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General Secretariat

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**Interinstitutional files:  
2020/0361(COD)**

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**NOTE**

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From:	EE Delegation
To:	Working Party on Competitiveness and Growth (Internal Market)
Subject:	Digital Services Act: EE comments on articles 2, 4, 24a-37, and corresponding recitals

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MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
2020/0361 (COD)		
Proposal for a <b>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</b>		
(Text with EEA relevance)		
THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,		
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,		
Having regard to the proposal from the European Commission,		
After transmission of the draft legislative act to the national parliaments,		

<b>MEMBER STATE</b>		
<b>GENERAL COMMENTS:</b>		
<b>COMMISSION PROPOSAL</b>	<b>Drafting suggestions</b>	<b>Comments</b>
Having regard to the opinion of the European Economic and Social Committee <sup>1</sup> ,		
[Having regard to the opinion of the Committee of the Regions <sup>2</sup> ,]		
<del>Having regard to the opinion of the European Data Protection Supervisor<sup>3</sup>;</del>		
Acting in accordance with the ordinary legislative procedure,		
Whereas:		
<b><u>(27a) Intermediary services span a wide range of economic activities which take place online and that develop continually to provide for transmission of information that is swift, safe and secure, and to</u></b>		

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<sup>3</sup> OJ C, p.

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<p><u>ensure convenience of all participants of the online ecosystem. For example, ‘Mere conduit’ intermediary services include generic categories of services such as internet exchange points, wireless access points, virtual private networks, voice over IP and other interpersonal communication services, while generic examples of ‘caching’ intermediary services include the sole provision of content delivery networks, reverse proxies or content adaptation proxies. Such services are crucial to ensure smooth and efficient transition of information delivered on the internet. Similar treatment should also apply to online search engines in view of their important role in locating information online. Examples of “hosting services” include categories of services such as cloud computing, web hosting, or services enabling sharing information and content online, including file storage and sharing. Intermediary services may be provided in isolation, as a part of another type of intermediary service, or simultaneously with other intermediary services. Whether a specific service constitutes a mere conduit, caching or hosting service depends solely on its technical</u></p>		

<b>MEMBER STATE</b>		
<b>GENERAL COMMENTS:</b>		
<b>COMMISSION PROPOSAL</b>	<b>Drafting suggestions</b>	<b>Comments</b>
<u>functionalities, that might evolve in time, and should be assessed on a case-by-case basis.</u>		
<p>(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 from selling products or services in violation of the applicable rules, online <del>platforms allowing consumers to conclude distance contracts with traders</del> <b>marketplaces</b> should ensure that such traders are traceable. The trader should therefore be required to provide certain essential information to the <b>provider of online platform marketplace</b>, 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. These online <del>platforms</del> <b>marketplaces</b> should store all information in a secure manner for <b>the duration of their contractual relationship with the trader and 6 months thereafter. This is necessary</b> <del>a reasonable period of time that</del></p>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<p>does not exceed what is necessary, so that it <b><u>the information</u></b> 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. <b><u>Without prejudice to the definition provided for in this Regulation, any trader, irrespective of whether it is a natural or legal person, identified on the basis of Article 6a, paragraph(1)(b) of Directive 2011/83/EU and Article 7 paragraph (4)(f) of Directive 2005/29/EC should be traceable when offering a product or service through an online platform. Similarly, the traceability of holders of domain names for the purpose of contributing to the security, stability and resilience of domain name systems, which in turn contributes to a high common level of cybersecurity within the Union, is ensured by Directive .../... [proposed Directive on measures for a high common level of cybersecurity across the Union, repealing Directive (EU) 2016/1148], which introduces the obligation for top-level domain registries and the entities providing domain name registration services for the top-level</u></b></p>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<u>domain, so-called registrars, to collect, maintain in a database and provide lawful access to accurate and complete domain name registration data. Directive 2000/31/EC obliges all information society services providers to render easily, directly and permanently accessible to the recipients of the service and competent authorities certain information allowing the identification of all providers.</u>		
(50) To ensure an efficient and adequate application of that obligation, without imposing any disproportionate burdens, the <u>providers of the online platforms covered marketplaces</u> should make reasonable efforts to verify, <u>prior to the use of their service</u> , the reliability of the information provided by the traders concerned. <u>In particular, the providers of online marketplaces should use</u> by using freely available official online databases and online interfaces, such as national trade registers and the VAT Information Exchange System <sup>4</sup> , or <u>by requesting request</u> the traders concerned to provide trustworthy supporting documents, such as copies of identity		

<sup>4</sup> [https://ec.europa.eu/taxation\\_customs/vies/vieshome.do?selectedLanguage=en](https://ec.europa.eu/taxation_customs/vies/vieshome.do?selectedLanguage=en)

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
documents, certified <del>bank</del> <u>payment</u> <u>accounts'</u> 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 <u>providers of online platforms covered marketplaces</u> 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 <u>providers online platforms</u> , 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. <del>Providers of Such online platforms</del> <u>marketplaces</u> 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 <sup>5</sup> , Article 7 of Directive 2005/29/EC of the European		

<sup>5</sup>—— 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.



MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<p>Parliament and of the Council<sup>6</sup> and Article 3 of Directive 98/6/EC of the European Parliament and of the Council<sup>7</sup> <b><u>Providers of online marketplaces should store the information received by traders for six months after the end of the contractual relationship with the traders concerned. This obligation leaves unaffected potential obligations to preserve certain content for longer periods of time, on the basis of other Union law or national laws, in compliance with Union law.</u></b></p>		
<p><b><u>(50a) Providers of online marketplaces should 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</u></b></p>		

<sup>6</sup> 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').

<sup>7</sup> 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.

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<p><u>and of the Council<sup>8</sup>, Article 7 of Directive 2005/29/EC of the European Parliament and of the Council<sup>9</sup> and Article 3 of Directive 98/6/EC of the European Parliament and of the Council<sup>10</sup>. For that purpose, the providers of online marketplaces should make reasonable efforts to assess whether the traders using their services have uploaded the information on their online interfaces, in line with applicable Union law. This should not amount to an obligation for providers of online marketplaces to generally monitor the products or services offered by traders through their services nor a general fact-finding obligation, in particular to assess the accuracy of the information provided by traders. The online interfaces should be user-friendly</u></p>		

<sup>8</sup> 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.

<sup>9</sup> 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').

<sup>10</sup> 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.

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<u>and easily accessible for traders and consumers.</u>		
<p>(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 <b><u>the providers of</u></b> those platforms, in addition to the obligations applicable to all online platforms. <b><u>Due to their critical role in locating and disseminating information online, it is also necessary to impose those obligations, to the extent they are applicable, on the providers of very large online search engines, in addition to the obligations applicable to all intermediaries.</u></b> Those additional obligations on <b><u>providers of</u></b> very large online platforms <b><u>and of very large online search engines</u></b> are necessary to address those public policy concerns, there being no alternative and less restrictive measures that would effectively achieve the same result.</p>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<p>(54) Very large online platforms <b><u>and very large online search engines</u></b> may cause societal risks, different in scope and impact from those caused by smaller platforms. <b><u>Providers of such very large online platforms and very large online search engines should therefore bear the highest standard of due diligence obligations, proportionate to their societal impact and means.</u></b> Once the number of recipients of a platform <b><u>or a search engine</u></b> reaches a significant share of the Union population, the systemic risks the platform <b><u>or search engine</u></b> poses <b><u>may</u></b> have a disproportionately <del>negative</del> 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. <b><u>In order to determine the reach of a given online platform or online search engine, it is necessary to establish the average number of recipients of such service, represented by any recipient actually engaging with the service at least once in a given period of time. Examples of such engagement include viewing content by scrolling</u></b></p>		

<b>MEMBER STATE</b>		
<b>GENERAL COMMENTS:</b>		
<b>COMMISSION PROPOSAL</b>	<b>Drafting suggestions</b>	<b>Comments</b>
<p><u>through an online interface or uploading content, and not only interacting with content by clicking on, commenting, linking, sharing, purchasing or carrying out transactions on an online platform, such as an online marketplace. Consequently, the notion of active recipient of the service does not necessarily coincide with that of a registered user of a service, and it cumulatively covers recipients of the service who provide content, such as traders on an online marketplace, and those who view content. As regards online search engines, the concept of active recipients of the service should cover those who view content on their online interface, but not, for example, the owners of the websites indexed by the online search engine, as they do not actively engage with the service. The number of active recipients of a service should include all unique recipients of the service that engage with the service irrespective of the potentially different interfaces made available, such as websites or apps, including where the interfaces are accessed through different URLs or domain names. However, it should not include recipients of other</u></p>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<p><u>third party services that make available through their own online interfaces content hosted by the provider of online platform or indexed by a provider of online search engine. This Regulation does not require providers of online platforms or online search engines to perform specific tracking of individuals online, nor to discount automated users such as bots. Accordingly, the number of average monthly active recipients of the service should reflect the recipients actually reached by the service either by being exposed to content or by providing content disseminated on the platforms' interface in that period of time.</u> The operational threshold <u>and methodology to determine the active recipients of an online platform or an online search engine</u> should be kept up to date through amendments enacted by delegated acts, where necessary, <u>and reflect the nature of the service and the way recipients of the service interact with it.</u> Such very large online platforms should therefore bear the highest standard of due diligence obligations, proportionate to their societal impact and means.</p>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<p>(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 <b>of the establishment</b> should be able to request more frequent reporting from <b>provider of</b> 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.</p>		
<p><b><u>(55a) In view of the risks posed by the significant reach of very large online platforms, as well as the resources that are typically available to the providers of such platforms, it is desirable and reasonable to expect that very large online</u></b></p>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<u>platforms have the necessary means, including appropriate human and material resources, as well as procedures, to operate notice and action mechanisms that allow assessing whether notices submitted by trusted flaggers relate to manifestly illegal content within [24 hours /48 hours] on average.</u>		
<p>(56) Very large online platforms <u>and very large online search engines</u> <del>are</del> <u>can be</u> 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. <del>In the absence of effective</del> <u>and fundamental rights based</u> regulation and enforcement <u>is necessary in order to</u>, <del>they can set the rules of the game, without effectively identifying and mitigating the risks and the societal and economic harm that may arise</del> <u>they can</u> <del>cause</del>. Under this Regulation, <u>providers of very large online platforms and of very large online search engines</u> should therefore assess the systemic risks stemming from the functioning and use of their service,</p>		



MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
as well as by potential misuses by the recipients of the service, and take appropriate mitigating measures.		
<p>(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<sup>2</sup>, 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 <b>and of very large online search engines</b> 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</p>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<p>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 <b>or by very large online search engine</b> or the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition. <b><u>When assessing risks to the rights of the child, providers should consider how easily understandable to minors the design and functioning of the service is, as well as how minors can be exposed through their service to content that may impair minors' health, physical, mental and moral development. Such risks may arise, for example, in relation to the design of online interfaces which intentionally or unintentionally exploit the weaknesses and inexperience of minors or which may cause addictive behaviour.</u></b> A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform's <b>or search engine's</b> 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</p>		

<b>MEMBER STATE</b>		
<b>GENERAL COMMENTS:</b>		
<b>COMMISSION PROPOSAL</b>	<b>Drafting suggestions</b>	<b>Comments</b>
practices. Such risks may arise, for example, through the <b>inauthentic use of the service, such as the</b> creation of fake accounts, the use of bots <b>or deceptive use of a service</b> , 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 <b>or online search engine's</b> terms and conditions.		
(58) <b>Providers of v</b> Very large online platforms <b>and of very large online search engines</b> should deploy the necessary means to diligently mitigate the systemic risks identified in the risk assessment. <b>They</b> 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. <b>The design and online interface of services primarily aimed at minors or pre-dominantly used by them should take into account their best interests, and ensure</b>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<p><u>that their services are organised in a way that minors are easily able to access mechanisms within this Regulation, including notice and action and complaint mechanisms. The providers of very large online platforms that provide access to content that may impair the physical, mental or moral development of minors should take appropriate measures and provide tools that enable conditional access to the content.</u> 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. <u>Providers of v</u>Very large online platforms <u>and of very large online search engines</u> 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. <u>In selecting the appropriate mitigation measures, providers can consider, where</u></p>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<p><b><u>appropriate, industry best practices, including as established through self regulatory cooperation, codes of conduct, as well as guidelines from the Commission.</u></b> 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 <del>very large online platform's</del> economic capacity <b><u>of the provider of the very large online platform or of very large online search engines</u></b> 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.</p>		
<p>(59) <b><u>Providers of v</u></b><del>Very large online platforms</del> <b><u>and of very large online search engines</u></b> 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</p>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
experts and civil society organisations. <b><u>In the assessment on whether a measure is reasonable, proportionate and effective, special consideration should be given to the right to freedom of expression.</u></b>		
(60) Given the need to ensure verification by independent experts, <b><u>providers of very large online platforms and of very large online search engines</u></b> should be accountable, through independent auditing, for their compliance with the obligations laid down by this Regulation and, where relevant, any complementary 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, <b><u>including, where appropriate, to data related to algorithmic systems</u></b> . Auditors should also be able to make use of other sources of objective information, including studies by vetted researchers. <b><u>Audits should be performed according to best industry practices, with due regard, as appropriate, to auditing standards and guidelines.</u></b> Auditors should guarantee the confidentiality, security and integrity of the information, such as trade secrets, that they		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
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 <b><u>and technical competence</u></b> is not beyond doubt, they should resign or abstain from the audit engagement.		
(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 <b><u>providers of the very large online platform and of the very large online search engine</u></b> to comply with their obligations under this Regulation. The report should be transmitted to the Digital Services Coordinator of establishment and the Board <del>without delay</del> <b><u>within 30 days following the adoption of the audit implementing report</u></b> , together with the risk assessment and the mitigation measures, as well as the platform <b><u>or search engine provider</u></b> 's plans for addressing the audit's recommendations.		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<p>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 <b>or the very large online search engine</b> 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 <b>or the very large online search engine</b> does not comply with this Regulation or the commitments undertaken.</p>		
<p>(62) A core part of a very large online platform's <b>and a very large online search engine's</b> 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</p>		



MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<p>the service. 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. <u>The obligations on assessment and mitigation of risks should trigger, on a case-by-case basis, the need for very large online platforms and very large online search engines to assess and adjust the design of their recommender systems, for example by taking measures to prevent or minimise biases that lead to the discrimination of vulnerable groups, in particular where information is personalised on the basis of special categories of personal data, within the meaning of Article 9 of the Regulation (EU) 2016/679. In addition, Consequently, in addition to obligations on assessment and mitigation of risks, providers of very large online platforms and very large online search engines should consistently</u></p>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
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.		
(63) Advertising systems used by very large online platforms <b>and very large online search engines</b> pose particular risks and require further public and regulatory supervision 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 <b>or search engine's</b> online interface. <b>Providers of v</b> Very large online platforms <b>and of very large online search engines</b> should ensure public access to repositories of advertisements <del>displayed</del> <b>presented</b> on their online interfaces to facilitate supervision and research into emerging risks brought about by the distribution of advertising online, for		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<p>example in relation to illegal advertisements or manipulative techniques and disinformation with a real and foreseeable negative impact on public health, public security, civic 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.</p> <p><b><u>This information should include both information about targeting criteria and delivery criteria, in particular when advertisements are delivered to children or vulnerable groups.</u></b></p>		
<p>(64) In order to appropriately <b><u>supervise monitor and assess</u></b> the compliance of very large online platforms <b><u>and very large online search engines</u></b> 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 <b><u>or search engine's</u></b> systems, data on the accuracy, functioning and testing of</p>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<p>algorithmic systems for content moderation, recommender systems or advertising systems, <b><u>including, where appropriate training data and algorithms,</u></b> or data on processes and outputs of content moderation or of internal complaint-handling systems within the meaning of this Regulation. <b><u>Such data access requests do not include requests to produce specific information about individual recipients of the service for the purpose of determining compliance of the recipients with other applicable Union or national law.</u></b> 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, <b><u>online search engines,</u></b> 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 <b><u>and very large online search engines</u></b> to vetted researchers <b><u>vetted by the Digital Services Coordinator of establishment of a very large online platform provider, or the Commission.</u></b> All <del>requirements</del> <b><u>requests</u></b> for access to data under that framework should</p>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
be proportionate and appropriately protect the rights and legitimate interests, including trade secrets and other confidential information, of the platform <b><u>or the search engine</u></b> and any other parties concerned, including the recipients of the service.		
(65) Given the complexity of the functioning of the systems deployed and the systemic risks they present to society, <b><u>providers of very large online platforms and of very large online search engines</u></b> should <del>appoint</del> <b><u>establish a</u></b> compliance <del>officers</del> <b><u>function</u></b> , which should <b><u>be independent from the operational functions of the providers. The head of the compliance function should report directly to the management of the provider, including for concerns of non-compliance with this Regulation. The compliance officers that are part of the compliance function should</u></b> have the necessary qualifications, <b><u>knowledge, experience and ability</u></b> to operationalise measures and monitor the compliance with this Regulation within the platform <b><u>or search engine provider</u></b> 's organisation. <b><u>Providers of v</u></b> Very large online platforms <b><u>and of very large online search engines</u></b>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
should ensure that the compliance officer <b>function</b> is involved, properly and in a timely manner, in all issues which relate to this Regulation <b><u>including in the risk assessment and mitigation strategy and specific measures, as well as assessing compliance, where applicable, with commitments made by the provider of very large online platform or of very large online search engine provider under the codes of conduct they subscribe to.</u></b>		
<b>(65a)</b> In view of the additional risks relating to their activities and their additional obligations under this Regulation, <del>the other transparency requirements set out in this Regulation should be complemented by</del> additional transparency requirements <del>applicable</del> <b>should apply</b> specifically to very large online platforms <b>and very large online search engines</b> , notably to report <b>comprehensively</b> 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		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<p>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 <b>support providers of intermediary services in complying</b> with this Regulation, such as allowing the submission of notices, including through application programming interfaces, or <b>standards relating to audits, or</b> about the interoperability of advertisement repositories. <b>Providers of intermediary services are free to adopt the standards, but their adoption does not presume compliance with this Regulation. At the same time, by providing best practices,</b> sSuch 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.</p>		
<p>(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</p>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
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 <b>providers of very large online platforms and of very large online search engines</b> 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.		
(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 <b>or any adverse effects on minors</b> . This includes coordinated operations aimed at amplifying information, including		



MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<p>disinformation, such as the use of bots or fake accounts for the creation of <del>fake</del> <b><u>inaccurate</u></b> 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 <b><u>or a very large online search engine</u></b> may be considered as an appropriate risk mitigating measure. The refusal without proper explanations by <b><u>a provider of an online platform</u></b> <b><u>or of an online search engine</u></b> 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 <b><u>or the online search engine</u></b> has infringed the obligations laid down by this Regulation.</p>		
<p>(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</p>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
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 <b>and very large online search engines</b> set out in this Regulation in order to provide for flexible 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.		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<p>(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 platform <b>providers</b> should be encouraged in drawing 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 <b>providers of very large online platforms and of very</b></p>		

<b>MEMBER STATE</b>		
<b>GENERAL COMMENTS:</b>		
<b>COMMISSION PROPOSAL</b>	<b>Drafting suggestions</b>	<b>Comments</b>
<b>large online search engines</b> to monitor the information which they transmit or store, nor actively to seek facts or circumstances indicating illegal content.		
HAVE ADOPTED THIS REGULATION:		
<b>Chapter I – General provisions</b>		
<i>Article 2</i> <i>Definitions</i>		
(f) ‘intermediary service’ means one of the following <b>information society</b> services:		
– a ‘mere conduit’ service that consists of the transmission in a communication network of information provided by a recipient of the service, or the provision of access to a communication network;		
– a ‘caching’ service that consists of the transmission in a communication network of information provided by a		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
recipient of the service, involving the automatic, intermediate and temporary storage of that information, for the sole purpose of making more efficient the information's onward transmission to other recipients upon their request;		
– a ‘hosting’ service that consists of the storage of information provided by, and at the request of, a recipient of the service;		
<u>[– an ‘online search engine’ service that allows users to input queries in order to perform searches of, in principle, all websites, or all websites in a particular language, on the basis of a query on any subject in the form of a keyword, voice request, phrase or other input, and returns results in any format in which information related to the requested content can be found;]<sup>11</sup></u>		
(m) ‘Digital Services Coordinator of destination’ means the Digital Services		

<sup>11</sup> [Note: this definition will not be discussed in the COMPCRO WP meeting on 9 September, but later together with the amendments to Chapter III.]

<b>MEMBER STATE</b>		
<b>GENERAL COMMENTS:</b>		
<b>COMMISSION PROPOSAL</b>	<b>Drafting suggestions</b>	<b>Comments</b>
Coordinator of a Member State where the intermediary service is provided;		
<b>(ma) ‘active recipient of an online platform’ means the recipient of the service that has engaged with an online platform by either requesting the online platform to host content or being exposed to content hosted by the online platform and disseminated through their online interface;</b>		
<b>(mb) ‘active recipient of an online search engine’ means a recipient of the service that has engaged with the search engine by quering the online search engine and being exposed to content indexed and displayed on the interface of the online search engine;</b>		
<i>Article 4</i> <b>‘Caching’ <u>and online search engines</u></b>		
1. Where an information society service is provided that consists of the transmission in a communication network of information		

<b>MEMBER STATE</b>		
<b>GENERAL COMMENTS:</b>		
<b>COMMISSION PROPOSAL</b>	<b>Drafting suggestions</b>	<b>Comments</b>
provided by a recipient of the service, <u>or of an online search engine</u> , the service provider shall not be liable for the automatic, intermediate and temporary storage of that information, performed for the sole purpose of making more efficient the information's onward transmission to other recipients of the service upon their request, <u>or for the search results locating information related to the content requested by the recipient of the service</u> , on condition that:		
(a) the provider does not modify the information;		
(b) the provider complies with conditions on access to the information;		
(c) the provider complies with rules regarding the updating of the information, specified in a manner widely recognised and used by industry;		
(d) the provider does not interfere with the lawful use of technology, widely		

<b>MEMBER STATE</b>		
<b>GENERAL COMMENTS:</b>		
<b>COMMISSION PROPOSAL</b>	<b>Drafting suggestions</b>	<b>Comments</b>
recognised and used by industry, to obtain data on the use of the information; and		
(e) the provider acts expeditiously to remove or to disable access to the information it has stored, <b><u>indexed or located</u></b> 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.		
2. This Article shall not affect the possibility for a court or administrative authority, in accordance with Member States' legal systems, of requiring the service provider to terminate or prevent an infringement.		



MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<b><u>SECTION 3A</u></b> <b><u>PROVISIONS APPLICABLE TO PROVIDERS OF ONLINE MARKETPLACES</u></b>		
<i>Article 224a</i> <i>Traceability of traders</i>		
1. <del>Where an online platform allows consumers to conclude distance contracts with traders, it</del> <b><u>Providers of online marketplaces</u></b> shall ensure that traders can only use <del>its</del> <b><u>their</u></b> services to promote messages on or to offer products or services to consumers located in the Union if, prior to the use of <del>its</del> <b><u>their</u></b> services, the <b><u>providers of online platform marketplaces</u></b> <del>have</del> obtained the following information, <b><u>where applicable</u></b> :		
(a) the name, address, telephone number and electronic mail address of the trader;		
(b) a copy of the identification document of the trader or any other electronic identification as defined by Article 3 of		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
Regulation (EU) No 910/2014 of the European Parliament and of the Council <sup>12</sup> ;		
(c) the <del>bank-</del> <b>payment</b> account details of the trader, <del>where the trader is a natural person</del> ;		
(d) <del>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</del> ;		
(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 identification in that register;		

<sup>12</sup> 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.

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
(f) a self-certification by the trader committing to only offer products or services that comply with the applicable rules of Union law.		
2. The <b>provider of the online platform marketplace</b> shall, upon receiving that information, make <del>reasonable</del> <b>reasonable best efforts</b> to assess, <b>prior to the use of their services</b> , whether the information referred to in <del>point (d) of paragraph 1, and</del> <b>prior to the use of their services, points</b> (a), <del>(d)</del> 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.		
3. Where the <b>provider of the online platform marketplace</b> obtains <b>sufficient</b> indications-that any item of information referred to in paragraph 1 obtained from the trader concerned is inaccurate, <del>or</del> incomplete <b>or not up to date</b> , that <b>marketplace platform</b> shall request the trader to correct the information in so far as necessary to		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
ensure that all information is accurate, <del>and</del> complete <b>and up to date</b> , without delay or within the time period set by Union and national law.		
Where the trader fails to correct or complete that information, the online <del>platform</del> <b>marketplace</b> shall suspend the provision of its service to the trader until the request is complied with.		
4. The <b>provider of the online marketplace</b> <del>platform</del> shall store the information obtained pursuant to paragraph 1 and 2 in a secure manner for the duration of <b>6 months after the end of the</b> <del>their</del> contractual relationship with the trader concerned. They shall subsequently delete the information.		
5. Without prejudice to paragraph 2, the <b>providers of online marketplaces</b> <del>platform</del> 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		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
the Commission for the performance of their tasks under this Regulation.		
6. The <b>provider of</b> online <b>marketplace platform</b> shall make the information referred to in points (a), <del>(d)</del> , (e) and (f) of paragraph 1 available to the recipients of the service, <b>at least on the product listing</b> , in a clear, easily accessible and comprehensible manner.		
7. <del>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.</del> <b><u>[this provision is moved to Article 24b]</u></b>		
<b><u>Article 24b</u></b> <b><u>Compliance by design</u></b>		
<b><u>1. Providers of online marketplaces shall design and organise <del>its</del> their online interface in a way that enables traders to comply with their obligations regarding</u></b>		

<b>MEMBER STATE</b>		
<b>GENERAL COMMENTS:</b>		
<b>COMMISSION PROPOSAL</b>	<b>Drafting suggestions</b>	<b>Comments</b>
<u>pre-contractual information and product safety information under applicable Union law.</u>		
<u>In particular, such online interfaces shall enable traders to provide information on 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.</u>		
<u>2. The online interface shall allow traders to provide at least the information necessary for the unequivocal and unambiguous identification of the products or the services offered, and, where applicable, the information concerning the labelling in compliance with rules of applicable Union law on product safety and product compliance.</u>		Same obligation is in the GPSR art 20(5)(c)(d). Should be deleted here and regulated in GPSR as the aim of both these obligations is product safety.
<u>3. Providers of online marketplaces shall make reasonable efforts to assess whether traders have provided the</u>	<u>3. Providers of online marketplaces shall make reasonable efforts to assess whether traders have provided the</u>	Suggest deleting it as it is unclear, what reasonable efforts are the online marketplaces supposed to make. It is not clear how the

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<u>information referred to in paragraphs 1 and 2.</u>	<del>information referred to in paragraphs 1 and 2.</del>	marketplaces could comply with this obligation. Therefore, it is not possible to assess its proportionality.
<u>Article 24c</u> <u>Right to information</u>	<del>Article 24c</del> <del>Right to information</del>	<p>Suggest deleting this article, since it is unacceptable that the obligations of online marketplaces regarding product safety are more lenient than their obligations regarding other illegal products or services. This is disproportionate and should be the other way around.</p> <p>DSA art 24c and GPSR art 20(6)(a) regulate the same item with a similar purpose. According to GPSR art 20(6)(a), online marketplaces only have the obligation to cooperate to ensure effective product recalls. Online marketplaces do not have the obligation to inform the buyers of the illegality of the product. Therefore, regarding product safety, the obligations of the online marketplace are less strict than for example concerning other illegal products, such as counterfeit goods.</p>
1. <u>Where a provider of an online marketplace becomes aware, irrespective of the means used to, of the illegal nature of a product or service offered through its</u>	<del>1. <u>Where a provider of an online marketplace becomes aware, irrespective of the means used to, of the illegal nature of a product or service offered through its</u></del>	

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<u>services, it shall inform those recipients of the service that had acquired such product or contracted such service during the last six months about the illegality, the identity of the trader and any means of redress.</u>	<del>services, it shall inform those recipients of the service that had acquired such product or contracted such service during the last six months about the illegality, the identity of the trader and any means of redress.</del>	
<b><u>2. Where the provider of the online marketplace does not have the contact details of the recipients of the service referred to in paragraph 1, the provider shall make publicly available and easily accessible on their online interface the information concerning the illegal products or services removed, the identity of the trader and any means of redress.</u></b>	<del>2.—— Where the provider of the online marketplace does not have the contact details of the recipients of the service referred to in paragraph 1, the provider shall make publicly available and easily accessible on their online interface the information concerning the illegal products or services removed, the identity of the trader and any means of redress.</del>	



MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<b>SECTION 4</b> <b>ADDITIONAL OBLIGATIONS FOR PROVIDERS OF VERY LARGE ONLINE PLATFORMS AND VERY LARGE ONLINE SEARCH ENGINES TO MANAGE SYSTEMIC RISKS</b>		
<i>Article 25</i> <i>Very large online platforms</i>		
1. This Section shall apply to online platforms which <del>provide their services</del> <b>reach</b> to a number of average monthly active recipients of the service in the Union equal to or higher than 45 million, <del>calculated in accordance with the methodology set out in the delegated acts referred to in paragraph 3,</del> <b>and which are designated as very large online platforms pursuant to paragraph 4.</b>		
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		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
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.		
3. The Commission <b><u>shall be empowered to</u></b> <del>shall</del> adopt delegated acts in accordance with Article 69, after consulting the Board, to <b><u>provide additional specifications for the</u></b> <del>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</del> <b><u>of this Article and Article 23(2), in order to adapt to the changes in the accessibility features of different services.</u></b> <del>The methodology shall specify, in particular, 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.</del>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<p>4. The Digital Services Coordinator of establishment <u>shall adopt a decision designating as a very large online platform for the purposes of this Regulation the online platform under their jurisdiction which have a</u> 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. <u>The Digital Services Coordinator of establishment shall take its decision on the basis of data reported by the provider of the online platform pursuant to Article 23(2), additional information requested pursuant to Article 23(3) and any other reliable data sources at its disposal. 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.</u></p>		
<p><u>When the Digital Services Coordinator of establishment bases its decision on other reliable data sources pursuant to the first</u></p>		

<b>MEMBER STATE</b>		
<b>GENERAL COMMENTS:</b>		
<b>COMMISSION PROPOSAL</b>	<b>Drafting suggestions</b>	<b>Comments</b>
<u>sub-paragraph of this paragraph, the Digital Services Coordinator shall require the concerned provider of online platform to provide its views within 10 working days on the preliminary findings by the Digital Services Coordinator that it intends to designate the online platform as a very large online platform.</u>		
<u>The absence of the views of the provider of the online platform pursuant to the second sub-paragraph of this paragraph shall not prevent the Digital Services Coordinator of establishment from designating that online platform as a very large online platform based on such reliable data sources.</u>		
<u>5. Pursuant to the designation, the Digital Services Coordinator shall verify, at least every six months, that the very large online platform continues to have a number of average monthly active recipients of the service equal to or higher than the number referred to in paragraph 1. If the service has a lower number of average monthly active recipients during one year, the Digital</u>		

<b>MEMBER STATE</b>		
<b>GENERAL COMMENTS:</b>		
<b>COMMISSION PROPOSAL</b>	<b>Drafting suggestions</b>	<b>Comments</b>
<u>Services Coordinator of establishment shall terminate the designation.</u>		
<u>6. The Digital Services Coordinator shall communicate its decisions pursuant to paragraphs 4 and 5, without undue delay, to the provider of the online platform concerned, to the Board and to the Commission.</u>		
The Commission shall ensure that the list of designated very large online platforms is published in the <i>Official Journal of the European Union</i> 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.		
<u>Article 25a</u> <u>Timely assessment of notices submitted by trusted flaggers</u>	<i>Article 25a</i> <i>Timely assessment of notices submitted by trusted flaggers</i>	
<u>Providers of very large online platforms shall ensure that they have the means available to determine whether notices</u>	<del>Providers of very large online platforms shall ensure that they have the means available to determine whether notices</del>	We are against setting deadlines in a horizontal regulation. The DSA regulation covers all types of illegal content, which

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<p><u>referred to in Article 19 relate to manifestly illegal content on average within [24 hours/ 48 hours] of the receipt of the notice.</u></p>	<p><del>referred to in Article 19 relate to manifestly illegal content on average within [24 hours/ 48 hours] of the receipt of the notice.</del></p>	<p>makes finding the suitable and proportionate deadline impossible. Deadlines could be set in sector specific legislation, such as TCO or GPSR, as there it is targeted and it is possible to take into consideration all the relevant circumstances. We are worried about the spill-over effect of this regulation. If regarding notices the deadline is 24h, then authorities will set even shorter deadlines in orders, meaning that the platform is not able to assess the legality of the content. It is also unclear, what is manifestly illegal content and how is the platform supposed to separate it from illegal content. We are concerned that this obligation might lead to the over-removal of content.</p> <p>According to ECJ judgement in joined cases C- 682/18 and C- 683/18, a notification must contain sufficient information to enable the operator of that platform to satisfy itself, without a detailed legal examination, that that communication is illegal and that removing that content <b>is compatible with freedom of expression.</b></p>

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
Article 26 Risk assessment		
1. <b>Providers of v</b> Very large online platforms shall identify, analyse and assess, from the date of application referred to in the second subparagraph of Article 25(64), at least once a year thereafter, any <del>significant</del> 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:		
(a) the dissemination of illegal content through their services;		
(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;	(b) any negative effects for the exercise of the fundamental rights <del>to respect for private and family life, freedom of expression and information, the prohibition of discrimination and the rights of the child,</del> as enshrined in <del>Articles 7, 11, 21 and 24 of</del> the Charter respectively;	We believe that risks to all fundamental rights should be assessed here as in the AI Regulation.

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
(c) intentional manipulation of their service, including by <b>means</b> 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.		
2. When conducting risk assessments, <b>providers of</b> very large online platforms shall take into account, in particular, how their content moderation systems, recommender systems and systems for selecting and <b>presenting</b> 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.		
<i>Article 27</i> <i>Mitigation of risks</i>		
1. <b>Providers of v</b> Very large online platforms shall put in place reasonable,		



MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<p>proportionate and effective mitigation measures, tailored to the specific systemic risks identified pursuant to Article 26, <b><u>with particular consideration to the impacts of such measures on fundamental rights</u></b>. Such measures may include, where applicable:</p>		
<p>(a) adapting content moderation or recommender systems, their decision-making processes, <b><u>including the resources dedicated to them</u></b>, the features or functioning of their services, or their terms and conditions;</p>		
<p>(b) targeted measures aimed at limiting the <b><u>presentation display</u></b> of advertisements in association with the service they provide;</p>		
<p>(c) reinforcing the internal processes or supervision of any of their activities in particular as regards detection of systemic risk;</p>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
(d) initiating or adjusting cooperation with trusted flaggers in accordance with Article 19;		
(e) initiating or adjusting cooperation with other <b>providers of</b> online platforms through the codes of conduct and the crisis protocols referred to in Article 35 and 37 respectively.		
<b><u>(f) taking awareness-raising measures and adapting their online interface for increased user information;</u></b>		
<b><u>(g) taking targeted measures to protect children's rights, including age verification and parental control tools, or tools aimed at helping minors signal abuse or obtain support, as appropriate.</u></b>		
2. The Board, in cooperation with the Commission, shall publish comprehensive reports, once a year, which shall include the following:		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
(a) identification and assessment of the most prominent and recurrent systemic risks reported by <b>providers of</b> 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 <b>providers of</b> very large online 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.		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
Article 28 <i>Independent audit</i>		
1. <b><u>Providers of v</u></b> Very large online platforms shall be subject, at their own expense and at least once a year, to audits to assess compliance with the following:		
(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 <b><u>according to best industry practices</u></b> by organisations which:		
(a) are independent from the <b><u>provider of</u></b> very large online platforms concerned;		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
(b) have proven expertise in the area of risk management, technical competence and capabilities;		
(c) have proven objectivity and professional ethics, based in particular on adherence to codes of practice or appropriate standards. <sup>3</sup>		
3. The organisations that perform the audits shall establish an audit report for each audit. The report shall be <b>substantiated</b> 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;		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
(d) a description of the main findings drawn from the audit;		
(e) an audit opinion on whether the <b><u>provider of the</u></b> 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 <b><u>and the expected timeframe to achieve compliance.</u></b>		
4. <b><u>Providers of v</u></b> 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 operational recommendations, they shall		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
justify in the audit implementation report the reasons for not doing so and set out any alternative measures they <del>may</del> have taken to address any instances of non-compliance identified.		
<i>Article 29</i> <i>Recommender systems</i>		
1. <b><u>Providers of v</u></b> 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 <del>may</del> 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. <b><u>Providers of very large online platforms shall also make this information directly and easily accessible on thea specific section of the online interface where the information is being prioritised according to the recommender systemrecommended.</u></b>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
2. Where several options are available pursuant to paragraph 1, <b>providers of</b> very large online platforms shall provide <b>a directly and</b> an easily accessible functionality on their online interface <b>where the information is recommended</b> , 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.		
<i>Article 30</i> <i>Additional online advertising transparency</i>		
1. <b>Providers of v</b> Very large online platforms that <b>present</b> display advertising on their online interfaces shall compile and make publicly available <b>in a specific section of their online interface and</b> through application programming interfaces a repository containing the information referred to in paragraph 2, until one year after the advertisement was <b>presented</b> displayed for the last time on their online interfaces. They shall ensure that the		



<b>MEMBER STATE</b>		
<b>GENERAL COMMENTS:</b>		
<b>COMMISSION PROPOSAL</b>	<b>Drafting suggestions</b>	<b>Comments</b>
repository does not contain any personal data of the recipients of the service to whom the advertisement was or could have been displayed <del>displayed</del> <b><u>presented</u></b> .		
2. The repository shall include at least all of the following information:		
(a) the content of the advertisement, <b><u>including the name of the product, service or brand and the subject matter of the advertisement;</u></b>		
(b) the natural or legal person on whose behalf the advertisement is displayed <del>displayed</del> <b><u>presented</u></b> ;		
(c) the period during which the advertisement was <del>presented</del> <del>displayed</del> <b><u>presented</u></b> ;		
(d) whether the advertisement was intended to be <del>presented</del> <del>displayed</del> specifically to one or more particular groups of recipients of the service and if so, the main parameters used for that purpose;		

<b>MEMBER STATE</b>		
<b>GENERAL COMMENTS:</b>		
<b>COMMISSION PROPOSAL</b>	<b>Drafting suggestions</b>	<b>Comments</b>
(e) the total number of recipients of the service reached and, where applicable, aggregate numbers <b><u>in each Member State</u></b> for the group or groups of recipients to whom the advertisement was targeted specifically.		
<i>Article 31</i> <i>Data access and scrutiny</i>		
1. <b><u>Providers of v</u></b> 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.		
<b><u>1a. Digital Services Coordinators and the Commission shall only use that data accessed pursuant to paragraph 1 for the purpose of monitoring compliance with</u></b>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<u>this Regulation and shall take due account of the rights and interests of the providers of 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.</u>		
2. Upon a reasoned request from the Digital Services Coordinator of establishment or the Commission, <b>providers of</b> 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 <b>in the Union</b> , as set out <b>pursuant to</b> <del>in</del> Article 26(1), <b>including as regards the adequacy, efficiency and impacts of the risk mitigation measures pursuant to Article 27.</b>		
<b>2a6.</b> Within 15 days following receipt of a request as referred to in paragraph <del>1 and</del> 2,		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<b>providers of</b> a very large online platforms 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:		
(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.		
<b>2b7.</b> Requests for amendment pursuant to <b>paragraph 2a</b> 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		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
within 15 days and communicate to the <b>provider of</b> very large online platforms its decision and, where relevant, the amended request and the new time period to comply with the request.		
3. <b>Providers of v</b> Very large online platforms shall <b>facilitate and</b> provide access to data pursuant to paragraphs 1 and 2 through <b>appropriate interfaces specified in the request, including</b> online databases or application programming interfaces, <b>as specified in the request</b> appropriate.		
4. <b>Upon a duly substantiated application from researchers, the Digital Services Coordinator of establishment or the Commission shall award them status of vetted researchers and issue data access requests pursuant to paragraph 2, where the researchers demonstrate that they meet all of the following conditions:</b>		
<b>(a) they are</b> In order to be vetted, researchers shall be affiliated <b>to a research organisation, within the meaning of</b>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<u>Article 2 (1) of Directive (EU) 2019/790</u> with academic institutions;		
<b>(b)</b> <u>they are</u> be-independent from commercial interests;		
<b>(c)</b> <u>they are</u> , 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;		
<b>(d)</b> <u>the application submitted by the researchers justifies the necessity and proportionality for the purpose of their research of the data requested and the timeframes within which they request access to the data, and they demonstrate the contribution of the research results to the purposes laid down in paragraph 2;</u>		
<b>(e)</b> <u>they carry out their activities for the purposes laid down in paragraph 2;</u>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<u>(f) they carry their activities according to the procedures laid down in delegated acts referred to in paragraph 5;</u>		
<u>(g) they have not already filed the same application with the Commission or the Digital Services Coordinator, as appropriate.</u>		
<u>Upon receipt of the application pursuant to this paragraph, the Commission or the Digital Services Coordinator of establishment, as appropriate, shall inform each other.</u>		
<u>4a. The Commission or the Digital Services Coordinator that awarded the status of vetted researcher and issued the access request in favour of a vetted researcher shall issue a decision terminating the access if it determines, following an investigation either on its own initiative or on the basis information received from third parties, that the vetted researcher no longer meets the</u>		

<b>MEMBER STATE</b>		
<b>GENERAL COMMENTS:</b>		
<b>COMMISSION PROPOSAL</b>	<b>Drafting suggestions</b>	<b>Comments</b>
<u>conditions set out in paragraph 4. Before terminating the access, the Commission or the Digital Services Coordinator shall allow the vetted researcher to react to the findings of its investigation and its intention to terminate the access.</u>		
<u>4b. Digital Services Coordinators and the Commission shall communicate to the Board the names and contact information of the natural persons or entities to which they have awarded the status of the vetted researcher as well as the purpose of the research underpinning the request in accordance with paragraph 4 or that they have terminated it in accordance with paragraph 4a.</u>		
<u>4c. Providers of very large online platforms shall not restrict or prevent in any way access to data publicly accessible in their online interface for researchers who comply with the conditions set in points b), c) and d) of paragraph 4 and who use the data solely for performing research that contributes to the identification and understanding of</u>		



MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<u>systemic risks in the Union as set out pursuant to Article 26(1).</u>		
<u>4d. Upon completion of the research envisaged in paragraphs 2 and 4, the vetted researchers shall make their research freely and publicly available, taking into account the rights and interests of the recipients of the service concerned in compliance with Regulation (EU) 2019/679.</u>		
5. The Commission shall, after consulting the Board, adopt delegated acts laying down the technical conditions under which <b>providers of</b> 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 <b>and procedures</b> 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 <b>providers of</b> very large online platforms and the recipients of the service concerned, including the protection of confidential		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
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, <b>providers of a very large online platforms</b> 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:		
(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. <i>[moved to new paragraph 2a]</i>		
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		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
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 <b>provider of</b> very large online platforms its decision and, where relevant, the amended request and the new time period to comply with the request. <i>[moved to new paragraph 2b]</i>		
Article 32 Compliance officers		
<b><u>1. Providers of very large online platforms shall establish a compliance function composed of one or more compliance officers independent from the operational functions. The compliance function shall have sufficient authority, stature and resources, as well as access to the management body of the provider of the very large online platform to monitor the compliance of that provider with this Regulation.</u></b>		

<b>MEMBER STATE</b>		
<b>GENERAL COMMENTS:</b>		
<b>COMMISSION PROPOSAL</b>	<b>Drafting suggestions</b>	<b>Comments</b>
<u>2. Compliance officers shall have the professional qualifications, knowledge, experience and ability necessary to fulfil the tasks referred to in paragraph 3.</u>		
<u>The management body of the provider of very large online platform shall appoint a head of the compliance function who is an independent senior manager with distinct responsibility for the compliance function.</u>		
<u>The head of the compliance function can report directly to the management body of the provider of very large online platform, independent from senior management, and can raise concerns and warn that body where risks referred to in Article 26 or non-compliance with this Regulation affect or may affect the provider of very large online platform concerned, without prejudice to the responsibilities of the management body in its supervisory and managerial functions.</u>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<u>The head of the compliance function shall not be removed without prior approval of the management body of the provider of very large online platform.</u>		
1. <u>Providers of v</u> Very large online platforms shall appoint one or more compliance officers responsible for monitoring their compliance with this Regulation.		
2. <u>Providers of v</u> 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 <u>provider of the</u> very large online platform concerned.		
3. Compliance officers shall have the following tasks:		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
(a) cooperating with the Digital Services Coordinator of establishment and the Commission for the purpose of this Regulation;		
<b><u>(aa) ensuring that all risks referred to in Article 26 are identified and properly reported on and that reasonable, proportionate and effective risk mitigation measures are taken pursuant to Article 27;</u></b>		
(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 <b><u>provider of the</u></b> very large online platform about relevant obligations under this Regulation;		
(d) monitoring the <b><u>compliance of the provider of the</u></b> very large online platform's <del>compliance</del> with its obligations under this Regulation;-		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<u>(e) where applicable, monitoring compliance of the provider of the very large online platform with commitments made under the codes of conduct pursuant to Articles 35 and 36 or the crisis protocols pursuant to Article 37.</u>		
4. <u>Providers of v</u> Very large online platforms shall take the necessary measures to ensure that the compliance officers can perform their tasks in an independent manner.		
5. <u>Providers of v</u> Very large online platforms shall communicate the name and contact details of the compliance officers <u>in the compliance function</u> to the Digital Services Coordinator of establishment and the Commission.		
6. <u>Providers of v</u> 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		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
tasks. The compliance officer shall directly report to the highest management level of the platform. <u>The management body of the provider of very large online platform shall define, oversee and be accountable for the implementation of the provider's governance arrangements that ensure independence of the compliance function, including the segregation of duties in the organisation of the provider of very large online platform, the prevention of conflicts of interest, and sound management of systemic risks identified pursuant to Article 26.</u>		
<u>7. 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 pursuant to Article 26 to which the very large online platform is or may be exposed to.</u>		
<u>8. The management body shall devote sufficient time to the consideration of the measures related to risk management. It shall be actively involved in the decisions related to risk management and ensure</u>		



MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<u>that adequate resources are allocated to the management of the risks identified pursuant to Article 26.</u>		
<i>Article 33 Transparency reporting obligations for very large online platforms</i>		
1. <b>Providers of v</b> Very large online platforms shall publish the reports referred to in Article 13, <b><u>including the information referred to in Article 23</u></b> within six months from the date of application referred to in Article 25(4), and thereafter every six months.		
<b><u>1a. The reports pursuant to paragraph 1 shall also detail the human resources dedicated by the provider of very large online platforms to content moderation and processing complaints pursuant to Article 17 and shall specify the specialist and linguistic expertise of the staff, as well as the training and support given to such staff.</u></b>		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
2. In addition to the reports provided for in Article 13 <b><u>, including the information referred to in Article 23, providers of</u></b> 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):		
(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;		
(c) the audit report provided for in Article 28(3);		
(d) the audit implementation report provided for in Article 28(4).		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<p>3. Where a <b><u>provider of</u></b> very large online platforms considers that the publication of information pursuant to paragraph 2 may result in the 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 <del>platform</del> <b><u>provider</u></b> may remove such information from the reports. In that case, <del>that platform</del> <b><u>the provider</u></b> 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.</p>		
<p><b><u>Article 33a</u></b>  <b><u>Very large online search engines</u></b></p>		
<p><b><u>This Section shall apply, mutatis mutandis, to online search engines which reach a number of average monthly active recipients of the service in the Union equal to or higher than 45 million, and which are designated as very large online</u></b></p>		

<b>MEMBER STATE</b>		
<b>GENERAL COMMENTS:</b>		
<b>COMMISSION PROPOSAL</b>	<b>Drafting suggestions</b>	<b>Comments</b>
<u>search engines in accordance with Article 25(4).</u>		
<b><u>For the purpose of determining the number of average monthly active recipients of the service, Article 23(2) and Article 23(3) shall apply to all online search engines.</u></b>	For the purpose of determining the number of average monthly active recipients of the service, <del>Article 23(2)</del> and Article 23(3) shall apply to all online search engines.	All online search engines should not be required to report information on the average monthly active recipients of the service. Article 23(2) and (3) do not apply to micro and small enterprises. Article 23(3) must be the preferred option here – DCSs could request for information if they suspect that the thresholds have been surpassed.
<b>SECTION 5 OTHER PROVISIONS CONCERNING DUE DILIGENCE OBLIGATIONS</b>		
<i>Article 34 Standards</i>		
1. The Commission shall <b><u>consult the Board and shall</u></b> support and promote the development and implementation of voluntary <del>industry</del> standards set by relevant European and international standardisation bodies at least for the following:		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
(a) electronic submission of notices under Article 14;		
(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 <b>set out</b> 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;		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
<b><u>(g) prominent marking of advertisements and of commercial communication within content disseminated through online platforms pursuant to Article 24.</u></b>		
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. <b><u>The relevant information regarding the update of the standards shall be publicly available and easily accessible.</u></b>		
<i>Article 35</i> <i>Codes of conduct</i>		
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 particular on		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
competition and the protection of personal data.		
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 <b><u>providers of the</u></b> very large online platforms concerned, other <b><u>providers of</u></b> very large online platforms, <del>other</del> <b><u>of</u></b> online platforms and <del>other providers</del> 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.		
3. When giving effect to paragraphs 1 and 2, the Commission and the Board <b><u>and</u></b> <b><u>where relevant other bodies</u></b> 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		

<b>MEMBER STATE</b>		
<b>GENERAL COMMENTS:</b>		
<b>COMMISSION PROPOSAL</b>	<b>Drafting suggestions</b>	<b>Comments</b>
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 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.		
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.		



MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
Article 36 <i>Codes of conduct for online advertising</i>		
1. The Commission shall encourage and facilitate the drawing up of codes of conduct at Union level between, <b>providers of</b> online platforms and other relevant service providers, such as providers of online advertising intermediary services, <b>other actors involved in the programmatic advertising value chain</b> , 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.		
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:		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
(a) the transmission of information held by providers of online advertising intermediaries to recipients of the service with regard to requirements set in points (b) and (c) of Article 24;		
(b) the transmission of information held by providers of online advertising intermediaries to the repositories pursuant to Article 30.		
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.		
<i>Article 37</i> <i>Crisis protocols</i>		
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		

MEMBER STATE		
GENERAL COMMENTS:		
COMMISSION PROPOSAL	Drafting suggestions	Comments
situations strictly limited to extraordinary circumstances affecting public security or public health.		
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:		
(a) displaying prominent information on the crisis situation provided by Member States' authorities or at Union level <b><u>or by other relevant reliable bodies depending on the context of the crisis;</u></b>		
(b) ensuring that the <b><u>intermediary service provider appoints a specific point of contact responsible for crisis management; where relevant, this may be the electronic</u></b> point of contact referred to in Article 10 <del>is responsible for crisis management</del> <b><u>or, in the case of very large</u></b>		

<b>MEMBER STATE</b>		
<b>GENERAL COMMENTS:</b>		
<b>COMMISSION PROPOSAL</b>	<b>Drafting suggestions</b>	<b>Comments</b>
<u>online platforms, the compliance officer referred to in Article 32;</u>		
(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 <del>shall</del> <del>may</del> involve, as appropriate, Member States' authorities and <u>may also involve</u> 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.		
4. 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		

<b>MEMBER STATE</b>		
<b>GENERAL COMMENTS:</b>		
<b>COMMISSION PROPOSAL</b>	<b>Drafting suggestions</b>	<b>Comments</b>
circumstance the crisis protocol seeks to address and the objectives it pursues;		
(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;		

<b>MEMBER STATE</b>		
<b>GENERAL COMMENTS:</b>		
<b>COMMISSION PROPOSAL</b>	<b>Drafting suggestions</b>	<b>Comments</b>
(f) a process to publicly report on any measures taken, their duration and their outcomes, upon the termination of the crisis situation.		
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.		