



Council of the European Union
General Secretariat

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

Brussels, 22 October 2018

WK 12658/2018 INIT

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WORKING PAPER

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

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

**Drafting proposal of the Spanish delegation on:
Articles 2 (10), 7.1, 10.1 2nd paragraph, 10.4, 12.2b, 12a and 14.1**

Article 2
Subject-matter and scope

[...]

(10) ‘terms and conditions’ means all terms, conditions or specifications, irrespective of their name or form, which govern the contractual relationship between the provider of online intermediation services and their business users.

[...]

Article 7
Access to data

1. Providers of online intermediation services shall include in their terms and conditions a description of the technical and contractual access of business users to any personal data or other data, or both, which business users or consumers provide for the use of the online intermediation services concerned or which are generated through the provision of those services.

[...]

Article 10

Mediation

1. [...]

Providers of online intermediation services may only identify mediators providing their mediation services from a location outside the Union where the providers can reliably demonstrate that the business users concerned are not deprived of the benefit of any legal safeguards laid down in Union law or the law of the Member States as a consequence of the mediators providing those services from outside the Union.

[...]

4. Providers of online intermediation services shall bear a reasonable proportion of the total costs of mediation in each individual case. A reasonable proportion of those total costs shall be determined, on the basis of a suggestion by the mediator, by taking into account all relevant elements of the case at hand, in particular the relative merits of the claims of the parties to the dispute, the conduct of the parties, as well as the size and financial strength of the parties relative to one another. However, providers of online intermediation services shall in any case bear at least half of the total cost.

[...]

Article 12

Judicial proceedings by representative organisations or associations and by public bodies qualified entities

[...]

2b. Member States shall designate

[...]

Article 12a

Sanctions

1. Each Member State shall designate a body or bodies responsible for adequate and effective enforcement of this Regulation.

2. Member States shall lay down the rules setting out the measures applicable to infringements of the provisions of this Regulation and shall ensure that they are implemented. The measures provided for shall be effective, proportionate and dissuasive.

3. The measures referred to in paragraph 2 shall be communicated to the Commission and made publicly available on the Commission's website.

Article 14

Review

1. By [date: two years after the date of entry into force], and subsequently every three years, the Commission shall evaluate this Regulation and report to the European Parliament, the Council and the European Economic and Social Committee.

[...]

Note: corresponding recitals should be amended accordingly.

