA. Such an approach is consistent with the need to ensure that the adopted regulation is future-proof. However, such solutions should not go beyond what is necessary to implement the provisions of the DSA and national law. Voluntary standards indicated in Articles 34-37 should be complementary to the obligations arising from the of law.

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		2. It is also important to ensure that public authorities have an influence on created standards. In this regard, an important role should be played by the European Board for Digital Services, which could, for example, at the request of the European Commission, give its opinion on the adopted solutions, receive regular information from the Commission on the activities relating to industry standards, as well as assess the implementation of the already adopted solutions, and in case of a negative assessment of their implementation, influence the imposition of an obligation to take appropriate remedial action. Such solutions would allow the representatives of the EU Member States, acting within the European Board for Digital Services, to retain influence over important regulations that directly affect the activities of online intermediaries and the protection of users of their services. 3. In the context of the link between Article 34 and Articles 30 and 31, it is important that platforms provide access to data in open formats and, where possible, through APIs. **DE** *(Comments)*: Standards cannot compensate for a lack of regulatory requirements. The current concept seems to establish a rather light system of regulation with a lot of room for self-regulation

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		and therefore room for escapes. It needs to be further examined whether we need more harmonised standards according to Regulation 1025/2012, referenced standards or even mandatory requirements, e.g. in Chapter III. For example, we wonder why voluntary industry standards are considered sufficient with regard to auditing of VLOPs according to para. 1 lit. d. Also, we are wondering as to how and to what extent the COM shall support and promote the development and implementation of these standards, in particular the update of these standards. We ask ourselves how it can be ensured that the voluntary industry standards do not contradict the objectives of the DSA or other regulation at national or EU level. In our view COM and the Board should review and approve the standards, especially with regard to the notion, that compliance with a voluntary industry standard implies compliance with the corresponding obligation in the DSA. How will the COM hinder the emergence of multiple, possibly diverging or contradictory standards with different requirements on the market with negative impacts on interoperability, accessibility and transparency? It is unclear whether there are any consequences

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		or implications if a provider does not comply with voluntary industry standards. It seems also unclear whether compliance with a standard would exclude responsibility and sanctioning by a supervisory authority.
1. The Commission shall support and promote the development and implementation of voluntary industry standards set by relevant European and international standardisation bodies at least for the following:	**IT** *(Drafting)*: 1. The Commission shall support and promote the development and implementation of voluntary ~~industry~~ standards set by relevant European and international standardisation bodies at least for the following:	**DK** *(Comments)*: We support the development of standards to comply with the Regulation. This is very important especially for smaller providers of intermediary services. Bearing the smaller businesses in mind it would be positive to promote standards in even more areas than listed in article 34. As mentioned before, it is important that such standards are easy to access and user friendly. To this end, such means can take an outset in behavioral science and user experience design. **IT** *(Comments)*: European and international standardisation bodies do not provide only industry standards.
(a) electronic submission of notices under Article 14;		

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(b) electronic submission of notices by trusted flaggers under Article 19, including through application programming interfaces;		
(c) specific interfaces, including application programming interfaces, to facilitate compliance with the obligations set out in Articles 30 and 31;		
(d) auditing of very large online platforms pursuant to Article 28;		
(e) interoperability of the advertisement repositories referred to in Article 30(2);		
(f) transmission of data between advertising intermediaries in support of transparency obligations pursuant to points (b) and (c) of Article 24.		
2. The Commission shall support the update of the standards in the light of technological developments and the behaviour of the recipients of the services in question.	**IT** *(Drafting)*: 2. The Commission shall support the update of the standards in the light of technological developments and the behaviour of the	**IT** *(Comments)*: In order to guarantee transparency, we suggest to add the last sentence.

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	recipients of the services in question. ***The relevant information regarding the update of the standards shall be publicly available and searchable in a specific section of their website***".	
	CZ *(Drafting)*: **3. The Commission shall promote the use of existing single market instruments for the purpose of this regulation wherever possible.**	**CZ** *(Comments)*: It has been along-agreed and a generally respected policy that existing tools on the Internal Market are used whenever possible.
Article 35 *Codes of conduct*		**ES** *(Comments)*: In particular, local entities and online platforms could agree on codes of conduct for the exchange of relevant information on collaborative economy services. **LU** *(Comments)*: Luxembourg suggests that in order to create an added value for codes of conduct, their adherence is taken into account when inflicting sanctions. For example, a company that adhered to a code of conduct and put in place all necessary measures shall benefit from a more lenient fine in case of infringement than a company that infringed the DSA because of negligence. Such an incentive would encourage a wider take-up of codes of conduct. **NL** *(Comments)*: Ibid. See comments under Section 5.

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		DE *(Comments)*: It needs to be further examined whether such a soft law approach is really sufficient or whether there is rather a need for more mandatory legal requirements in Chapter III, in delegated or implementing acts of the COM, or in national or sectoral regulation. Codes of conduct cannot compensate for a lack of regulatory requirements (e.g. regarding the lack of time limits for the platforms to delete manifestly illegal content or the lack of conditions and requirements for the blocking of individual accounts based on violation of Community Standards). We also wonder how it can be ensured, that codes of conduct do not contradict the objectives of the DSA or other regulation at national or EU level. In our view COM and the Board should review and approve the codes of conduct, especially with regard to the notion, that compliance with a code of conduct implies compliance with the corresponding obligation in the DSA. Such approval should follow a public consultation process. Also it has to be clarified what the legal quality of these co-designed codes of conduct is: To what extent is the participation in the application of such a code of conduct "voluntary" (see rec. 67) if the VLOP's refusal

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		can be viewed as a violation of this Regulation (see rec. 68)? Does a VLOP's compliance with a code of conduct shall implicate its compliance with specific legal obligations under the DSA, especially with Art. 26 and Art. 27 (risk management)? Does compliance with a code leads to the exclusion of sanctioning by authorities? We wonder • what is the relationship between Art. 35 and already existing codes of conduct at EU and national level (rec. 69 is a bit blurry in this regard). • In our view Art.35 covers too many and too different areas of consideration to be regulated in one general provision. We suggest to consider further specifications and specific regulation for the different areas of consideration for such codes of conduct.
1. The Commission and the Board shall encourage and facilitate the drawing up of codes of conduct at Union level to contribute to the proper application of this Regulation, taking into account in particular the specific challenges of tackling different types of illegal content and systemic risks, in accordance with Union law, in	**SE** *(Drafting)*: 1. The Commission and the Board shall encourage and facilitate the drawing up of voluntary codes of conduct at Union level to contribute to the proper application of this Regulation, taking into account in particular the	**DK** *(Comments)*: As we understand, the participation in codes of conduct is voluntary. Thus, we find that the wording of the last sentence of the recital 68 can lead to the conclusion that the participation is in fact binding/mandatory. If participation is

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particular on competition and the protection of personal data.	specific challenges of tackling different types of illegal content and systemic risks, in accordance with Union law, in particular on competition and the protection of personal data. **PL** *(Drafting)*: The Commission and the Board shall have the right to request ~~encourage~~ and facilitate the drawing up of codes of conduct at Union level to contribute to the proper application of this Regulation, taking into account in particular the specific challenges of tackling different types of illegal content and systemic risks, in accordance with Union law, in particular on competition and the protection of personal data.	voluntary and the VLOP adheres to all legal requirements in the DSA, then it should be stressed, that the refusal to participate in the code of conduct, should not be taken into account when determining whether the VLOP has infringed the obligations in the DSA. **BG** *(Comments)*: Бихме желали пояснение от ЕК каква е логиката кодексите да не са задължителни предвид факта, че заложените в тях задължения и изисквания са резонни и уместни? We would like clarification from the Commission, on the logic of the codes not being mandatory given the fact that the obligations and requirements set out in them are reasonable and appropriate? **SE** *(Comments)*: **SE** is of the preliminary view that there should be an explicit clarification regarding the voluntariness of the Codes of conduct. **IT** *(Comments)*: We suggest to include a reference to the protection of intellectual property, in the light of MOUS concluded by the European Commission on a voluntary basis with advertising platforms and companies: the 2011 Memorandum of understanding (MoU) on the sale of counterfeit

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		goods on the internet and the 2018 MoU on online advertising and intellectual property rights (IPR). **PL** *(Comments)*: Very large online platforms – here we referring to social networks - should make a greater effort to combat harmful content, including disinformation, in order to limit the possible negative impact of systemic risk on society and democracy (recital 68). The development of codes of conduct may serve this purpose, and in this aspect the role of the European Commission is important, for the adoption of such commitments by platforms, and should be strengthened. **DE** *(Comments)*: We are wondering as to how and to what extent the COM and the Board shall encourage and facilitate the drawing up of codes of conduct and ensure that the objectives specified in para. 1 and 3 are achieved. In particular, we are not sure whether the COM and the Board initiate the drawing up of codes of conducts. We are also not sure whether the COM and the Board can act alternatively or have to act jointly.

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2. Where significant systemic risk within the meaning of Article 26(1) emerge and concern several very large online platforms, the Commission may invite the very large online platforms concerned, other very large online platforms, other online platforms and other providers of intermediary services, as appropriate, as well as civil society organisations and other interested parties, to participate in the drawing up of codes of conduct, including by setting out commitments to take specific risk mitigation measures, as well as a regular reporting framework on any measures taken and their outcomes.	**PL** *(Drafting)*: Where significant systemic risk within the meaning of Article 26(1) emerge and concern several very large online platforms, the Commission shall request ~~may invite~~ the very large online platforms concerned, other very large online platforms, other online platforms and other providers of intermediary services, as appropriate, as well as civil society organisations and other interested parties, to participate in the drawing up of codes of conduct, including by setting out commitments to take specific risk mitigation measures, as well as a regular reporting framework on any measures taken and their outcomes.	**ES** *(Comments)*: It is positively valued that, in the drawing up of codes of conduct, civil society organizations and other stakeholders participate. **PL** *(Comments)*: See comment above. **DE** *(Comments)*: In view of the voluntary or only project-related structures of civil society organisations, the experience is that they are generally financially not in a position to participate on a longer lasting basis. It has to be ensured, maybe with the instruments of the EDAP, that civil society organisations are financially supported, so that they have the resources to participate.
3. When giving effect to paragraphs 1 and 2, the Commission and the Board shall aim to ensure that the codes of conduct clearly set out their objectives, contain key performance indicators to measure the achievement of those objectives and take due account of the needs and interests of all interested parties, including citizens, at Union level. The Commission and the Board shall also aim to ensure that participants report regularly to the Commission and their respective Digital Service Coordinators		**PL** *(Comments)*: Introducing harmful content explicitly into DSA would result in serious and undesirable change in the scope of regulation. Therefore, the provisions of Article 35(3) indicating that codes of conduct should contain clear objectives, performance measures and that they should take due account of the needs and interests of all stakeholders, including citizens are important. They must also not be contrary to national regulations.

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of establishment on any measures taken and their outcomes, as measured against the key performance indicators that they contain.		
4. The Commission and the Board shall assess whether the codes of conduct meet the aims specified in paragraphs 1 and 3, and shall regularly monitor and evaluate the achievement of their objectives. They shall publish their conclusions.	**IT** *(Drafting)*: 4. The Commission and the Board shall assess whether the codes of conduct meet the aims specified in paragraphs 1 and 3, and shall regularly monitor and evaluate the achievement of their objectives. They shall publish their conclusions ***in a specific section of their website***.	**PL** *(Comments)*: The implementation of the codes should be subject to public oversight and consultation with Member States. The impact of the codes on users' rights and their effectiveness in preventing undesirable online phenomena should also be constantly monitored by competent EU bodies under a well-defined procedure. As part of this procedure, the competent EU bodies should also have effective instruments at their disposal to influence the multinational corporations offering services online, which would make it possible to increase the effectiveness and accountability of the implementation of the Codes by EU bodies. At the same time, users should be fully informed about the tools used by platforms adhering to the codes of conduct (transparency of measures used). Monitoring of the achievement of results is necessary and must include an assessment of how the adopted measures have contributed to respecting the right to freedom of expression and information. The codes of conduct must not lead to abuses in the form of censorship placed in the hands of private companies and blocking of

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		legitimate and acceptable content. **LV** *(Comments)*: Since the assessment and reporting will require the resources from Commission and MS side, we suggest instead of just publication these reports should be submitted to the parties involved in the Code of conduct for consideration and revision where necessary.
5. The Board shall regularly monitor and evaluate the achievement of the objectives of the codes of conduct, having regard to the key performance indicators that they may contain.		
Article 36 *Codes of conduct for online advertising*		**IT** *(Comments)*: It is not clear why the Committee is not involved as in article 35. **DE** *(Comments)*: We wonder whether the adoption of delegated acts or implementing acts should be considered to concretise the requirements of Art. 24 and 30 instead of the facilitation of a code of conduct for online advertising. The relationship between the codes of conduct at EU level and the existing codes of conduct at national level (i.e. German Advertising Standards Council) seem unclear to

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		us. We wonder what are "flexible and effective mechanisms to facilitate and enhance compliance with those obligations, notably as concerns the modalities of the transmission of the relevant information" (cf. rec. 70).
1. The Commission shall encourage and facilitate the drawing up of codes of conduct at Union level between, online platforms and other relevant service providers, such as providers of online advertising intermediary services or organisations representing recipients of the service and civil society organisations or relevant authorities to contribute to further transparency in online advertising beyond the requirements of Articles 24 and 30.	**SE** *(Drafting)*: 1. The Commission shall encourage and facilitate the drawing up of voluntary codes of conduct at Union level between, online platforms and other relevant service providers, such as providers of online advertising intermediary services or organisations representing recipients of the service and civil society organisations or relevant authorities to contribute to further transparency in online advertising beyond the requirements of Articles 24 and 30. **FR** *(Drafting)*: 1.The Commission shall encourage and facilitate the drawing up of codes of conduct at Union level between, online platforms and other relevant service providers, such as providers of online advertising intermediary services or organisations representing recipients of the	**SE** *(Comments)*: **SE** is of the preliminary view that there should be an explicit clarification in regard to the voluntariness of the Codes of conduct for online advertising. **FR** *(Comments)*: The French authorities want to introduce a new purpose in these codes of conduct to push stakeholders to define a unique ID that would facilitate the traceability of advertising campaigns by all stakeholders in the advertising chain. It could be composed of the following information: advertiser / brand / product / campaign. This identifier would contribute to the objectives mentioned in a) and b) of Article 36. **DE** *(Comments)*: Again, we are wondering as to how and to what extent the COM shall "encourage and facilitate

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	service and civil society organisations or relevant authorities to contribute to further transparency in online advertising beyond the requirements of Articles 24 and 30, but also to further transparency between all the players involved in the programmatic advertising value chain.	the drawing up" of such codes of conduct and ensure the aims specified in para. 2.
2. 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:		**DE** *(Comments)*: We wonder to what extent the codes of conduct provided for in para. 2 lit. a and b do go beyond the transparency obligations in Art. 24 and 30. We also wonder between which specific participants an effective transmission of information should be pursued, and what "transmission" does mean.
(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;		

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COMMISSION PROPOSAL	**Drafting**	**Comments**
(b) the transmission of information held by providers of online advertising intermediaries to the repositories pursuant to Article 30.		**CZ** *(Comments)*: As stated in our comment on article 30, we are of the opinion that the repositories of advertisements may reveal business secrets of advertising companies for example by having the possibility to see the sequence of different adverts on one product in time. Therefore, we see this obligation as unnecessary and potentially harmful.
	FR *(Drafting)*: After (b) : (c) the set-up of a common/unique identifier constituted by multiple elements (the advertiser identifier and references of the object brand of the campaign, its product, and the reference of the purchase) and which enables Advertisers and Publishers to identify and track a campaign throughout its lifecycle.	
3. The Commission shall encourage the development of the codes of conduct within one year following the date of application of this Regulation and their application no later than six months after that date.	**IT** *(Drafting)*: 3. The Commission shall encourage the development of the codes of conduct within one year following the date of application of this Regulation and their application no later than six months after that date. ***The relevant information regarding the codes of conducts shall be publicly available and searchable in a specific section of their website***".	**DE** *(Comments)*: It seems unclear to us what the consequences would be if the COM were not able to encourage the development and application of codes of conduct within the time limits set out in para. 3. Who can and should enforce the obligation of the COM? Does following the code of conduct have a legal effect on civil proceedings, e.g. as an excuse for

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		a wrong decision by the VLOP?
	FR *(Drafting)*: After paragraph 3 : 4. The Commission shall encourage all the players involved in the programmatic advertising value chain to endorse and abide by the commitments stated in the codes of conduct..	
Article 37 *Crisis protocols*		**DK** *(Comments)*: We support the provision. However, we find that it shold be considered to make the participation mandatory considering to the gravity of the circumstances regulated by the provision. We would appreciate it if the Commission could elaborate why it has chosen to make participation voluntary. **PL** *(Comments)*: The European Commission should, in any event, involve Member States in the process of developing, testing and following up on crisis protocols, if an extraordinary circumstance affects that Member State and the Member State is willing to participate in such work. **DE** *(Comments)*: We wonder • to what extent the participation in the application of a crisis protocol is “voluntary” for VLOPs;

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		• how can it be ensured, that crisis protocols do not contradict the objectives of the DSA or other regulations on national or EU level; • whether the COM will participate in the application of crisis protocols; • whether such crisis protocols should always apply across the EU or whether they could – depending on the crisis situation at stake – also be restricted to a few MS. We therefore ask ourselves whether Art. 37 should, instead of the individual crisis protocol, not provide for general rules regarding: • clear procedures for determining when the crisis protocol is to be activated, • the role of each participant (including the COM), • a clear procedure as to when the crisis protocol is to be deactivated, • safeguards to avoid the abuse of crisis protocols at the expense of the freedom of expression and information and the right to non-discrimination, and • safeguards to prevent discrimination of reliable information by private news companies through VLOPs.

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COMMISSION PROPOSAL	**Drafting**	**Comments**
1. The Board may recommend the Commission to initiate the drawing up, in accordance with paragraphs 2, 3 and 4, of crisis protocols for addressing crisis situations strictly limited to extraordinary circumstances affecting public security or public health.	**IT** *(Drafting)*: 1. The Board may recommend the Commission to initiate the drawing up, in accordance with paragraphs 2, 3 and 4, of crisis protocols for addressing crisis situations strictly limited to extraordinary circumstances affecting public security**,** ~~or~~ public health ***or human rights*** **FR** *(Drafting)*: 1. The Board ~~may~~ shall recommend to the Commission ~~to initiate~~ the drawing up, in accordance with paragraphs 2, 3 and 4, of crisis protocols for addressing crisis situations strictly limited to extraordinary circumstances affecting public security or public health.	**BG** *(Comments)*: Предвид важността на въпроса предлагаме протоколите да бъдат задължителни. Given the importance of the issue, we propose that the protocols be binding. **IT** *(Comments)*: Italy proposes to amend the paragraph including human rights **FR** *(Comments)*: La rédaction du §1 mériterait d'être plus prescriptive, la conception de protocoles de crise semblant en l'état assez incertaine alors que le besoin appert tout à fait réel. The French authorities consider that the wording of §1 should be more prescriptive, as the design of crisis protocols seems rather uncertain at the moment, although the need appears to be real. **DE** *(Comments)*: We wonder how “crisis situations that are strictly limited to extraordinary circumstances affecting public security or public health” are defined. We also wonder whether the concept of “public security” also includes the integrity of democratic structures and the functioning of state institutions. We then wonder whether an actual impairment

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COMMISSION PROPOSAL	**Drafting**	**Comments**
		to public safety or health is necessary or a mere acute hazard is sufficient.
2. The Commission shall encourage and facilitate very large online platforms and, where appropriate, other online platforms, with the involvement of the Commission, to participate in the drawing up, testing and application of those crisis protocols, which include one or more of the following measures:	**FR** *(Drafting)*: 2. The Commission shall encourage and facilitate very large online platforms and, where appropriate, other online platforms, with the involvement of the Commission, to participate in the drawing up~~, testing and application~~ of those crisis protocols, which include one or more of the following measures:	**FR** *(Comments)*: Les autorités françaises demandent à ce que l'application de ces protocoles soit obligatoire. Pour des raisons de rédaction, elles proposent de déplacer la participation aux essais et l'application de ces protocoles de crise en point 4, *infra*. The French authorities request that the application of these protocols be mandatory. For drafting reasons, they propose to move the participation in the trials and the application of these crisis protocols to point 4, below.
(a) displaying prominent information on the crisis situation provided by Member States' authorities or at Union level;	**FR** *(Drafting)*: (a) displaying prominent information on the crisis situation provided by Member States' authorities or at Union level or provided by reliable information sources designated as such by Member States' authorities or at Union level ;	.
(b) ensuring that the point of contact referred to in Article 10 is responsible for crisis		**IT** *(Comments)*: In order to ensure the proper management of the

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COMMISSION PROPOSAL	**Drafting**	**Comments**
management;		procedures, it is suggested to consider the legal representative (art.11) jointly or alternately to the point of contact.
(c) where applicable, adapt the resources dedicated to compliance with the obligations set out in Articles 14, 17, 19, 20 and 27 to the needs created by the crisis situation.		
3. The Commission may involve, as appropriate, Member States' authorities and Union bodies, offices and agencies in drawing up, testing and supervising the application of the crisis protocols. The Commission may, where necessary and appropriate, also involve civil society organisations or other relevant organisations in drawing up the crisis protocols.	**HU** *(Drafting)*: The Commission ~~may~~ **shall** involve~~, as appropriate,~~ Member States' authorities and **may involve , as appropriate,** Union bodies, offices and agencies in drawing up, testing and supervising the application of the crisis protocols. **IT** *(Drafting)*: 3. The Commission may involve, as appropriate, Member States' authorities, ***the Digital Services Coordinators*** and Union bodies, offices and agencies in drawing up, testing and supervising the application of the crisis protocols. The Commission may, where necessary and appropriate, also involve civil society organisations or other relevant organisations in drawing up the crisis protocols.	**HU** *(Comments)*: In order to ensure sovereignty of Member States, we suggest the direct involvement of Member States' authorities in the application and testing processes of crisis protocols. **FR** *(Comments)*: §3 : Les autorités françaises estiment que les Etats membres doivent être associés à la rédaction de ces protocoles et à leur supervision. The French authorities believe that the Member States should be involved in the drafting of these protocols and in their supervision. .

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COMMISSION PROPOSAL	**Drafting**	**Comments**
	FR *(Drafting)*: 3. The Commission ~~may~~ shall involve~~, as appropriate,~~ Member States' authorities ~~and Union bodies, offices and agencies~~ in drawing up,-testing and supervising the application of the crisis protocols. The Commission may, where necessary and appropriate, also involve Union bodies, offices and agencies, civil society organisations or other relevant organisations in drawing up the crisis protocols.	
	FR *(Drafting)*: 4. Very large online platforms and, where appropriate, other online platforms, shall participate in the testing and application of those crisis protocols.	**FR** *(Comments)*: §4: Les autorités françaises demandent à ce que l'application de ces protocoles soit obligatoire.The French authorities request that the application of these protocols be mandatory
4. The Commission shall aim to ensure that the crisis protocols set out clearly all of the following:	**FR** *(Drafting)*: 5 The Commission shall aim to ensure that the crisis protocols set out clearly all of the following:	
(a) the specific parameters to determine what constitutes the specific extraordinary circumstance the crisis protocol seeks to address and the objectives it pursues;		

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COMMISSION PROPOSAL	**Drafting**	**Comments**
(b) the role of each participant and the measures they are to put in place in preparation and once the crisis protocol has been activated;		
(c) a clear procedure for determining when the crisis protocol is to be activated;		
(d) a clear procedure for determining the period during which the measures to be taken once the crisis protocol has been activated are to be taken, which is strictly limited to what is necessary for addressing the specific extraordinary circumstances concerned;		
(e) safeguards to address any negative effects on the exercise of the fundamental rights enshrined in the Charter, in particular the freedom of expression and information and the right to non-discrimination;		
(f) a process to publicly report on any measures taken, their duration and their outcomes, upon the termination of the crisis situation.		

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COMMISSION PROPOSAL	**Drafting**	**Comments**
5. If the Commission considers that a crisis protocol fails to effectively address the crisis situation, or to safeguard the exercise of fundamental rights as referred to in point (e) of paragraph 4, it may request the participants to revise the crisis protocol, including by taking additional measures.	**FR** *(Drafting)*: 6 If the Commission considers that a crisis protocol fails to effectively address the crisis situation, or to safeguard the exercise of fundamental rights as referred to in point (e) of paragraph 4, it may request the participants to revise the crisis protocol, including by taking additional measures.	
	IT *(Drafting)*: ***6. The relevant information regarding the crisis protocol shall be publicly available and searchable in a specific section of their website".***	