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WORKING PAPER

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From:	CZ Delegation
To:	Working Party on Competitiveness and Growth (Internal Market)
Subject:	Czechia's written comments of 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

Proposal of the Czech Republic on Article 4 and Article 9

Text proposal

Article 4

Suspension and termination

1. Where a provider of online intermediation services decides to suspend ~~or terminate~~, in whole or in part, the provision of its online intermediation services to a given business user, it shall provide the business user concerned, without undue delay, with a statement of reasons for that decision **on a durable medium**.
2. The statement of reasons referred to in paragraph 1 shall contain a reference to the specific facts or circumstances that led to the decision of the provider of online intermediation services, as well as a reference to the applicable objective ground or grounds for that decision referred to in Article 3(1)(c).
3. **Where a provider of online intermediation services decides to take action in accordance with paragraph 1, it shall refrain from termination, in whole or in a part, of the account of the business user concerned, for at least 30 days after the statement of reasons for suspension was provided.**
4. **The provider of online intermediation services shall consider all pertinent facts and circumstances, and where reasonable and technically feasible, carry out only partial suspension or termination of its online intermediation services.**
5. **The period referred to in paragraph 3 shall not apply where:**
 - (a) a provider of online intermediation services is required to terminate, in whole or in part, the provision of its services with immediate effect under a regulatory obligation pursuant to national or Union law or, where applicable, in order to benefit from the liability exemption as laid down in Article 14(1)(b) of Directive 2000/31/EC;**
 - (b) the lack of action of a provider of online intermediation services would constitute an immediate threat to the online intermediation service, its business users or end-users.**

Rationale

In view of the stated objective of the Regulation, the Czech Republic suggests a solution that brings a balance between the possible actions of providers of online intermediation services and the behaviour of their business users. As the elements of suspension and termination are both very important part of providers of online intermediation services reaction, they both should be kept. Nevertheless, the essence of our suggestion is to highlight that the suspension, or even partial suspension, of the service should always be considered as the very first option rather than a full termination of the service (Para 1 and 4). 30 days period (Para 3) should be used as a time for both sides to clarify what is necessary to remedy the situation. Providers of

online intermediation services should have a possibility to terminate the service in cases which are to the detriment of providers itself or of its users (Para 5). If this proposal is accepted, the changes described above should be also reflected in the relevant recital 16. To keep our proposal as much as clear as possible, we outlined the changes into the original text proposed by the Commission.

Text proposal

Article 9

Internal complaint-handling system

1. Providers of online intermediation services shall provide for an internal system for handling the complaints of business users.

That internal complaint-handling system shall be easily accessible for business users. It shall allow them to lodge complaints directly with the provider concerned regarding any of the following issues:

- (a) alleged non-compliance by that provider with any legal obligations laid down in this Regulation which negatively affects the complainant;
 - (b) technological issues which relate directly to the provision of online intermediation services, and which negatively affect the complainant in a non-negligible manner;
 - (c) measures taken by, or behaviour of, that provider which relate directly to the provision of the online intermediation services, and which negatively affect the complainant in a non-negligible manner.
2. As part of their internal complaint-handling system, providers of online intermediation services shall:
 - (a) duly consider complaints lodged and the follow-up which they may need to give to the complaint in order to adequately address the issue raised, in a manner which is proportionate to the importance and complexity of that issue;
 - (b) process complaints swiftly and effectively, taking into account the importance and complexity of the issue raised;
 - (c) communicate to the complainant the outcome of the internal complaint-handling process, in an individualised manner and drafted in clear and unambiguous language.
3. Providers of online intermediation services shall include in their terms and conditions all relevant information relating to the access to and functioning of their internal complaint-handling system.
4. Providers of online intermediation services shall annually establish and **submit to the Commission** ~~make easily available to the public~~ information on the functioning and effectiveness of their internal complaint-handling system.

That information shall include the total number of complaints lodged, the subject-matter of the complaints, the time period needed to process the complaints and the decision taken on the complaints.

5. The provisions of this Article shall not apply to providers of online intermediation services that are small enterprises within the meaning of Article 2 (2) of the Annex to Recommendation 2003/361/EC¹.

Rationale

In a spirit of compromise, the Czech Republic suggests a minor but still important change on modification of Para 4. On one hand, we are of the opinion that report providing the information on complaints dealt and solved via the internal complaint-handling system might be misleading, misused and misinterpreted easily (lack of clarity on what the difference between the question and a real complaint is; posing a superfluous number of queries to the service provider by the business users). To the other, we are well aware of the fact that the information can be very relevant for the further work of the Expert group for the Observatory on the online platform economy. In this regard, the suggestion put a duty on providers of online intermediation services to submit the information on number of complaints to the Commission, so the information would be to the use of the Commission only. If this proposal is accepted, the changes described above should be also reflected in the relevant recital 23. Also in this case we outlined the changes into the original text proposed by the Commission.

¹ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5/2003, p. 36).