



Council of the
European Union

Brussels, 29 May 2019
(OR. en, de)

Interinstitutional File:
2018/0112(COD)

9430/19
ADD 1

CODEC 1110
MI 456
COMPET 416
DIGIT 102
IND 179
TELECOM 233
PI 86
AUDIO 80
JUSTCIV 123

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Draft REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on promoting fairness and transparency for business users of online intermediation services (first reading) - Adoption of the legislative act - Statements

Statement by the Commission

The Commission takes note of the text of Article 1(4) agreed by the European Parliament and the Council.

The Commission wishes in this context to note that the present Regulation does not preclude Member States' ability to prohibit or sanction unilateral conduct or unfair commercial practices under their national law, provided that the relevant provisions of national law are applied in conformity with other provisions of Union law and are compatible with the provisions of the present Regulation.

The principle that national law should be compatible with this Regulation however only applies to the extent that the specific issue in question is specifically regulated therein. The Commission notes in this regard that this Regulation does not regulate all aspects of the commercial relationships between providers of online intermediation services and their business users.

In particular, the Commission considers that where the provisions of this Regulation set out a specific level of transparency or specific information obligations, in relation to these matters, Member States cannot prescribe different levels of transparency or different information obligations. However, this Regulation does not preclude the application of national rules which prohibit or sanction unilateral conduct or unfair commercial practices and which concern other matters, not regulated by the provisions of this Regulation.

Statement by Germany, supported by Belgium

Germany assumes that Member States will continue to be entitled to adopt further regulations in conformity with Union law to ensure media diversity. Germany also assumes that national rules for the competition authorities to address abusive practices and national contract law remain applicable alongside the Regulation. We understand Article 3(3) of the Regulation to mean that the Regulation does not preclude further examination of terms and conditions under national law, to the extent that the relevant areas are not covered by the Regulation.
