European Commission: Agreement on new Regulation on fairness and transparency of online platforms

IRIS 2019-4:1/7

Ronan Ó Fathaigh
Institute for Information Law (IViR), University of Amsterdam

On 14 February 2019, the European Parliament, the Council of the European Union and the European Commission announced a political deal had been reached on a new Regulation on promoting fairness and transparency for business users of online intermediation services. The Regulation was first proposed by the European Commission as part of its Digital Single Market Strategy for Europe (see IRIS 2015-6/13, IRIS 2015-10/4, IRIS 2017-7/7). The purpose of the Regulation is to ensure a fair and transparent legal environment for business users of online platforms and corporate website users of online search engines, and limit harmful platform-to-business trading practices.

The Regulation uses the term “online intermediation services” for online platforms, and lays down a number of obligations on business users and corporate website users in respect of" online intermediation services and online search engines. The term “online intermediation services” is rather lengthily defined under Article 2 as information society services that (a) allow business users to offer goods or services to consumers with a view to facilitating the initiating of direct transactions between those business users and consumers, and (b) are provided to business users on the basis of contractual relationships between the provider of those services and both those business users and the consumers to which those business users offer goods or services.

Examples given by the Commission of the type of platforms covered by the Regulation include: third-party e-commerce marketplaces (such as Amazon Marketplace and eBay); app stores (such as Google Play and Apple App Store); social media for business (such as Facebook pages and Instagram); and price comparison tools (e.g. Skyscanner, Google Shopping). However, the Regulation excludes online advertising, online retailers, retailers of brands (such as Nike.com), and platforms that “do not intermediate direct transactions between businesses and consumers”.

A number of the new rules are worth mentioning briefly. Firstly, under Article 4, where an online intermediation service decides to suspend or terminate the provision of services to a business user, it must provide a statement of its reasons for that decision. In addition, under Article 9, online intermediation services must maintain an internal system for handling the complaints of business users.

© European Audiovisual Observatory (Council of Europe) 2026

Secondly, in relation to ranking, online intermediation services must set out the main parameters determining ranking and the reasons for the relative importance of those main parameters (as opposed to other parameters). Furthermore, online search engines must set out for corporate website users the main parameters determining ranking by providing an easily and publicly available description - drafted in clear and unambiguous language - on the online search engines of those providers. Thirdly, online intermediation services must include in their terms and conditions a description of the technical and contractual access of professional users to any personal data or other data provided by professional users or consumers for use by the service or which are generated. Lastly, under Article 13, the Commission will encourage the drawing-up of codes of conduct by online intermediation services and online search engines in order to contribute to the proper application of the Regulation.

The Regulation will be binding in its entirety and directly applicable in all member states, and will come into force 12 months after its adoption and publication.

European Commission, "Digital Single Market: EU negotiators agree to set up new European rules to improve fairness of online platforms' trading practices", 14 February 2019

http://europa.eu/rapid/press-release_IP-19-1168_en.htm

European Commission, Proposal for a Regulation of the European Parliament and of the Council on promoting fairness and transparency for business users of online intermediation services, COM(2018) 238 final, 26 April 2018 https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52018PC0238&from=EN

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026