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From:	SK delegation
To:	Working Party on Technical Harmonisation (Explosives Precursors)
Subject:	Proposal for a Regulation of the European Parliament and of the Council on the marketing and use of explosives precursors, amending Annex XVII to Regulation (EC) No 1907/2006 and repealing Regulation (EU) no 98/2013 on the marketing and use of explosives precursors - Comments from the SK delegation on WK 11040/2018 (Presidency compromise proposal)

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SK Comments on the AT Presidency Compromise Proposal (WK 11040/2018)

Proposal for a Regulation of The European Parliament and of the Council on the marketing and use of explosives precursors, amending Annex XVII to Regulation (EC) No 1907/2006 and repealing Regulation (EU) No 98/2013 on the marketing and use of explosives precursors

1. Online Market Places – preferred option a)

The Slovak Republic would like to express **serious concerns regarding the changes made in Art. 9 (1 to 3)**. In our view, the changes (addition of the online marketplaces) **interfere with the principle of non-liability of the information society services provider's** provided for in Articles 14 and 15 of the E-Commerce directive.

The proposed change in **Art. 9 (1)** would require setting up of complex monitoring mechanisms by online marketplaces leading to **additional burden**. It is likely that smaller marketplaces operated by **SMEs will be therefore in disadvantage** compared to large platforms who have enough resources to create such mechanisms.

Art. 9 (2) directly requires online marketplaces **to follow transactions**. It is questionable whether payment transactions need to be followed too. It needs to be noted that payment transactions are not necessarily handled by online marketplaces. The provision would therefore **force business models where transactions are made via online marketplaces**.

Art. 9 (3) gives rises to doubts whether online marketplaces as intermediaries have the **right to refuse a transaction**. The transaction between the customer and the economic operator is based on a contract. The online intermediary facilitates the conclusion of the contract. However, it has **no means to influence the terms of the contract** nor the legal possibility to interfere into process of concluding it.

Conclusion: taking into consideration the abovementioned, **the Slovak republic would like to exclude the obligation for the online marketplaces in the article 9 (1 to 3)**.

2. Future Amendments to Annex I – preferred option b)

The Slovak republic would like to **use existing regime of amending the Annex I as laid down in the Regulation (EU) No 98/2013**. That means to empower the Commission to amend Annex 1 and 2 by delegated acts, but **without adding any new substances in Annex I**.

3. Farmers and Agricultural Activity – preferred option b)

The Slovak Republic supports the proposal of the AT Presidency – to **add the definition of farmers into the definition of professional users**.