



Council of the European Union
General Secretariat

**Interinstitutional files:
2018/0112(COD)**

Brussels, 02 October 2018

WK 11529/2018 INIT

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WORKING PAPER

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From:	SK Delegation
To:	Working Party on Competitiveness and Growth (Internal Market)
Subject:	Slovakia's written comments on Platform-to-Business Regulation

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on promoting fairness and transparency for business users of online intermediation services

Comments of the Slovak Republic

Recital 5

We **do not agree with the deletion of the last sentence**. In our view it creates a link with the legal basis and the aim of the proposal which is removing fragmentation in the Internal Market.

Recital 6

We **do not agree with the deletion of the words „uniform and“ and with the newly added sentence at the end**. We propose to align this sentence with our written proposal on Article 1.

Recital 7

We see no added value of the **new sentence added at the end** of the recital and we are of the opinion that it will create legal uncertainty in practice. Therefore we **propose its deletion**.

Recital 12

In line with our comment on Article 2 we **have doubts about the extension of scope of the Regulation to individually negotiated contracts**.

Recital 14

We find it **confusing defining the term “modification” in a Recital**. For legal clarity we propose to express the idea in the legal text.

Recital 15

We find the newly added words **“are valid and enforceable under national law and” very confusing** without benefit to the good applicability of the Regulation. Furthermore we do not understand the meaning of the **last sentence**. Does it refer to further procedural steps? We have **doubts whether it is compatible with our written proposal** on Art. 1 (3).

Recital 27

Please see our comments on Article 12.

Article 1

Please refer to our written comments on Article 1.

Article 2

We would prefer the **original wording of the Commission's proposal in para. 2 (c)**. We fear the new wording will significantly alter the scope of the Regulation.

We suggest changing the definition in **para. 7** to **"corporate online interface user"** to reflect the change in the rest of the definition.

We do not agree with the deletion of words "and are unilaterally determined by the provider of online intermediation services" in para. 10.

In relation to **para. 11** we refer to our comment at the last WP on the **possible implications of a full reference to the definition of mediation** under the Mediation Directive.

Article 3

We propose an **exemption** from the notification obligation if the modifications are of **editorial, technical manner or if they are needed to ensure the security and integrity of the system and need to be implemented immediately**.

Furthermore we find the term **"non-binding" in para. 3 unclear** with uncertain legal implications. The Presidency changed the term *"ex nunc"* to *"ex tunc"* in Recital 15 and deleted para 2 (not reflected in the compromise text) of the initial proposal. With the current wording of Article 3 and Recital 15 it is **unclear what effect a court judgement in an individual case will have**. It is unclear whether a specific part of the T&C found by a court incompatible with the Regulation will be "non-binding" only for one specific business user or the judgement would have a mass effect in relation to all business users.

Article 4

We find the changes in Article 4 **problematic** due to **restricting the ability of OIS providers suspend or terminate a business user's account without observing the notice period** to very limited (and final) list of cases. We would welcome either reverting back to the initial proposal or extending the list of reasons in para. 3.

Article 8

We **propose to delete para. 2** which is no longer needed, if a general Internal Market clause in Article 1 (3) will be incorporated in the text.

Article 12

We **prefer to revert to the initial wording** of Article 12.

Please note that our **support for Article 12 is preconditioned by adopting Article 1 (3)**.

Article 13

We **propose to revert to the initial COM wording** of Article 13.

Article 14

For legal clarity we **propose to delete the newly added sentence in para 4**. We see no reason to include such sentence since the Commission adhering to the principle of better regulation have to take into consideration the voice of all relevant stakeholders and Member States.