



Council of the European Union
General Secretariat

Brussels, 13 April 2022

**Interinstitutional files:
2020/0374 (COD)**

WK 5540/2022 INIT

LIMITE

RC

MI

CODEC

COMPET

TELECOM

IA

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

WORKING DOCUMENT

| | |
|-------|------------------------------------|
| From: | General Secretariat of the Council |
| To: | Working Party on Competition |

| | |
|----------|---|
| Subject: | Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on contestable and fair markets in the digital sector |
|----------|---|

Delegations will find attached the final 4-column document (Articles and Recitals) after technical finalisation to reflect the provisional political agreement reached during the 4th DMA trilogue of 24 March 2022 and pending lawyer linguistic finalisation.

WK 5540/2022 INIT

LIMITE

EN

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on contestable and fair markets in the digital sector (Digital Markets Act) (Text with EEA relevance)

2020/0374(COD)

Non-versioned [LATEST TEXT]

08-04-2022 at 11h56

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---|---|---|--|
| Formula | | | | |
| 1 | 2020/0374 (COD) | 2020/0374 (COD) | 2020/0374 (COD) | 2020/0374 (COD) <small>Text Origin: Commission Proposal</small> |
| Proposal Title | | | | |
| 2 | Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on contestable and fair markets in the digital sector (Digital Markets Act) (Text with EEA relevance) | Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on contestable and fair markets in the digital sector (Digital Markets Act) (Text with EEA relevance) | Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on contestable and fair markets in the digital sector (Digital Markets Act) (Text with EEA relevance) | Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on contestable and fair markets in the digital sector (Digital Markets Act) (Text with EEA relevance) <small>Text Origin: Commission Proposal</small> |
| Formula | | | | |
| 3 | THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, | THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, | THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, | THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, <small>Text Origin: Commission Proposal</small> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|---|---|--|
| | | | | Proposal |
| Citation 1 | | | | |
| 4 | Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof, | Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof, | Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof, | Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof, Text Origin: Commission Proposal |
| Citation 2 | | | | |
| 5 | Having regard to the proposal from the European Commission, | Having regard to the proposal from the European Commission, | Having regard to the proposal from the European Commission, | Having regard to the proposal from the European Commission, Text Origin: Commission Proposal |
| Citation 3 | | | | |
| 6 | After transmission of the draft legislative act to the national parliaments, | After transmission of the draft legislative act to the national parliaments, | After transmission of the draft legislative act to the national parliaments, | After transmission of the draft legislative act to the national parliaments, Text Origin: Commission Proposal |
| Citation 4 | | | | |
| 7 | Having regard to the opinion of the European Economic and Social Committee ¹ , <u>1. OJ C , , p . .</u> | Having regard to the opinion of the European Economic and Social Committee ¹ , <u>1. OJ C , , p . .</u> | Having regard to the opinion of the European Economic and Social Committee ¹ , <u>1. OJ C , , p . .</u> | Having regard to the opinion of the European Economic and Social Committee ¹ , <u>1. OJ C , , p . .</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|---|--|--|
| | | | | Text Origin: Commission Proposal |
| Citation 5 | | | | |
| 8 | Having regard to the opinion of the Committee of the Regions ¹ , <u>1. OJ C , , p. .</u> | Having regard to the opinion of the Committee of the Regions ¹ , <u>1. OJ C , , p. .</u> | Having regard to the opinion of the Committee of the Regions ¹ , <u>1. OJ C , , p. .</u> | Having regard to the opinion of the Committee of the Regions ¹ , <u>1. OJ C , , p. .</u> Text Origin: Commission Proposal |
| Citation 6 | | | | |
| 9 | Having regard to the opinion of the European Data Protection Supervisor ¹ , <u>1. OJ C , , p. .</u> | Having regard to the opinion of the European Data Protection Supervisor ¹ , <u>1. OJ C , , p. .</u> | <i>deleted</i> | <i>Having regard to the opinion of the European Data Protection Supervisor¹; deleted</i> <u>1. OJ C , , p. .</u> |
| Citation 7 | | | | |
| 10 | Acting in accordance with the ordinary legislative procedure, | Acting in accordance with the ordinary legislative procedure, | Acting in accordance with the ordinary legislative procedure, | Acting in accordance with the ordinary legislative procedure, Text Origin: Commission Proposal |
| Formula | | | | |
| 11 | Whereas: | Whereas: | Whereas: | Whereas: Text Origin: Commission Proposal |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-----------|--|---|---|--|
| Recital 1 | | | | |
| 12 | (1) Digital services in general and online platforms in particular play an increasingly important role in the economy, in particular in the internal market, by providing new business opportunities in the Union and facilitating cross-border trading. | (1) Digital services in general and online platforms in particular play an increasingly important role in the economy, in particular in the internal market, by providing <u>business users with gateways to reach end users throughout the Union and beyond, by facilitating cross-border trade and by opening entirely</u> new business opportunities <u>to a large number of companies</u> in the Union and facilitating cross-border trading <u>to the benefit of Union's consumers.</u> | (1) Digital services in general and online platforms in particular play an increasingly important role in the economy, in particular in the internal market, by providing new business opportunities in the Union and facilitating cross-border trading. | (1) Digital services in general and online platforms in particular play an increasingly important role in the economy, in particular in the internal market, by <u>providing allowing businesses to reach users throughout the Union, by facilitating cross-border trade and by opening entirely</u> new business opportunities <u>to a large number of companies</u> in the Union and facilitating cross-border trading <u>to the benefit of the Union's consumers.</u> Text Origin: EP Mandate |
| Recital 2 | | | | |
| 13 | (2) Core platform services, at the same time, feature a number of characteristics that can be exploited by their providers. These characteristics of core platform services include among others extreme scale economies, which often result from nearly zero marginal costs to add business users or end users. Other characteristics of core platform services are very strong network effects, an ability to connect many business users with | (2) Core platform services, at the same time, feature a number of characteristics that can be exploited by their providers. These characteristics of core platform services include among others extreme scale economies, which often result from nearly zero marginal costs to add business users or end users. Other characteristics of core platform services are very strong network effects, an ability to connect many business users with | (2) Core platform services, at the same time, feature a number of characteristics that can be exploited by their providers <u>the undertakings providing them.</u> These characteristics of core platform services include among others extreme scale economies, which often result from nearly zero marginal costs to add business users or end users. Other characteristics of core platform services are very strong network effects, an ability to | (2) Core platform services, <u>among those digital services, core platform services</u> feature a number of characteristics that can be exploited by their providers <u>the undertakings providing them.</u> These characteristics of core platform services include among others extreme scale economies, which often result from nearly zero marginal costs to add business users or end users. Other characteristics of |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|--|--|---|
| | <p>many end users through the multi-sidedness of these services, a significant degree of dependence of both business users and end users, lock-in effects, a lack of multi-homing for the same purpose by end users, vertical integration, and data driven-advantages. All these characteristics combined with unfair conduct by providers of these services can have the effect of substantially undermining the contestability of the core platform services, as well as impacting the fairness of the commercial relationship between providers of such services and their business users and end users, leading to rapid and potentially far-reaching decreases in business users' and end users' choice in practice, and therefore can confer to the provider of those services the position of a so-called gatekeeper.</p> | <p>many end users through the multi-sidedness of these services, a significant degree of dependence of both business users and end users, lock-in effects, a lack of multi-homing for the same purpose by end users, vertical integration, and data driven-advantages. All these characteristics combined with unfair conduct by providers of these services can have the effect of substantially undermining the contestability of the core platform services, as well as impacting the fairness of the commercial relationship between providers of such services and their business users and end users, leading to rapid and potentially far-reaching decreases in business users' and end users' choice in practice, and therefore can confer to the provider of those services the position of a so-called gatekeeper. <u>At the same time, it should be recognised that services acting in a non-commercial purpose capacity such as collaborative projects should not be considered as core services for the purpose of this Regulation.</u></p> | <p>connect many business users with many end users through the multi-sidedness of these services, a significant degree of dependence of both business users and end users, lock-in effects, a lack of multi-homing for the same purpose by end users, vertical integration, and data driven-advantages. All these characteristics combined with unfair conduct by providers <u>of undertakings providing</u> these services can have the effect of substantially undermining the contestability of the core platform services, as well as impacting the fairness of the commercial relationship between providers <u>of undertakings providing</u> such services and their business users and end users, leading to rapid and potentially far-reaching decreases in business users' and end users' choice in practice, and therefore can confer to the provider <u>of undertakings providing</u> those services the position of a so-called gatekeeper.</p> | <p>core platform services are very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, a significant degree of dependence of both business users and end users, lock-in effects, a lack of multi-homing for the same purpose by end users, vertical integration, and data driven-advantages. All these characteristics combined with unfair conduct by providers <u>of undertakings providing</u> these services can have the effect of substantially undermining the contestability of the core platform services, as well as impacting the fairness of the commercial relationship between providers <u>of undertakings providing</u> such services and their business users and end users, leading to rapid and potentially far-reaching decreases in business users' and end users' choice in practice, and therefore can confer to the provider of those services the position of a so-called gatekeeper. <u>At the same time, it should be recognised that services acting in a non-commercial purpose capacity such as collaborative projects should not be considered as core platform services for the purpose of this Regulation.</u></p> <p>Text Origin: EP Mandate</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----|---|---|---|---|
| | | | | |
| | Recital 3 | | | |
| 14 | <p>(3) A small number of large providers of core platform services have emerged with considerable economic power. Typically, they feature an ability to connect many business users with many end users through their services which, in turn, allows them to leverage their advantages, such as their access to large amounts of data, from one area of their activity to new ones. Some of these providers exercise control over whole platform ecosystems in the digital economy and are structurally extremely difficult to challenge or contest by existing or new market operators, irrespective of how innovative and efficient these may be. Contestability is particularly reduced due to the existence of very high barriers to entry or exit, including high investment costs, which cannot, or not easily, be recuperated in case of exit, and absence of (or reduced access to) some key inputs in the digital economy, such as data. As a result, the likelihood increases that the underlying markets do not function well – or will soon fail to function well.</p> | <p>(3) A small number of large providers of core platform services have emerged with considerable economic power. Typically, they feature an ability to connect many business users with many end users through their services which, in turn, allows them to leverage their advantages, such as their access to large amounts of data, from one area of their activity to new ones. Some of these providers exercise control over whole platform ecosystems in the digital economy and are structurally extremely difficult to challenge or contest by existing or new market operators, irrespective of how innovative and efficient these may be. Contestability is particularly reduced due to the existence of very high barriers to entry or exit, including high investment costs, which cannot, or not easily, be recuperated in case of exit, and absence of (or reduced access to) some key inputs in the digital economy, such as data. As a result, the likelihood increases that the underlying markets do not function well – or will soon fail to function well.</p> | <p>(3) A small number of large providers of <u>undertakings providing</u> core platform services have emerged with considerable economic power. Typically, they feature an ability to connect many business users with many end users through their services which, in turn, allows them to leverage their advantages, such as their access to large amounts of data, from one area of their activity to new ones. Some of these providers <u>undertakings</u> exercise control over whole platform ecosystems in the digital economy and are structurally extremely difficult to challenge or contest by existing or new market operators, irrespective of how innovative and efficient these may be. Contestability is particularly reduced due to the existence of very high barriers to entry or exit, including high investment costs, which cannot, or not easily, be recuperated in case of exit, and absence of (or reduced access to) some key inputs in the digital economy, such as data. As a result, the likelihood increases that the underlying markets do not function well – or will soon fail to function well.</p> | <p>(3) A small number of large providers of <u>undertakings providing</u> core platform services have emerged with considerable economic power. Typically, they feature an ability to connect many business users with many end users through their services which, in turn, allows them to leverage their advantages, such as their access to large amounts of data, from one area of their activity to new ones <u>another</u>. Some of these providers <u>undertakings</u> exercise control over whole platform ecosystems in the digital economy and are structurally extremely difficult to challenge or contest by existing or new market operators, irrespective of how innovative and efficient these may be. Contestability is particularly reduced due to the existence of very high barriers to entry or exit, including high investment costs, which cannot, or not easily, be recuperated in case of exit, and absence of (or reduced access to) some key inputs in the digital economy, such as data. As a result, the likelihood increases that the underlying markets do not function well – or will soon fail to function well.</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-----------|---|---|--|--|
| | | | | Text Origin: Council Mandate |
| Recital 4 | | | | |
| 15 | (4) The combination of those features of gatekeepers is likely to lead in many cases to serious imbalances in bargaining power and, consequently, to unfair practices and conditions for business users as well as end users of core platform services provided by gatekeepers, to the detriment of prices, quality, choice and innovation therein. | (4) The combination of those features of gatekeepers is likely to lead in many cases to serious imbalances in bargaining power and, consequently, to unfair practices and conditions for business users as well as end users of core platform services provided by gatekeepers, to the detriment of prices, quality, <u>privacy and security standards, fair competition</u> , choice and innovation therein. | (4) The combination of those features of gatekeepers is likely to lead in many cases to serious imbalances in bargaining power and, consequently, to unfair practices and conditions for business users as well as end users of core platform services provided by gatekeepers, to the detriment of prices, quality, choice and innovation therein. | (4) The combination of those features of gatekeepers is likely to lead in many cases to serious imbalances in bargaining power and, consequently, to unfair practices and conditions for business users as well as end users of core platform services provided by gatekeepers, to the detriment of prices, quality, <u>fair competition</u> , choice and innovation therein. Text Origin: EP Mandate |
| Recital 5 | | | | |
| 16 | (5) It follows that the market processes are often incapable of ensuring fair economic outcomes with regard to core platform services. Whereas Articles 101 and 102 TFEU remain applicable to the conduct of gatekeepers, their scope is limited to certain instances of market power (e.g. dominance on specific markets) and of anti-competitive behaviour, while enforcement occurs ex post and requires an extensive investigation of often very complex facts on a case by case basis. Moreover, | (5) It follows that the market processes are often incapable of ensuring fair economic outcomes with regard to core platform services. Whereas Articles 101 and 102 TFEU remain applicable to the conduct of gatekeepers, their scope is limited to certain instances of market power (e.g. dominance on specific markets) and of anti-competitive behaviour, while enforcement occurs ex post and requires an extensive investigation of often very complex facts on a case by case basis. Moreover, | (5) It follows that the market processes are often incapable of ensuring fair economic outcomes with regard to core platform services. Whereas Articles 101 and 102 <u>of the Treaty on the Functioning of the European Union (TFEU)</u> TFEU remain applicable to the conduct of gatekeepers, their scope is limited to certain instances of market power (e.g. dominance on specific markets) and of anti-competitive behaviour, while enforcement occurs ex post and requires an extensive | (5) It follows that the market processes are often incapable of ensuring fair economic outcomes with regard to core platform services. Whereas Articles 101 and 102 <u>of the Treaty on the Functioning of the European Union (TFEU)</u> TFEU remain applicable to the conduct of gatekeepers, their scope is limited to certain instances of market power (e.g. dominance on specific markets) and of anti-competitive behaviour, while enforcement occurs ex post and requires an extensive |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-----------|--|--|---|---|
| | <p>existing Union law does not address, or does not address effectively, the identified challenges to the well-functioning of the internal market posed by the conduct of gatekeepers, which are not necessarily dominant in competition-law terms.</p> | <p>existing Union law does not address, or does not address effectively, the identified challenges to the well-functioning of the internal market posed by the conduct of gatekeepers, which are not necessarily dominant in competition-law terms.</p> | <p>investigation of often very complex facts on a case by case basis. Moreover, existing Union law does not address, or does not address effectively, the identified challenges to the well-functioning of the internal market posed by the conduct of gatekeepers, which are not necessarily dominant in competition-law terms.</p> | <p>investigation of often very complex facts on a case by case basis. Moreover, existing Union law does not address, or does not address effectively, the identified challenges to the well-functioning of the internal market posed by the conduct of gatekeepers, which are not necessarily dominant in competition-law terms.</p> <p><small>Text Origin: Council Mandate</small></p> |
| Recital 6 | | | | |
| 17 | <p>(6) Gatekeepers have a significant impact on the internal market, providing gateways for a large number of business users, to reach end users, everywhere in the Union and on different markets. The adverse impact of unfair practices on the internal market and particularly weak contestability of core platform services, including their negative societal and economic implications, have led national legislators and sectoral regulators to act. A number of national regulatory solutions have already been adopted or proposed to address unfair practices and the contestability of digital services or at least with regard to some of them. This has created a risk of divergent regulatory solutions and thereby fragmentation of the internal market,</p> | <p>(6) Gatekeepers have a significant impact on the internal market, providing gateways for a large number of business users, to reach end users, everywhere in the Union and on different markets. The adverse impact of unfair practices on the internal market and particularly weak contestability of core platform services, including their negative societal and economic implications, have led national legislators and sectoral regulators to act. A number of national regulatory solutions have already been adopted <u>at national level</u> or proposed to address unfair practices and the contestability of digital services or at least with regard to some of them. This has created a risk of divergent regulatory solutions and thereby fragmentation</p> | <p>(6) Gatekeepers have a significant impact on the internal market, providing gateways for a large number of business users, to reach end users, everywhere in the Union and on different markets. The adverse impact of unfair practices on the internal market and particularly weak contestability of core platform services, including their negative societal and economic implications, have led national legislators and sectoral regulators to act. A number of national regulatory solutions have already been adopted or proposed to address unfair practices and the contestability of digital services or at least with regard to some of them. This has created a risk of divergent regulatory solutions and thereby fragmentation of the internal market,</p> | <p>(6) Gatekeepers have a significant impact on the internal market, providing gateways for a large number of business users, to reach end users, everywhere in the Union and on different markets. The adverse impact of unfair practices on the internal market and particularly weak contestability of core platform services, including their negative societal and economic implications, have led national legislators and sectoral regulators to act. A number of national regulatory solutions have already been adopted <u>at national level</u> or proposed to address unfair practices and the contestability of digital services or at least with regard to some of them. This has created a risk of divergent regulatory solutions and thereby fragmentation</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-----------|--|--|---|---|
| | thus raising the risk of increased compliance costs due to different sets of national regulatory requirements. | of the internal market, thus raising the risk of increased compliance costs due to different sets of national regulatory requirements. | thus raising the risk of increased compliance costs due to different sets of national regulatory requirements. | of the internal market, thus raising the risk of increased compliance costs due to different sets of national regulatory requirements. <small>Text Origin: EP Mandate</small> |
| Recital 7 | | | | |
| 18 | (7) Therefore, business users and end-users of core platform services provided by gatekeepers should be afforded appropriate regulatory safeguards throughout the Union against the unfair behaviour of gatekeepers in order to facilitate cross-border business within the Union and thereby improve the proper functioning of the internal market and to address existing or likely emerging fragmentation in the specific areas covered by this Regulation. Moreover, while gatekeepers tend to adopt global or at least pan-European business models and algorithmic structures, they can adopt, and in some cases have adopted, different business conditions and practices in different Member States, which is liable to create disparities between the competitive conditions for the users of core platform services provided by gatekeepers, to the detriment of integration within the internal market. | (7) Therefore, business users and end-users of core platform services provided by gatekeepers should be afforded appropriate regulatory safeguards throughout the Union against the unfair behaviour of gatekeepers in order to facilitate cross-border business within the Union and thereby improve the proper functioning of the internal market and to address existing or likely emerging fragmentation in the specific areas covered by this Regulation. Moreover, while gatekeepers tend to adopt global or at least pan-European business models and algorithmic structures, they can adopt, and in some cases have adopted, different business conditions and practices in different Member States, which is liable to create disparities between the competitive conditions for the users of core platform services provided by gatekeepers, to the detriment of integration within the internal market. | (7) Therefore, <u>the objective of this Regulation is to contribute to the proper functioning of the internal market by laying down rules to ensure contestability and fairness for the markets in the digital sector in general and for business users and end-users of core platform services provided by gatekeepers in particular.</u> Business users and end-users of core platform services provided by gatekeepers should be afforded appropriate regulatory safeguards throughout the Union against the unfair behaviour of gatekeepers in order to facilitate cross-border business within the Union and thereby improve the proper functioning of the internal market and to address <u>eliminate</u> existing or likely emerging fragmentation in the specific areas covered by this Regulation. Moreover, while gatekeepers tend to adopt global or at least pan-European business models and algorithmic structures, they can | (7) Therefore, <u>the objective of this Regulation is to contribute to the proper functioning of the internal market by laying down rules to ensure contestability and fairness for the markets in the digital sector in general and for business users and end-users of core platform services provided by gatekeepers in particular.</u> Business users and end-users of core platform services provided by gatekeepers should be afforded appropriate regulatory safeguards throughout the Union against the unfair behaviour of gatekeepers in order to facilitate cross-border business within the Union and thereby improve the proper functioning of the internal market and to address <u>eliminate</u> existing or likely emerging fragmentation in the specific areas covered by this Regulation. Moreover, while gatekeepers tend to adopt global or at least pan-European business models and algorithmic structures, they can |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-----------|--|--|---|--|
| | | | adopt, and in some cases have adopted, different business conditions and practices in different Member States, which is liable to create disparities between the competitive conditions for the users of core platform services provided by gatekeepers, to the detriment of integration within <u>of</u> the internal market. | adopt, and in some cases have adopted, different business conditions and practices in different Member States, which is liable to create disparities between the competitive conditions for the users of core platform services provided by gatekeepers, to the detriment of integration within <u>of</u> the internal market. <small>Text Origin: Council Mandate</small> |
| Recital 8 | | | | |
| 19 | (8) By approximating diverging national laws, obstacles to the freedom to provide and receive services, including retail services, within the internal market should be eliminated. A targeted set of harmonised mandatory rules should therefore be established at Union level to ensure contestable and fair digital markets featuring the presence of gatekeepers within the internal market. | (8) By approximating diverging national laws, obstacles to the freedom to provide and receive services, including retail services, within the internal market should be eliminated. A targeted set of harmonised mandatory rules <u>legal obligations</u> should therefore be established at Union level to ensure contestable and fair digital markets featuring the presence of gatekeepers within the internal market <u>to the benefit of Union's economy as whole and Union's consumers in particular.</u> | (8) By approximating diverging national laws, obstacles to the freedom to provide and receive services, including retail services, within the internal market should be eliminated. A targeted set of harmonised mandatory rules should therefore be established at Union level to ensure contestable and fair digital markets featuring the presence of gatekeepers within the internal market. | (8) By approximating diverging national laws, obstacles to the freedom to provide and receive services, including retail services, within the internal market should be eliminated. A targeted set of harmonised mandatory rules <u>legal obligations</u> should therefore be established at Union level to ensure contestable and fair digital markets featuring the presence of gatekeepers within the internal market <u>to the benefit of the Union's economy as a whole and ultimately of the Union's consumers.</u> <small>Text Origin: EP Mandate</small> |
| Recital 9 | | | | |
| 20 | (9) A fragmentation of the internal | (9) A fragmentation of the internal | (9) A fragmentation of the internal | (9) <u>A fragmentation of the internal</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|---|--|--|
| | <p>market can only be effectively averted if Member States are prevented from applying national rules which are specific to the types of undertakings and services covered by this Regulation. At the same time, since this Regulation aims at complementing the enforcement of competition law, it should be specified that this Regulation is without prejudice to Articles 101 and 102 TFEU, to the corresponding national competition rules and to other national competition rules regarding unilateral behaviour that are based on an individualised assessment of market positions and behaviour, including its likely effects and the precise scope of the prohibited behaviour, and which provide for the possibility of undertakings to make efficiency and objective justification arguments for the behaviour in question. However, the application of the latter rules should not affect the obligations imposed on gatekeepers under this Regulation and their uniform and effective application in the internal market.</p> | <p>market can only be effectively averted if Member States are prevented from applying <u>national on gatekeepers further rules which are specific or obligations for the purpose of ensuring contestable and fair markets. This is without prejudice</u> to the types of undertakings and services covered by this Regulation <u>ability of Member States to impose the same, stricter or different obligations on gatekeepers in order to pursue other legitimate public interests, in compliance with Union law. Those legitimate public interests can be, among others, consumer protection, fight against acts of unfair competition and fostering media freedom and pluralism, freedom of expression, as well as diversity in culture or in languages.</u> At the same time, since this Regulation aims at complementing the enforcement of competition law, it should be specified that this Regulation is without prejudice to Articles 101 and 102 TFEU, to the corresponding national competition rules and to other national competition rules regarding unilateral behaviour that are based on an individualised assessment of market positions and behaviour, including its likely effects and the precise scope of the prohibited behaviour, and which provide for the</p> | <p>market can only be effectively averted if Member States are prevented from applying national rules which are <i>specific to the types of undertakings and services covered by within the scope of</i> this Regulation. At the same time, since this Regulation aims at complementing the enforcement of competition law, it should be specified that and which pursue the same objectives as this Regulation is without prejudice to Articles 101 and 102 TFEU, to the corresponding. <u>This does not preclude the possibility to apply other national competition rules and legislation which pursues other national competition rules regarding unilateral behaviour that are based on an individualised assessment of market positions and behaviour, including its likely effects and the precise scope</u> <u>legitimate public interest objectives as set out in the TFEU or overriding reasons of public interest as recognised by the case law</u> of the prohibited behaviour, and which provide for the possibility of undertakings to make efficiency and objective justification arguments for the behaviour in question. However, the application of the latter rules should not affect the obligations imposed on gatekeepers under <u>Court of Justice of the European Union ('the Court</u></p> | <p><u>market can only be effectively averted if Member States are prevented from applying national rules which are within the scope of this Regulation and which pursue the same objectives as this Regulation. This does not preclude the possibility to apply other national legislation which pursues other legitimate public interest objectives as set out in the TFEU or overriding reasons of public interest as recognised by the case law of the Court of Justice of the European Union ('the Court of Justice'), to gatekeepers as defined within the meaning of this Regulation.</u> A fragmentation of the internal market can only be effectively averted if Member States are prevented from applying national rules which are specific to the types of undertakings and services covered by this Regulation. At the same time, since this Regulation aims at complementing the enforcement of competition law, it should be specified that this Regulation is without prejudice to Articles 101 and 102 TFEU, to the corresponding national competition rules and to other national competition rules regarding unilateral behaviour that are based on an individualised assessment of market positions and behaviour, including its likely effects and the precise scope of the</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---------------------|--|---|---|
| | | <p>possibility of undertakings to make efficiency and objective justification arguments for the behaviour in question. However, the application of the latter rules should not affect the obligations <u>and prohibitions</u> imposed on gatekeepers under this Regulation and their uniform and effective application in the internal market.</p> | <p><i>of Justice’), to gatekeepers as defined within the meaning of this Regulation and their uniform and effective application in the internal market.</i></p> | <p><i>prohibited behaviour, and which provide for the possibility of undertakings to make efficiency and objective justification arguments for the behaviour in question. However, the application of the latter rules should not affect the obligations imposed on gatekeepers under this Regulation and their uniform and effective application in the internal market.</i></p> |
| Recital 9a | | | | |
| 20a | | | <p><i>(9a) At the same time, since this Regulation aims at complementing the enforcement of competition law, it should be specified that this Regulation is without prejudice to Articles 101 and 102 TFEU, to the corresponding national competition rules and to other national competition rules regarding unilateral behaviour that are based on an individualised assessment of market positions and behaviour, including its likely effects and the precise scope of the prohibited behaviour, and which provide for the possibility of undertakings to make efficiency and objective justification arguments for the behaviour in question. However, the application of the latter rules should not affect the obligations imposed on gatekeepers under this</i></p> | <p><i>(9a) At the same time, since this Regulation aims at complementing the enforcement of competition law, it should be specified that this Regulation is without prejudice to Articles 101 and 102 TFEU, to the corresponding national competition rules and to other national competition rules regarding unilateral behaviour that are based on an individualised assessment of market positions and behaviour, including its actual or likely effects and the precise scope of the prohibited behaviour, and which provide for the possibility of undertakings to make efficiency and objective justification arguments for the behaviour in question, and to national rules concerning merger control. However, the application of those</i></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|--|---|--|
| | | | <u>Regulation and their uniform and effective application in the internal market.</u> | <u>rules should not affect the obligations imposed on gatekeepers under this Regulation and their uniform and effective application in the internal market.</u> |
| Recital 10 | | | | |
| 21 | <p>(10) Articles 101 and 102 TFEU and the corresponding national competition rules concerning anticompetitive multilateral and unilateral conduct as well as merger control have as their objective the protection of undistorted competition on the market. This Regulation pursues an objective that is complementary to, but different from that of protecting undistorted competition on any given market, as defined in competition-law terms, which is to ensure that markets where gatekeepers are present are and remain contestable and fair, independently from the actual, likely or presumed effects of the conduct of a given gatekeeper covered by this Regulation on competition on a given market. This Regulation therefore aims at protecting a different legal interest from those rules and should be without prejudice to their application.</p> | <p>(10) Articles 101 and 102 TFEU and the corresponding national competition rules concerning anticompetitive multilateral and unilateral conduct as well as merger control have as their objective the protection of undistorted competition on the market. This Regulation pursues an objective that is complementary to, but different from that of protecting undistorted competition on any given market, as defined in competition-law terms, which is to ensure that markets where gatekeepers are present are and remain contestable and fair, <u>and to protect the respective rights of business users and end users,</u> independently from the actual, likely or presumed effects of the conduct of a given gatekeeper covered by this Regulation on competition on a given market. This Regulation therefore aims at protecting a different legal interest from those rules and should be without prejudice to their application.</p> | <p>(10) Articles 101 and 102 TFEU and the corresponding national competition rules concerning anticompetitive multilateral and unilateral conduct as well as merger control have as their objective the protection of undistorted competition on the market. This Regulation pursues an objective that is complementary to, but different from that of protecting undistorted competition on any given market, as defined in competition-law terms, which is to ensure that markets where gatekeepers are present are and remain contestable and fair, independently from the actual, likely or presumed effects of the conduct of a given gatekeeper covered by this Regulation on competition on a given market. This Regulation therefore aims at protecting a different legal interest from those rules and should be without prejudice to their application.</p> | <p>(10) Articles 101 and 102 TFEU and the corresponding national competition rules concerning anticompetitive multilateral and unilateral conduct as well as merger control have as their objective the protection of undistorted competition on the market. This Regulation pursues an objective that is complementary to, but different from that of protecting undistorted competition on any given market, as defined in competition-law terms, which is to ensure that markets where gatekeepers are present are and remain contestable and fair, independently from the actual, likely or presumed effects of the conduct of a given gatekeeper covered by this Regulation on competition on a given market. This Regulation therefore aims at protecting a different legal interest from those rules and should be without prejudice to their application.</p> <p><u>Text Origin: Council Mandate</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|---|---|--|
| Recital 11 | | | | |
| 22 | <p>(11) This Regulation should also complement, without prejudice to their application, the rules resulting from other acts of Union law regulating certain aspects of the provision of services covered by this Regulation, in particular Regulation (EU) 2019/1150 of the European Parliament and of the Council¹, Regulation (EU) xx/xx/EU [DSA] of the European Parliament and of the Council², Regulation (EU) 2016/679 of the European Parliament and of the Council³, Directive (EU) 2019/790 of the European Parliament and of the Council⁴, Directive (EU) 2015/2366 of the European Parliament and of the Council⁵, and Directive (EU) 2010/13 of the European Parliament and of the Council⁶, as well as national rules aimed at enforcing or, as the case may be, implementing that Union legislation.</p> <p>1. Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (OJ L 186, 11.7.2019, p. 57). 2. Regulation (EU) .../.. of the European Parliament and of the Council – proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC. 3. Regulation (EU) 2016/679 of the</p> | <p>(11) This Regulation should also complement, without prejudice to their application, the rules resulting from other acts of Union law regulating certain aspects of the provision of services covered by this Regulation, in particular Regulation (EU) 2019/1150 of the European Parliament and of the Council¹, Regulation (EU) xx/xx/EU [DSA] of the European Parliament and of the Council², Regulation (EU) 2016/679 of the European Parliament and of the Council³, Directive (EU) 2019/790 of the European Parliament and of the Council⁴, Directive 2002/58/EC, Directive (EU) 2015/2366 of the European Parliament and of the Council⁵, and Directive (EU) 2010/13 Directive (EU) 2019/882, Directive (EU) 2018/1808 and Directive 2010/13/EU of the European Parliament and of the Council⁶, Directive 2005/29/EC of the European Parliament and of the Council and Council Directive 93/13/EEC as well as rules at national level adopted in accordance with Union legislation. Concerning specifically rules on consent to the processing of personal data set out in</p> | <p>(11) This Regulation should also complement apply, without prejudice to their application, the rules resulting from other acts of Union law regulating certain aspects of the provision of services covered by this Regulation, in particular Regulation (EU) 2019/1150 of the European Parliament and of the Council¹, Regulation (EU) xx/xx/EU [DSA] of the European Parliament and of the Council², Regulation (EU) 2016/679 of the European Parliament and of the Council³, Directive 2002/58/EC of the European Parliament and of the Council⁴, Directive (EU) 2019/790 of the European Parliament and of the Council⁴⁵, Directive (EU) 2015/2366 of the European Parliament and of the Council⁵, and⁶, Directive (EU) 2010/13 2010/13/EU of the European Parliament and of the Council⁷, Directive 2005/29/EC of the European Parliament and of the Council⁶⁸ and Council Directive 93/13/EEC⁹, as well as national rules aimed at enforcing or, as the case may be, implementing that Union legislation.</p> <p>1. Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online</p> | <p>(11) This Regulation should also apply, without prejudice to the rules resulting from other acts of Union law regulating certain aspects of the provision of services covered by this Regulation, in particular Regulation (EU) 2019/1150 of the European Parliament and of the Council¹, Regulation (EU) xx/xx/EU [DSA] of the European Parliament and of the Council², Regulation (EU) 2016/679 of the European Parliament and of the Council³, Directive 2002/58/EC of the European Parliament and of the Council⁴, Directive (EU) 2019/790 of the European Parliament and of the Council⁵, Directive (EU) 2019/882 This Regulation should also complement, without prejudice to their application, the rules resulting from other acts of Union law regulating certain aspects of the provision of services covered by this Regulation, in particular Regulation (EU) 2019/1150 of the European Parliament and of the Council¹, Regulation (EU) xx/xx/EU [DSA] of the European Parliament and of the Council², Regulation (EU) 2016/679 of the European Parliament and of the Council³, Directive (EU) 2019/790 of the European Parliament and of the Council⁴,</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---|---|---|---|
| | <p>European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).</p> <p>4. Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/ (OJ L 130, 17.5.2019, p. 92.).</p> <p>5. Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).</p> <p>6. Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).</p> | <p><u>Regulation (EU) 2016/679 and Directive 2002/58/EC, this Regulation applies these rules without affecting them.</u></p> <p>1. Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (OJ L 186, 11.7.2019, p. 57).</p> <p>2. Regulation (EU) .../.. of the European Parliament and of the Council— proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC.</p> <p>3. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).</p> <p>4. Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC <u>2001/29/EC</u> (OJ L 130, 17.5.2019, p. 92.).</p> <p>5. Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).</p> <p>6. Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual</p> | <p>intermediation services (OJ L 186, 11.7.2019, p. 57).</p> <p>2. Regulation (EU) .../.. of the European Parliament and of the Council – proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC.</p> <p>3. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).</p> <p>4. Directive (EU) 2019/790/2002/58/EC of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/ (OJ L 130, 17.5.2019, p. 92. <u>12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (OJ L 201, 31.7.2002, p. 37).</u></p> <p>5. Directive (EU) 2015/2366/2019/790 of the European Parliament and of the Council of 25 November 2015 on payment services <u>17 April 2019 on copyright and related rights in the internal Digital Single Market, and amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35</u> <u>96/9/EC and 2001/29/EC (OJ L 130, 17.5.2019, p. 92.).</u></p> <p>6. Directive 2010/13/EU <u>(EU) 2015/2366</u> of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1) <u>25 November 2015 on</u></p> | <p>Directive <u>(EU) 2018/1808, Directive (EU) 2015/2366 of the European Parliament and of the Council</u> ⁶, <u>Directive (EU) 2010/13/EU of the European Parliament and of the Council</u> ⁷, <u>Directive 2005/29/EC of the European Parliament and of the Council</u> ⁸ and <u>Council Directive 93/13/EEC</u> ⁹, <u>as well as national rules aimed at enforcing or, as the case may be, implementing that Union legislation.</u> (EU) 2015/2366 of the European Parliament and of the Council ⁵, and Directive (EU) 2010/13 of the European Parliament and of the Council ⁶, as well as national rules aimed at enforcing or, as the case may be, implementing that Union legislation.</p> <p>1. Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (OJ L 186, 11.7.2019, p. 57).</p> <p>2. Regulation (EU) .../.. of the European Parliament and of the Council— proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC.</p> <p>3. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).</p> <p>4. Directive (EU) 2019/790 of the European</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|--|---|--|
| | | <p>media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).</p> | <p><u>payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).</u> <u>7. Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).</u> <u>8. Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ L 149, 11.6.2005, p. 22).</u> <u>9. Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, (OJ L 95, 21.4.1993, p. 29).</u></p> | <p><i>Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/ (OJ L 130, 17.5.2019, p. 92).</i> <i>5. Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).</i> <i>6. Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).</i></p> |
| Recital 12 | | | | |
| 23 | <p>(12) Weak contestability and unfair practices in the digital sector are more frequent and pronounced for certain digital services than for others. This is the case in particular for widespread and commonly used digital services that mostly directly intermediate between business users and end users and where features</p> | <p>(12) Weak contestability and unfair practices in the digital sector are more frequent and pronounced for certain digital services than for others. This is the case in particular for widespread and commonly used digital services that mostly directly intermediate between business users and end users and where features</p> | <p>(12) Weak contestability and unfair practices in the digital sector are more frequent and pronounced for certain digital services than for others. This is the case in particular for widespread and commonly used digital services that mostly directly intermediate between business users and end users and where features</p> | <p>(12) Weak contestability and unfair practices in the digital sector are more frequent and pronounced for certain digital services than for others. This is the case in particular for widespread and commonly used digital services that mostly directly intermediate between business users and end users and where features</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---|--|---|--|---|
| | <p>such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration are the most prevalent. Often, there is only one or very few large providers of those digital services. These providers of core platform services have emerged most frequently as gatekeepers for business users and end users with far-reaching impacts, gaining the ability to easily set commercial conditions and terms in a unilateral and detrimental manner for their business users and end users. Accordingly, it is necessary to focus only on those digital services that are most broadly used by business users and end users and where, based on current market conditions, concerns about weak contestability and unfair practices by gatekeepers are more apparent and pressing from an internal market perspective.</p> | <p>such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration are the most prevalent. Often, there is only one or very few large providers of those digital services. These providers of core platform services have emerged most frequently as gatekeepers for business users and end users with far-reaching impacts, gaining the ability to easily set commercial conditions and terms in a unilateral and detrimental manner for their business users and end users. Accordingly, it is necessary to focus only on those digital services that are most broadly used by business users and end users and where, based on current market conditions, concerns about weak contestability and unfair practices by gatekeepers are more apparent and pressing from an internal market perspective.</p> | <p>such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration are the most prevalent. Often, there is only one or very few large providers of <u>undertakings providing</u> those digital services. These providers of <u>undertakings providing</u> core platform services have emerged most frequently as gatekeepers for business users and end users with far-reaching impacts, gaining the ability to easily set commercial conditions and terms in a unilateral and detrimental manner for their business users and end users. Accordingly, it is necessary to focus only on those digital services that are most broadly used by business users and end users and where, based on current market conditions, concerns about weak contestability and unfair practices by gatekeepers are more apparent and pressing from an internal market perspective.</p> | <p>such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration are the most prevalent. Often, there is only one or very few large providers of <u>undertakings providing</u> those digital services. These providers of core platform services <u>undertakings</u> have emerged most frequently as gatekeepers for business users and end users with far-reaching impacts, gaining the ability to easily set commercial conditions and terms in a unilateral and detrimental manner for their business users and end users. Accordingly, it is necessary to focus only on those digital services that are most broadly used by business users and end users and where, based on current market conditions, concerns about weak contestability and unfair practices by gatekeepers are more apparent and pressing from an internal market perspective.</p> <p><small>Text Origin: EP Mandate</small></p> |
| | Recital 13 | | | |
| 6 | 24 | (13) In particular, online intermediation services, online | (13) In particular, online intermediation services, online | (13) In particular, online intermediation services, online |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|---|--|--|
| | <p>search engines, operating systems, online social networking, video sharing platform services, number-independent interpersonal communication services, cloud computing services and online advertising services all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They therefore should be included in the definition of core platform services and fall into the scope of this Regulation. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council¹. In certain circumstances, the notion of end users should encompass users that are traditionally considered business users, but in a given situation do not use the core platform services to provide goods or services to other end users, such as for example businesses relying on cloud computing services for their own purposes.</p> <p>¹. Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on</p> | <p>search engines, operating systems <u>such as on smart devices, internet of things or embedded digital services in vehicles</u>, online social networking, video sharing platform services, number-independent interpersonal communication services, cloud computing services, <u>virtual assistant services, web browsers, connected TV</u> and online advertising services all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They therefore should be included in the definition of core platform services and fall into the scope of this Regulation. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council¹. In certain circumstances, the notion of end users should encompass users that are traditionally considered business users, but in a given situation do not use the core platform services to provide goods or services to other end users, such as for example businesses relying on cloud computing services for their own purposes.</p> | <p>search engines, operating systems, online social networking, video sharing platform services, number-independent interpersonal communication services, cloud computing services and online advertising services, <u>notably online advertising intermediation services</u>, all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They therefore should be included in the definition of core platform services and fall into the scope of this Regulation. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council¹. In <u>addition core platform services, such as online intermediation services could also be provided by means of voice assistant technology. In</u> certain circumstances, the notion of end users should encompass users that are traditionally considered business users, but in a given situation do not use the core platform services to provide goods or services to other end users, such as for example businesses relying on cloud computing services for their own purposes.</p> | <p>search engines, operating systems, online social networking, video sharing platform services, number-independent interpersonal communication services, cloud computing services, <u>virtual assistants, web browsers</u> and online advertising services, <u>including online advertising intermediation services</u>, -all have the capacity to affect a large number of end users and businesses alike, which entails a risk of unfair business practices. They therefore should be included in the definition of core platform services and fall into the scope of this Regulation. Online intermediation services may also be active in the field of financial services, and they may intermediate or be used to provide such services as listed non-exhaustively in Annex II to Directive (EU) 2015/1535 of the European Parliament and of the Council¹. <u>For the purposes of this Regulation, these definitions of core platform services should be technology neutral and should be understood to encompass those offered on or through various means or devices, such as connected TV or embedded digital services in vehicles.</u> In certain circumstances, the notion of end users should encompass users that are traditionally considered business users, but in a given situation do not</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|---|--|--|
| | Information Society services, OJ L 241, 17.9.2015, p. 1. | 1. Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ L 241, 17.9.2015, p. 1. | 1. Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services; (OJ L 241, 17.9.2015, p. 1 <u>1</u>). | <p>use the core platform services to provide goods or services to other end users, such as for example businesses relying on cloud computing services for their own purposes.</p> <p>1. Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ L 241, 17.9.2015, p. 1.</p> <p>Text Origin: Auxiliary</p> |
| Recital 14 | | | | |
| 25 | (14) A number of other ancillary services, such as identification or payment services and technical services which support the provision of payment services, may be provided by gatekeepers together with their core platform services. As gatekeepers frequently provide the portfolio of their services as part of an integrated ecosystem to which third-party providers of such ancillary services do not have access, at least not subject to equal conditions, and can link the access to the core platform service to take-up of one or more ancillary services, the gatekeepers are likely to have an increased ability and incentive to | (14) A number of other ancillary services, such as identification or services , payment services and , technical services which support the provision of payment services <u>or in-app payment systems</u> , may be provided by gatekeepers together with their core platform services. As gatekeepers frequently provide the portfolio of their services as part of an integrated ecosystem to which third-party providers of such ancillary services do not have access, at least not subject to equal conditions, and can link the access to the core platform service to take-up of one or more ancillary services, the gatekeepers are likely to have an | (14) A number of other ancillary services, such as <u>integrated advertising services</u> , identification or payment services and technical services which support the provision of payment services, may be provided by gatekeepers together with their core platform services. As gatekeepers frequently provide the portfolio of their services as part of an integrated ecosystem to which third-party providers of such ancillary services do not have access, at least not subject to equal conditions, and can link the access to the core platform service to take-up of one or more ancillary services, the gatekeepers are likely to have an | (14) A number of other ancillary services, such as identification or payment services and technical services which support the provision of payment services, may be provided by gatekeepers together with their core platform services. As gatekeepers frequently provide the portfolio of their services as part of an integrated ecosystem to which third-party providers of such ancillary services do not have access, at least not subject to equal conditions, and can link the access to the core platform service to take-up of one or more ancillary services, the gatekeepers are likely to have an increased ability and incentive to |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---|---|--|---|
| | leverage their gatekeeper power from their core platform services to these ancillary services, to the detriment of choice and contestability of these services. | increased ability and incentive to leverage their gatekeeper power from their core platform services to these ancillary services, to the detriment of choice and contestability of these services. | increased ability and incentive to leverage their gatekeeper power from their core platform services to these ancillary services, to the detriment of choice and contestability of these services. | leverage their gatekeeper power from their core platform services to these ancillary services, to the detriment of choice and contestability of these services. <u>(deleted)</u> |
| Recital 14a | | | | |
| 25a | | <u>(14a) Gatekeepers may also provide other ancillary services, for instance retailing or distribution activities, that are targeted at end users alongside their core platform services. Such ancillary services can compete with business users of the core platform service and contribute significantly to the imbalance in a given market and ultimately increase unfairly the gatekeeper's power, including in relation to the gatekeeper's business partners, such as suppliers of goods or services, relying on such ancillary service. To prevent gatekeepers from unfairly benefiting from the leverage provided by provision of parallel services, such ancillary services should also be subject to the obligations applicable to core platform services.</u> | | |
| Recital 15 | | | | |
| 26 | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|--|--|--|
| | <p>(15) The fact that a digital service qualifies as a core platform service in light of its widespread and common use and its importance for connecting business users and end users does not as such give rise to sufficiently serious concerns of contestability and unfair practices. It is only when a core platform service constitutes an important gateway and is operated by a provider with a significant impact in the internal market and an entrenched and durable position, or by a provider that will foreseeably have such a position in the near future, that such concerns arise. Accordingly, the targeted set of harmonised rules laid down in this Regulation should apply only to undertakings designated on the basis of these three objective criteria, and they should only apply to those of their core platform services that individually constitute an important gateway for business users to reach end users.</p> | <p>(15) The fact that a digital service qualifies as a core platform service in light of its widespread and common use and its importance for connecting business users and end users does not as such give rise to sufficiently serious concerns of contestability and unfair practices. It is only when a core platform service constitutes an important gateway and is operated by a provider with a significant impact in the internal market and an entrenched and durable position, or by a provider that will foreseeably have such a position in the near future, that such concerns arise. Accordingly, the targeted set of harmonised rules laid down in this Regulation should apply only to undertakings designated on the basis of these three objective criteria, and they should only apply to those of their core platform services that individually constitute an important gateway for business users to reach end users.</p> | <p>(15) The fact that a digital service qualifies as a core platform service in light of its widespread and common use and its importance for connecting business users and end users does not as such give rise to sufficiently serious concerns of contestability and unfair practices. It is only when a core platform service constitutes an important gateway and is operated by a provider<u>an undertaking</u> with a significant impact in the internal market and an entrenched and durable position, or by a provider<u>an undertaking</u> that will foreseeably have such a position in the near future, that such concerns arise. Accordingly, the targeted set of harmonised rules laid down in this Regulation should apply only to undertakings designated on the basis of these three objective criteria, and they should only apply to those of their core platform services that individually constitute an important gateway for business users to reach end users.</p> | <p>(15) The fact that a digital service qualifies as a core platform service in light of its widespread and common use and its importance for connecting business users and end users does not as such give rise to sufficiently serious concerns of contestability and unfair practices. It is only when a core platform service constitutes an important gateway and is operated by a provider<u>an undertaking</u> with a significant impact in the internal market and an entrenched and durable position, or by a provider<u>an undertaking</u> that will foreseeably have such a position in the near future, that such concerns arise. Accordingly, the targeted set of harmonised rules laid down in this Regulation should apply only to undertakings designated on the basis of these three objective criteria, and they should only apply to those of their core platform services that individually constitute an important gateway for business users to reach end users.</p> <p><u><i>The fact that an undertaking providing core platform services may not only intermediate between business users and end users, but also between end users and end users, for example in the case of number independent interpersonal communications services, should not preclude the conclusion that such an undertaking is or may be</i></u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|---|---|---|
| | | | | <p><u>an important gateway for business users to reach end users.</u></p> <p>Text Origin: Council Mandate</p> |
| Recital 16 | | | | |
| 27 | <p>(16) In order to ensure the effective application of this Regulation to providers of core platform services which are most likely to satisfy these objective requirements, and where unfair conduct weakening contestability is most prevalent and impactful, the Commission should be able to directly designate as gatekeepers those providers of core platform services which meet certain quantitative thresholds. Such undertakings should in any event be subject to a fast designation process which should start upon the entry into force of this Regulation.</p> | <p>(16) In order to ensure the effective application of this Regulation to providers of core platform services which are most likely to satisfy these objective requirements, and where unfair conduct weakening contestability is most prevalent and impactful, the Commission should be able to directly designate as gatekeepers those providers of core platform services which meet certain quantitative thresholds. Such undertakings should in any event be subject to a fast designation process which should start upon the entry into force of this Regulation.</p> | <p>(16) In order to ensure the effective application of this Regulation to <u>providers of undertakings providing</u> core platform services which are most likely to satisfy these objective requirements, and where unfair conduct weakening contestability is most prevalent and impactful, the Commission should be able to directly designate as gatekeepers those <u>providers of undertakings providing</u> core platform services which meet certain quantitative thresholds. Such undertakings should in any event be subject to a fast designation process which should start upon the entry into force of this Regulation <u>once this Regulation becomes applicable.</u></p> <p>Text Origin: Council Mandate</p> | <p>(16) In order to ensure the effective application of this Regulation to <u>providers of undertakings providing</u> core platform services which are most likely to satisfy these objective requirements, and where unfair conduct weakening contestability is most prevalent and impactful, the Commission should be able to directly designate as gatekeepers those <u>providers of undertakings providing</u> core platform services which meet certain quantitative thresholds. Such undertakings should in any event be subject to a fast designation process which should start upon the entry into force of this Regulation <u>once this Regulation becomes applicable.</u></p> <p>Text Origin: Council Mandate</p> |
| Recital 17 | | | | |
| 28 | <p>(17) A very significant turnover in the Union and the provision of a core platform service in at least three Member States constitute compelling indications that the</p> | <p>(17) A very significant turnover in the Union and the provision of a core platform service in at least three Member States constitute compelling indications that the</p> | <p>(17) A very significant turnover in the Union and the provision of a core platform service in at least three Member States constitute compelling indications that the</p> | <p>(17) A very significant turnover in the Union and the provision of a core platform service in at least three Member States constitute compelling indications that the</p> |

| Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---|---|---|--|
| <p>provider of a core platform service has a significant impact on the internal market. This is equally true where a provider of a core platform service in at least three Member States has a very significant market capitalisation or equivalent fair market value. Therefore, a provider of a core platform service should be presumed to have a significant impact on the internal market where it provides a core platform service in at least three Member States and where either its group turnover realised in the EEA is equal to or exceeds a specific, high threshold or the market capitalisation of the group is equal to or exceeds a certain high absolute value. For providers of core platform services that belong to undertakings that are not publicly listed, the equivalent fair market value above a certain high absolute value should be referred to. The Commission should use its power to adopt delegated acts to develop an objective methodology to calculate that value. A high EEA group turnover in conjunction with the threshold of users in the Union of core platform services reflects a relatively strong ability to monetise these users. A high market capitalisation relative to the same threshold number of users in the Union reflects a relatively significant potential to monetise these users in</p> | <p>provider of a core platform service has a significant impact on the internal market. This is equally true where a provider of a core platform service in at least three Member States has a very significant market capitalisation or equivalent fair market value. Therefore, a provider of a core platform service should be presumed to have a significant impact on the internal market where it provides a core platform service in at least three Member States and where either its group turnover realised in the EEA is equal to or exceeds a specific, high threshold or the market capitalisation of the group is equal to or exceeds a certain high absolute value. For providers of core platform services that belong to undertakings that are not publicly listed, the equivalent fair market value above a certain high absolute value should be referred to. The Commission should use its power to adopt delegated acts to develop an objective methodology to calculate that value. A high EEA group turnover in conjunction with the threshold of users in the Union of core platform services reflects a relatively strong ability to monetise these users. A high market capitalisation relative to the same threshold number of users in the Union reflects a relatively significant potential to monetise these users in</p> | <p>provider of<u>undertaking providing</u> a core platform service has a significant impact on the internal market. This is equally true where a provider of<u>an undertaking providing</u> a core platform service in at least three Member States has a very significant market capitalisation or equivalent fair market value. Therefore, a provider of<u>an undertaking providing</u> a core platform service should be presumed to have a significant impact on the internal market where it provides a core platform service in at least three Member States and where either its group turnover realised in the <u>European Economic Area (EEA)</u>EEA is equal to or exceeds a specific, high threshold or the market capitalisation of the group is equal to or exceeds a certain high absolute value. For providers of<u>undertakings providing</u> core platform services that belong to undertakings that are not publicly listed, the equivalent fair market value above a certain high absolute value should be referred to. The Commission should use its power to adopt delegated acts to develop an objective methodology to calculate that value. A high EEA group turnover in conjunction with the threshold of users in the Union of core platform services reflects a relatively strong ability to monetise</p> | <p>provider of<u>undertaking providing</u> a core platform service has a significant impact on the internal market. This is equally true where a provider of<u>an undertaking providing</u> a core platform service in at least three Member States has a very significant market capitalisation or equivalent fair market value. Therefore, a provider of<u>an undertaking providing</u> a core platform service should be presumed to have a significant impact on the internal market where it provides a core platform service in at least three Member States and where either its group turnover realised in the <u>EEA Union</u> is equal to or exceeds a specific, high threshold or the market capitalisation of the group is equal to or exceeds a certain high absolute value. For providers of<u>undertakings providing</u> core platform services that belong to undertakings that are not publicly listed, the equivalent fair market value above a certain high absolute value should be referred to<u>used as reference</u>. The Commission should<u>may</u> use its power to adopt delegated acts to develop an objective methodology to calculate that value. A high <u>EEA Union</u> group turnover in conjunction with the threshold of users in the Union of core platform services reflects a relatively strong ability to monetise</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|--|---|--|
| | <p>the near future. This monetisation potential in turn reflects in principle the gateway position of the undertakings concerned. Both indicators are in addition reflective of their financial capacity, including their ability to leverage their access to financial markets to reinforce their position. This may for example happen where this superior access is used to acquire other undertakings, which ability has in turn been shown to have potential negative effects on innovation. Market capitalisation can also be reflective of the expected future position and effect on the internal market of the providers concerned, notwithstanding a potentially relatively low current turnover. The market capitalisation value can be based on a level that reflects the average market capitalisation of the largest publicly listed undertakings in the Union over an appropriate period.</p> | <p>the near future. This monetisation potential in turn reflects in principle the gateway position of the undertakings concerned. Both indicators are in addition reflective of their financial capacity, including their ability to leverage their access to financial markets to reinforce their position. This may for example happen where this superior access is used to acquire other undertakings, which ability has in turn been shown to have potential negative effects on innovation. Market capitalisation can also be reflective of the expected future position and effect on the internal market of the providers concerned, notwithstanding a potentially relatively low current turnover. The market capitalisation value can be based on a level that reflects the average market capitalisation of the largest publicly listed undertakings in the Union over an appropriate period.</p> | <p>these users. A high market capitalisation relative to the same threshold number of users in the Union reflects a relatively significant potential to monetise these users in the near future. This monetisation potential in turn reflects in principle the gateway position of the undertakings concerned. Both indicators are in addition reflective of their financial capacity, including their ability to leverage their access to financial markets to reinforce their position. This may for example happen where this superior access is used to acquire other undertakings, which ability has in turn been shown to have potential negative effects on innovation. Market capitalisation can also be reflective of the expected future position and effect on the internal market of the providers<u>undertakings</u> concerned, notwithstanding a potentially relatively low current turnover. The market capitalisation value can be based on a level that reflects the average market capitalisation of the largest publicly listed undertakings in the Union over an appropriate period.</p> | <p>these users. A high market capitalisation relative to the same threshold number of users in the Union reflects a relatively significant potential to monetise these users in the near future. This monetisation potential in turn reflects in principle the gateway position of the undertakings concerned. Both indicators are in addition reflective of their financial capacity, including their ability to leverage their access to financial markets to reinforce their position. This may for example happen where this superior access is used to acquire other undertakings, which ability has in turn been shown to have potential negative effects on innovation. Market capitalisation can also be reflective of the expected future position and effect on the internal market of the providers<u>undertakings</u> concerned, notwithstanding a potentially relatively low current turnover. The market capitalisation value can<u>should</u> be based on a level that reflects the average market capitalisation of the largest publicly listed undertakings in the Union over an appropriate period.</p> <p><small>Text Origin: Council Mandate Linguistic changes OK</small></p> |

Recital 18

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|--|---|---|
| 29 | (18) A sustained market capitalisation of the provider of core platform services at or above the threshold level over three or more years should be considered as strengthening the presumption that the provider of core platform services has a significant impact on the internal market. | (18) A sustained market capitalisation of the provider of core platform services at or above the threshold level over three or more years should be considered as strengthening the presumption that the provider of core platform services has a significant impact on the internal market. | (18) A sustained market capitalisation of the provider <u>of undertaking providing</u> core platform services at or above the threshold level over three or more years should be considered as strengthening the presumption that the provider of <u>undertaking providing</u> core platform services has a significant impact on the internal market. | (18) A sustained <u>Whereas a</u> market capitalisation of the provider of core platform services at or above the threshold level over three or more years <u>in the last financial year</u> should be considered as <u>strengthening the</u> give rise to a presumption that the provider of <u>undertaking providing</u> core platform services has a significant impact on the internal <u>market, a sustained</u> market <u>capitalisation of the undertaking providing core platform services at or above the threshold level over three or more years should be considered as further strengthening that presumption.</u> Text Origin: Council Mandate |
| Recital 19 | | | | |
| 30 | (19) There may be a number of factors concerning market capitalisation that would require an in-depth assessment in determining whether a provider of core platform services should be deemed to have a significant impact on the internal market. This may be the case where the market capitalisation of the provider of core platform services in preceding financial years was | (19) There may be a number of factors concerning market capitalisation that would require an in-depth assessment in determining whether a provider of core platform services should be deemed to have a significant impact on the internal market. This may be the case where the market capitalisation of the provider of core platform services in preceding financial years was | (19) There may be a number of factors concerning market capitalisation that would require an in-depth assessment in determining whether a provider of an <u>undertaking providing</u> core platform services should be deemed to have a significant impact on the internal market. This may be the case where the market capitalisation of the provider of <u>undertaking</u> | (19) <u>By contrast,</u> there may be a number of factors concerning market capitalisation that would require an in-depth assessment in determining whether a provider of an <u>undertaking providing</u> core platform services should be deemed to have a significant impact on the internal market. This may be the case where the market capitalisation of the provider of <u>undertaking</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|---|--|--|
| | significantly lower than the average of the equity market, the volatility of its market capitalisation over the observed period was disproportionate to overall equity market volatility or its market capitalisation trajectory relative to market trends was inconsistent with a rapid and unidirectional growth. | significantly lower than the average of the equity market, the volatility of its market capitalisation over the observed period was disproportionate to overall equity market volatility or its market capitalisation trajectory relative to market trends was inconsistent with a rapid and unidirectional growth. | <u>providing</u> core platform services in preceding financial years was significantly lower than the average of the equity market, the volatility of its market capitalisation over the observed period was disproportionate to overall equity market volatility or its market capitalisation trajectory relative to market trends was inconsistent with a rapid and unidirectional growth. | <u>providing</u> core platform services in preceding financial years was significantly lower than the average of the equity market , <u>threshold and</u> the volatility of its market capitalisation over the observed period was disproportionate to overall equity market volatility or its market capitalisation trajectory relative to market trends was inconsistent with a rapid and unidirectional growth. Text Origin: Council Mandate |
| Recital 20 | | | | |
| 31 | (20) A very high number of business users that depend on a core platform service to reach a very high number of monthly active end users allow the provider of that service to influence the operations of a substantial part of business users to its advantage and indicate in principle that the provider serves as an important gateway. The respective relevant levels for those numbers should be set representing a substantive percentage of the entire population of the Union when it comes to end users and of the entire population of businesses using platforms to determine the threshold for business users. | (20) A very high number of business users that depend on a core platform service to reach a very high number of monthly active end users allow the provider of that service to influence the operations of a substantial part of business users to its advantage and indicate in principle that the provider serves as an important gateway. The respective relevant levels for those numbers should be set representing a substantive percentage of the entire population of the Union when it comes to end users and of the entire population of businesses using platforms to determine the threshold for business users. | (20) A very high number of business users that depend on a core platform service to reach a very high number of monthly active end users allow the provider of <u>undertaking providing</u> that service to influence the operations of a substantial part of business users to its advantage and indicate in principle that the provider <u>undertaking</u> serves as an important gateway. The respective relevant levels for those numbers should be set representing a substantive percentage of the entire population of the Union when it comes to end users and of the entire population of businesses using platforms to determine the threshold for business users. <u>Active end users</u> | (20) A very high number of business users that depend on a core platform service to reach a very high number of monthly active end users allow the provider of <u>undertaking providing</u> that service to influence the operations of a substantial part of business users to its advantage and indicate in principle that the provider <u>undertaking</u> serves as an important gateway. The respective relevant levels for those numbers should be set representing a substantive percentage of the entire population of the Union when it comes to end users and of the entire population of businesses using platforms to determine the threshold for business users. <u>Active end users</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|---|---|--|
| | | | <p><u>and business users should be identified and calculated in a way to adequately represent the role and reach of the specific core platform service in question. In order to provide legal certainty for gatekeepers, elements to determine the number of active end users and business users per core platform service should be set out in an Annex to this Regulation. Such elements can be impacted by technological and other developments. The Commission should therefore be empowered to adopt delegated act to amend such elements of the Annex to this Regulation to determine the number of active end users and active business users.</u></p> | <p><u>and business users should be identified and calculated in a way to adequately represent the role and reach of the specific core platform service in question. In order to provide legal certainty for gatekeepers, elements to determine the number of active end users and business users per core platform service should be set out in an Annex to this Regulation. Such elements can be impacted by technological and other developments. The Commission should therefore be empowered to adopt a delegated act to amend the methodology and the list of indicators of the Annex to this Regulation to determine the number of active end users and active business users.</u></p> <p>Text Origin: Council Mandate</p> |
| Recital 21 | | | | |
| 32 | <p>(21) An entrenched and durable position in its operations or the foreseeability of achieving such a position future occurs notably where the contestability of the position of the provider of the core platform service is limited. This is likely to be the case where that provider has provided a core platform service in at least three Member States to a</p> | <p>(21) An entrenched and durable position in its operations or the foreseeability of achieving such a position future occurs notably where the contestability of the position of the provider of the core platform service is limited. This is likely to be the case where that provider has provided a core platform service in at least three Member States to a</p> | <p>(21) An entrenched and durable position in its operations or the foreseeability of achieving such a position future occurs notably where the contestability of the position of the provider of<u>undertaking providing</u> the core platform service is limited. This is likely to be the case where that provider<u>undertaking</u> has provided a</p> | <p>(21) An entrenched and durable position in its operations or the foreseeability of achieving such a position future occurs notably where the contestability of the position of the provider of<u>undertaking providing</u> the core platform service is limited. This is likely to be the case where that provider<u>undertaking</u> has provided a</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|---|--|---|
| | very high number of business users and end users during at least three years. | very high number of business users and end users during at least three years. <u>A list of indicators to be used by the providers of core platform services when measuring monthly end users and yearly business users should be provided in an Annex to this Regulation.</u> | core platform service in at least three Member States to a very high number of business users and end users during at least three years. | core platform service in at least three Member States to a very high number of business users and end users during at least three years. Text Origin: Council Mandate |
| Recital 22 | | | | |
| 33 | (22) Such thresholds can be impacted by market and technical developments. The Commission should therefore be empowered to adopt delegated acts to specify the methodology for determining whether the quantitative thresholds are met, and to regularly adjust it to market and technological developments where necessary. This is particularly relevant in relation to the threshold referring to market capitalisation, which should be indexed in appropriate intervals. | (22) Such thresholds can be impacted by market and technical developments. The Commission should therefore be empowered to adopt delegated acts to specify the methodology for determining whether the quantitative thresholds are met <u>and update the list of indicators set out in the Annex to this Regulation</u> , and to regularly adjust it to market and technological developments where necessary. This is particularly relevant in relation to the threshold referring to market capitalisation, which should be indexed in appropriate intervals. | (22) Such thresholds can be impacted by market and technical developments. The Commission should therefore be empowered to adopt delegated acts to specify the methodology for determining whether the quantitative thresholds are met, and to regularly adjust it to market and technological developments where necessary. This is particularly relevant in relation to the threshold referring to market capitalisation, which should be indexed in appropriate intervals. <u>Such delegated acts should not modify the quantitative thresholds set out in this Regulation.</u> | (22) Such thresholds can be impacted by market and technical developments. The Commission should therefore be empowered to adopt delegated acts to specify the methodology for determining whether the quantitative thresholds are met, and to regularly adjust it to market and technological developments where necessary. This is particularly relevant in relation to the threshold referring to market capitalisation, which should be indexed in appropriate intervals. <u>Such delegated acts should not modify the quantitative thresholds set out in this Regulation.</u> Text Origin: Council Mandate |
| Recital 23 | | | | |
| 34 | (23) Providers of core platform | (23) Providers of core platform | (23) Providers of <u>Undertakings</u> | (23) Providers of <u>Undertakings</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|---|--|--|
| | <p>services which meet the quantitative thresholds but are able to present sufficiently substantiated arguments to demonstrate that, in the circumstances in which the relevant core platform service operates, they do not fulfil the objective requirements for a gatekeeper, should not be designated directly, but only subject to a further investigation. The burden of adducing evidence that the presumption deriving from the fulfilment of quantitative thresholds should not apply to a specific provider should be borne by that provider. In its assessment, the Commission should take into account only the elements which directly relate to the requirements for constituting a gatekeeper, namely whether it is an important gateway which is operated by a provider with a significant impact in the internal market with an entrenched and durable position, either actual or foreseeable. Any justification on economic grounds seeking to demonstrate efficiencies deriving from a specific type of behaviour by the provider of core platform services should be discarded, as it is not relevant to the designation as a gatekeeper. The Commission should be able to take a decision by relying on the quantitative thresholds where the provider significantly obstructs</p> | <p>services which meet the quantitative thresholds but are <u>should be</u> able to present sufficiently substantiated arguments to demonstrate that, in the <u>demonstrate that, despite meeting the quantitative thresholds, due to the exceptional</u> circumstances in which the relevant core platform service operates, they do not fulfil the objective requirements for to qualify as a gatekeeper, should not be designated directly, but only subject to a further investigation <u>only if they are able to present sufficiently compelling arguments to demonstrate this</u>. The burden of adducing <u>compelling</u> evidence that the presumption deriving from the fulfilment of quantitative thresholds should not apply to a specific provider should be borne by that provider In its assessment,. The Commission should take into account only the elements which directly relate to the requirements for constituting a gatekeeper, namely whether it is an important gateway which is operated by a provider with a significant impact in the internal market with an entrenched and durable position, either actual or foreseeable. Any justification on economic grounds seeking to demonstrate efficiencies deriving from a specific type of behaviour <u>be able to take a decision by relying on the quantitative</u></p> | <p><u>providing</u> core platform services which meet the quantitative thresholds but are able to present sufficiently substantiated arguments to demonstrate that, in the circumstances in which the relevant core platform service operates, they <u>services operate, they exceptionally</u> do not fulfil the objective requirements for a gatekeeper <u>although they meet all the quantitative thresholds</u>, should not be designated directly, but only subject to a further investigation <u>of those sufficiently substantiated arguments</u>. The burden of adducing evidence that the presumption deriving from the fulfilment of quantitative thresholds should not apply to a specific provider should be borne by that provider <u>the undertaking</u>. In its assessment <u>of the evidence and arguments produced</u>, the Commission should take into account only the elements which directly relate to the <u>quantitative</u> requirements for constituting a gatekeeper, namely whether it is an important gateway which is operated by a provider with a significant impact in the internal market with an entrenched and durable position, either actual or foreseeable <u>the impact of the undertaking on the internal market beyond revenue or market cap, such as its size in absolute terms, leadership in</u></p> | <p><u>providing</u> core platform services which meet the quantitative thresholds but are able to present sufficiently substantiated arguments to demonstrate that, in the <u>should be able, in exceptional</u> circumstances, <u>to rebut the presumption by demonstrating that, the undertaking does not satisfy the</u> in which the relevant core platform service operates, they do not fulfil the objective requirements for a gatekeeper, should not be designated directly, but only subject to a further investigation <u>of Article 3(1) although it meets all the quantitative thresholds of Article 3(2)</u>. The burden of adducing evidence that the presumption deriving from the fulfilment of quantitative thresholds should not apply to a specific provider should be borne by that provider <u>the undertaking</u>. In its assessment <u>of the evidence and arguments produced</u>, the Commission should take into account only the elements which directly relate to the requirements for constituting a gatekeeper, namely whether <u>quantitative criteria, namely the impact of the undertaking on the internal market beyond revenue or market cap, such as its size in absolute terms, and number of Member States where</u> it is an important gateway which is operated by a provider with a</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|--|---|--|
| | <p>the investigation by failing to comply with the investigative measures taken by the Commission.</p> | <p><u>thresholds and facts available where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken</u> by the provider of core platform services should be discarded, as it is not relevant to the designation as a gatekeeper. The Commission should be able to take a decision by relying on the quantitative thresholds where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the <u>Commission. In view of improving market transparency, the Commission may require that information provided regarding business and end users is verified by third party audience measurement providers qualified to provide such services in accordance with market standards and codes of conduct applicable in the Union.</u></p> | <p><u>technology and number of Member States where it is present; by how much the actual business users and end users numbers exceed the thresholds and the importance of the undertaking's core platform service considering the overall size of the respective core platform service; and the number of years for which the thresholds have been met.</u> Any justification on economic grounds seeking to demonstrate efficiencies deriving from a specific type of behaviour by the provider <u>of undertaking providing</u> core platform services should be discarded, as it is not relevant to the designation as a gatekeeper. The Commission should be able to take a decision by relying on the quantitative thresholds where the provider <u>undertaking</u> significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.</p> | <p>significant impact in the internal market with an entrenched and durable position, either actual or foreseeable <u>present; by how much the actual business user and end user numbers exceed the thresholds and the importance of the undertaking's core platform service considering the overall scale of activities of the respective core platform service; and the number of years for which the thresholds have been met.</u> Any justification on economic grounds seeking to <u>engage into market definition or to</u> demonstrate efficiencies deriving from a specific type of behaviour by the provider of <u>undertaking providing</u> core platform services should be discarded, as it is not relevant to the designation as a gatekeeper. <u>If the arguments submitted are not sufficiently substantiated because they do not manifestly put into question the presumption, the Commission should be able to reject the arguments within the timeframe of 45 working days foreseen for the designation.</u> The Commission should be able to take a decision by relying on <u>information available on</u> the quantitative thresholds where the provider significantly <u>undertaking</u> obstructs the investigation by failing to comply with the investigative measures taken by the Commission.</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|--|--|---|
| | | | | Text Origin: Auxiliary |
| Recital 24 | | | | |
| 35 | (24) Provision should also be made for the assessment of the gatekeeper role of providers of core platform services which do not satisfy all of the quantitative thresholds, in light of the overall objective requirements that they have a significant impact on the internal market, act as an important gateway for business users to reach end users and benefit from a durable and entrenched position in their operations or it is foreseeable that it will do so in the near future. | (24) Provision should also be made for the assessment of the gatekeeper role of providers of core platform services which do not satisfy all of the quantitative thresholds, in light of the overall objective requirements that they have a significant impact on the internal market, act as an important gateway for business users to reach end users and benefit from a durable and entrenched position in their operations or it is foreseeable that it will do so in the near future. | (24) Provision should also be made for the assessment of the gatekeeper role of <i>providers of undertakings providing</i> core platform services which do not satisfy all of the quantitative thresholds, in light of the overall objective requirements that they have a significant impact on the internal market, act as an important gateway for business users to reach end users and benefit from a durable and entrenched position in their operations or it is foreseeable that it will do so in the near future. | (24) Provision should also be made for the assessment of the gatekeeper role of <i>providers of undertakings providing</i> core platform services which do not satisfy all of the quantitative thresholds, in light of the overall objective requirements that they have a significant impact on the internal market, act as an important gateway for business users to reach end users and benefit from a durable and entrenched position in their operations or it is foreseeable that it will do so in the near future. <i><u>When the undertaking providing core platform services is a medium-sized, small or micro enterprise, the assessment should carefully take into account whether such an undertaking would be able to substantially undermine the contestability of the core platform services since this regulation primarily targets large undertakings with considerable economic power and not medium-sized, small or micro enterprises.</u></i> Text Origin: Council Mandate |
| Recital 25 | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----|---|---|---|---|
| 36 | <p>(25) Such an assessment can only be done in light of a market investigation, while taking into account the quantitative thresholds. In its assessment the Commission should pursue the objectives of preserving and fostering the level of innovation, the quality of digital products and services, the degree to which prices are fair and competitive, and the degree to which quality or choice for business users and for end users is or remains high. Elements that are specific to the providers of core platform services concerned, such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration, can be taken into account. In addition, a very high market capitalisation, a very high ratio of equity value over profit or a very high turnover derived from end users of a single core platform service can point to the tipping of the market or leveraging potential of such providers. Together with market capitalisation, high growth rates, or decelerating growth rates read together with profitability growth, are examples of dynamic parameters that are particularly relevant to</p> | <p>(25) Such an assessment can only be done in light of a market investigation, while taking into account the quantitative thresholds. In its assessment the Commission should pursue the objectives of preserving and fostering the level of innovation, the quality of digital products and services, the degree to which prices are fair and competitive, and the degree to which quality or choice for business users and for end users is or remains high. Elements that are specific to the providers of core platform services concerned, such as extreme scale economies, very strong network effects, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a lack of multi-homing or vertical integration, can be taken into account. In addition, a very high market capitalisation, a very high ratio of equity value over profit or a very high turnover derived from end users of a single core platform service can point to the tipping of the market or leveraging potential of such providers. Together with market capitalisation, high growth rates, or decelerating growth rates read together with profitability growth, are examples of dynamic parameters that are particularly relevant to</p> | <p>(25) Such an assessment can only be done in light of a market investigation, while taking into account the quantitative thresholds. In its assessment the Commission should pursue the objectives of preserving and fostering the level of innovation, the quality of digital products and services, the degree to which prices are fair and competitive, and the degree to which quality or choice for business users and for end users is or remains high. Elements that are specific to the providers of<u>undertakings providing</u> core platform services concerned, such as extreme scale <u>or scope</u> economies, very strong network effects, <u>data-driven advantages</u>, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a-lack of multi-homing, <u>conglomerate corporate structure</u> or vertical integration, can be taken into account. In addition, a very high market capitalisation, a very high ratio of equity value over profit or a very high turnover derived from end users of a single core platform service can point to the tipping of the market or leveraging potential of such providers<u>undertakings</u>. Together with market capitalisation, high <u>growth rates, or decelerating relative</u></p> | <p>(25) Such an assessment can only be done in light of a market investigation, while taking into account the quantitative thresholds. In its assessment the Commission should pursue the objectives of preserving and fostering the level of innovation, the quality of digital products and services, the degree to which prices are fair and competitive, and the degree to which quality or choice for business users and for end users is or remains high. Elements that are specific to the providers of<u>undertakings providing</u> core platform services concerned, such as extreme scale <u>or scope</u> economies, very strong network effects, <u>data-driven advantages</u>, an ability to connect many business users with many end users through the multi-sidedness of these services, lock-in effects, a-lack of multi-homing, <u>conglomerate corporate structure</u> or vertical integration, can be taken into account. In addition, a very high market capitalisation, a very high ratio of equity value over profit or a very high turnover derived from end users of a single core platform service can point to the tipping of the market or leveraging potential of such providers<u>undertakings</u>. Together with market capitalisation, high <u>growth rates, or decelerating relative</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|---|---|---|
| | <p>identifying such providers of core platform services that are foreseen to become entrenched. The Commission should be able to take a decision by drawing adverse inferences from facts available where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.</p> | <p>identifying such providers of core platform services that are foreseen to become entrenched. The Commission should be able to take a decision by drawing adverse inferences from facts available where the provider significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.</p> | <p>growth rates read together with profitability growth, are examples of dynamic parameters that are particularly relevant to identifying such providers of undertakings <u>providing</u> core platform services that are foreseen to become entrenched. The Commission should be able to take a decision by drawing adverse inferences from facts available where the provider undertaking significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.</p> | <p>growth rates read together with profitability growth, are <u>rates are</u> examples of dynamic parameters that are particularly relevant to identifying such providers of undertakings <u>providing</u> core platform services that are foreseen to become entrenched. The Commission should be able to take a decision by drawing adverse inferences from facts available where the provider undertaking significantly obstructs the investigation by failing to comply with the investigative measures taken by the Commission.</p> <p>See rows 159b and 159 c</p> |
| Recital 26 | | | | |
| 37 | <p>(26) A particular subset of rules should apply to those providers of core platform services that are foreseen to enjoy an entrenched and durable position in the near future. The same specific features of core platform services make them prone to tipping: once a service provider has obtained a certain advantage over rivals or potential challengers in terms of scale or intermediation power, its position may become unassailable and the situation may evolve to the point that it is likely to become durable and entrenched in</p> | <p>(26) A particular subset of rules should apply to those providers of core platform services that are foreseen to enjoy an entrenched and durable position in the near future. The same specific features of core platform services make them prone to tipping: once a service provider has obtained a certain advantage over rivals or potential challengers in terms of scale or intermediation power, its position may become unassailable and the situation may evolve to the point that it is likely to become durable and entrenched in</p> | <p>(26) A particular subset of rules should apply to those providers of undertakings <u>providing</u> core platform services that are foreseen to enjoy an entrenched and durable position in the near future. The same specific features of core platform services make them prone to tipping: once an undertaking providing the <u>service provider</u> has obtained a certain advantage over rivals or potential challengers in terms of scale or intermediation power, its position may become unassailable and the situation may evolve to the</p> | <p>(26) A particular subset of rules should apply to those providers of undertakings <u>providing</u> core platform services that are foreseen to enjoy an entrenched and durable position in the near future. The same specific features of core platform services make them prone to tipping: once an undertaking providing the <u>service provider</u> has obtained a certain advantage over rivals or potential challengers in terms of scale or intermediation power, its position may become unassailable and the situation may evolve to the</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|---|--|---|
| | the near future. Undertakings can try to induce this tipping and emerge as gatekeeper by using some of the unfair conditions and practices regulated in this Regulation. In such a situation, it appears appropriate to intervene before the market tips irreversibly. | the near future. Undertakings can try to induce this tipping and emerge as gatekeeper by using some of the unfair conditions and practices regulated in this Regulation. In such a situation, it appears appropriate to intervene before the market tips irreversibly. | point that it is likely to become durable and entrenched in the near future. Undertakings can try to induce this tipping and emerge as gatekeeper by using some of the unfair conditions and practices regulated in this Regulation. In such a situation, it appears appropriate to intervene before the market tips irreversibly. | point that it is likely to become durable and entrenched in the near future. Undertakings can try to induce this tipping and emerge as gatekeeper by using some of the unfair conditions and practices regulated in this Regulation. In such a situation, it appears appropriate to intervene before the market tips irreversibly. Text Origin: Council Mandate |
| Recital 27 | | | | |
| 38 | (27) However, such an early intervention should be limited to imposing only those obligations that are necessary and appropriate to ensure that the services in question remain contestable and allow to avoid the qualified risk of unfair conditions and practices. Obligations that prevent the provider of core platform services concerned from achieving an entrenched and durable position in its operations, such as those preventing unfair leveraging, and those that facilitate switching and multi-homing are more directly geared towards this purpose. To ensure proportionality, the Commission should moreover apply from that subset of obligations only those that are necessary and proportionate to achieve the | (27) However, such an early intervention should be limited to imposing only those obligations that are necessary and appropriate to ensure that the services in question remain contestable and allow to avoid the qualified risk of unfair conditions and practices. Obligations that prevent the provider of core platform services concerned from achieving an entrenched and durable position in its operations, such as those preventing unfair leveraging, and those that facilitate switching and multi-homing are more directly geared towards this purpose. To ensure proportionality, the Commission should moreover apply from that subset of obligations only those that are necessary and proportionate to achieve the | (27) However, such an early intervention should be limited to imposing only those obligations that are necessary and appropriate to ensure that the services in question remain contestable and allow to avoid the qualified risk of unfair conditions and practices. Obligations that prevent the provider <u>of undertaking providing</u> core platform services concerned from achieving an entrenched and durable position in its operations, such as those preventing unfair leveraging, and those that facilitate switching and multi-homing are more directly geared towards this purpose. To ensure proportionality, the Commission should moreover apply from that subset of obligations only those that are necessary and | (27) However, such an early intervention should be limited to imposing only those obligations that are necessary and appropriate to ensure that the services in question remain contestable and allow to avoid the qualified risk of unfair conditions and practices. Obligations that prevent the provider <u>of undertaking providing</u> core platform services concerned from achieving an entrenched and durable position in its operations, such as those preventing unfair leveraging, and those that facilitate switching and multi-homing are more directly geared towards this purpose. To ensure proportionality, the Commission should moreover apply from that subset of obligations only those that are necessary and |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|---|---|---|
| | objectives of this Regulation and should regularly review whether such obligations should be maintained, suppressed or adapted. | objectives of this Regulation and should regularly review whether such obligations should be maintained, suppressed or adapted. | proportionate to achieve the objectives of this Regulation and should regularly review whether such obligations should be maintained, suppressed or adapted. | proportionate to achieve the objectives of this Regulation and should regularly review whether such obligations should be maintained, suppressed or adapted. Text Origin: Council Mandate |
| Recital 28 | | | | |
| 39 | (28) This should allow the Commission to intervene in time and effectively, while fully respecting the proportionality of the considered measures. It should also reassure actual or potential market participants about the fairness and contestability of the services concerned. | (28) This should allow the Commission to intervene in time and effectively, while fully respecting the proportionality of the considered measures. It should also reassure actual or potential market participants about the fairness and contestability of the services concerned. | (28) This should allow the Commission to intervene in time and effectively, while fully respecting the proportionality of the considered measures. It should also reassure actual or potential market participants about the fairness and contestability of the services concerned. | (28) This should allow the Commission to intervene in time and effectively, while fully respecting the proportionality of the considered measures. It should also reassure actual or potential market participants about the fairness and contestability of the services concerned. Text Origin: Commission Proposal |
| Recital 29 | | | | |
| 40 | (29) Designated gatekeepers should comply with the obligations laid down in this Regulation in respect of each of the core platform services listed in the relevant designation decision. The mandatory rules should apply taking into account the conglomerate position of gatekeepers, where applicable. Furthermore, implementing measures that the Commission may | (29) Designated gatekeepers should comply with the obligations laid down in this Regulation in respect of each of the core platform services listed in the relevant designation decision. The mandatory rules should apply taking into account the conglomerate position of gatekeepers, where applicable. Furthermore, implementing measures that the Commission may | (29) Designated gatekeepers should comply with the obligations laid down in this Regulation in respect of each of the core platform services listed in the relevant designation decision. The mandatory rules should apply taking into account the conglomerate position of gatekeepers, where applicable. Furthermore, implementing measures that the Commission may | (29) Designated gatekeepers should comply with the obligations laid down in this Regulation in respect of each of the core platform services listed in the relevant designation decision. The mandatory rules should apply taking into account the conglomerate position of gatekeepers, where applicable. Furthermore, implementing measures that the Commission may |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|--|--|---|
| | by decision impose on the gatekeeper following a regulatory dialogue should be designed in an effective manner, having regard to the features of core platform services as well as possible circumvention risks and in compliance with the principle of proportionality and the fundamental rights of the undertakings concerned as well as those of third parties. | by decision impose on the gatekeeper following a regulatory dialogue should be designed in an effective manner, having regard to the features of core platform services as well as possible circumvention risks and in compliance with the principle of proportionality and the fundamental rights of the undertakings concerned as well as those of third parties. | by decision impose on the gatekeeper following a regulatory dialogue should be designed in an effective manner, having regard to the features of core platform services as well as possible circumvention risks and in compliance with the principle of proportionality and the fundamental rights of the undertakings concerned as well as those of third parties. | by decision impose on the gatekeeper following a regulatory dialogue should be designed in an effective manner, having regard to the features of core platform services as well as possible circumvention risks and in compliance with the principle of proportionality and the fundamental rights of the undertakings concerned as well as those of third parties. Text Origin: EP Mandate |
| Recital 30 | | | | |
| 41 | (30) The very rapidly changing and complex technological nature of core platform services requires a regular review of the status of gatekeepers, including those that are foreseen to enjoy a durable and entrenched position in their operations in the near future. To provide all of the market participants, including the gatekeepers, with the required certainty as to the applicable legal obligations, a time limit for such regular reviews is necessary. It is also important to conduct such reviews on a regular basis and at least every two years. | (30) The very rapidly changing and complex technological nature of core platform services requires a regular review of the status of gatekeepers, including those that are foreseen to enjoy a durable and entrenched position in their operations in the near future. To provide all of the market participants, including the gatekeepers, with the required certainty as to the applicable legal obligations, a time limit for such regular reviews is necessary. It is also important to conduct such reviews on a regular basis and at least every two years <u>year</u> . | (30) The very rapidly changing and complex technological nature of core platform services requires a regular review of the status of gatekeepers, including those that are foreseen to enjoy a durable and entrenched position in their operations in the near future. To provide all of the market participants, including the gatekeepers, with the required certainty as to the applicable legal obligations, a time limit for such regular reviews is necessary. It is also important to conduct such reviews on a regular basis and at least every two <u>four</u> years. <u>Furthermore, it is important to clarify that not every change of the facts on the basis of which an undertaking providing core</u> | (30) The very rapidly changing and complex technological nature of core platform services requires a regular review of the status of gatekeepers, including those that are foreseen to enjoy a durable and entrenched position in their operations in the near future. To provide all of the market participants, including the gatekeepers, with the required certainty as to the applicable legal obligations, a time limit for such regular reviews is necessary. It is also important to conduct such reviews on a regular basis and at least every two <u>three</u> years. <u>Furthermore, it is important to clarify that not every change of the facts on the basis of which an undertaking providing core</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|--|---|---|
| | | | <p><u>platform services has been designated as a gatekeeper will mean that the designation decision needs to be amended. This will only be the case if the changed facts also lead to a change in the assessment. Whether the latter is the case and the designation decision needs to be amended should be based on a case-by-case assessment of the individual facts and circumstances.</u></p> | <p><u>platform services has been designated as a gatekeeper will mean that the designation decision needs to be amended. This will only be the case if the changed facts also lead to a change in the assessment. Whether the latter is the case and the designation decision needs to be amended should be based on a case-by-case assessment of the individual facts and circumstances.</u></p> <p>Text Origin: Council Mandate</p> |
| Recital 31 | | | | |
| 42 | <p>(31) To ensure the effectiveness of the review of gatekeeper status as well as the possibility to adjust the list of core platform services provided by a gatekeeper, the gatekeepers should inform the Commission of all of their intended and concluded acquisitions of other providers of core platform services or any other services provided within the digital sector. Such information should not only serve the review process mentioned above, regarding the status of individual gatekeepers, but will also provide information that is crucial to monitoring broader contestability trends in the digital sector and can therefore be a useful factor for consideration in the context of the</p> | <p>(31) To ensure the effectiveness of the review of gatekeeper status as well as the possibility to adjust the list of core platform services provided by a gatekeeper, the gatekeepers should inform the Commission of all of their intended and concluded acquisitions of other providers of core platform services or any other services provided within the digital sector. Such information should not only serve the review process mentioned above, regarding the status of individual gatekeepers, but will also provide information that is crucial to monitoring broader contestability trends in the digital sector and can therefore be a useful factor for consideration in the context of the</p> | <p>(31) To ensure the effectiveness of the review of gatekeeper status as well as the possibility to adjust the list of core platform services provided by a gatekeeper, the gatekeepers should inform the Commission of all of their intended and concluded acquisitions, <u>prior to their implementation</u>, of other providers of <u>undertakings providing</u> core platform services or any other services provided within the digital sector. Such information should not only serve the review process mentioned above, regarding the status of individual gatekeepers, but will also provide information that is crucial to monitoring broader contestability trends in the digital sector and can therefore be a useful</p> | <p>(31) To ensure the effectiveness of the review of gatekeeper status as well as the possibility to adjust the list of core platform services provided by a gatekeeper, the gatekeepers should inform the Commission of all of their intended and concluded acquisitions of other providers of core platform services or any other services provided within the digital sector. Such information should not only serve the review process mentioned above, regarding the status of individual gatekeepers, but will also provide information that is crucial to monitoring broader contestability trends in the digital sector and can therefore be a useful factor for consideration in the context of the</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---|--|---|--|
| | <p>market investigations foreseen by this Regulation.</p> | <p>market investigations foreseen by this Regulation. <u><i>The Commission should inform competent national authorities of such notifications. The information gathered may be used to trigger the referral system set out in Article 22 of the Regulation (EC) No 139/2004.</i></u></p> | <p>factor for consideration in the context of the market investigations foreseen by this Regulation. <u><i>Furthermore, the Commission should inform Member States of such information, given the possibility of using the information for national merger control purposes and as under certain circumstances the competent national authority may refer those acquisitions to the Commission for the purposes of merger control. The Commission should also publish a summary of the concentration, specifying the parties to the concentration, their field of activity, the nature of the concentration and the list of the Member States concerned by the operation. To ensure the necessary transparency and usefulness of such information for different purposes foreseen by this Regulation, gatekeepers should provide at least information about the undertakings concerned by the concentration, their EEA and worldwide annual turnover, their field of activity, including activities directly related to the concentration, the transaction value or an estimation thereof, a summary of the concentration, including its nature and rationale, as well as a list of the Member States concerned by the operation.</i></u></p> | <p><i>market investigations foreseen by this Regulation.</i> <u><i>(deleted)</i></u> Moved to recitals 60b</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|---|--|---|
| Recital 32 | | | | |
| 43 | <p>(32) To safeguard the fairness and contestability of core platform services provided by gatekeepers, it is necessary to provide in a clear and unambiguous manner for a set of harmonised obligations with regard to those services. Such rules are needed to address the risk of harmful effects of unfair practices imposed by gatekeepers, to the benefit of the business environment in the services concerned, to the benefit of users and ultimately to the benefit of society as a whole. Given the fast-moving and dynamic nature of digital markets, and the substantial economic power of gatekeepers, it is important that these obligations are effectively applied without being circumvented. To that end, the obligations in question should apply to any practices by a gatekeeper, irrespective of its form and irrespective of whether it is of a contractual, commercial, technical or any other nature, insofar as a practice corresponds to the type of practice that is the subject of one of the obligations of this Regulation.</p> | <p>(32) To safeguard the fairness and contestability of core platform services provided by gatekeepers, it is necessary to provide in a clear and unambiguous manner for a set of harmonised obligations with regard to those services. Such rules are needed to address the risk of harmful effects of unfair practices imposed by gatekeepers, to the benefit of the business environment in the services concerned, to the benefit of users and ultimately to the benefit of society as a whole. Given the fast-moving and dynamic nature of digital markets, and the substantial economic power of gatekeepers, it is important that these obligations are effectively applied without being circumvented. To that end, the obligations in question should apply to any practices<i>behaviour</i> by a gatekeeper, irrespective of its form and irrespective of whether it is of a contractual, commercial, technical or any other nature, insofar as it<i>could, in practice, have an equivalent object or effect corresponds to the type of practice that is the subject of one of the obligations of this Regulation</i><i>practices that are prohibited under this Regulation. Such behaviour includes the design used by the gatekeeper, the</i></p> | <p>(32) To safeguard the fairness and contestability of core platform services provided by gatekeepers, it is necessary to provide in a clear and unambiguous manner for a set of harmonised obligations with regard to those services. Such rules are needed to address the risk of harmful effects of unfair practices imposed by gatekeepers, to the benefit of the business environment in the services concerned, to the benefit of users and ultimately to the benefit of society as a whole. Given the fast-moving and dynamic nature of digital markets, and the substantial economic power of gatekeepers, it is important that these obligations are effectively applied without being circumvented. To that end, the obligations in question should apply to any practices by a gatekeeper, irrespective of its form and irrespective of whether it is of a contractual, commercial, technical or any other nature, insofar as a practice corresponds to the type of practice that is the subject of one of the obligations of this Regulation.</p> | <p>(32) To safeguard the fairness and contestability of core platform services provided by gatekeepers, it is necessary to provide in a clear and unambiguous manner for a set of harmonised obligations with regard to those services. Such rules are needed to address the risk of harmful effects of unfair<i>practices</i>imposed by gatekeepers, to the benefit of the business environment in the services concerned, to the benefit of users and ultimately to the benefit of society as a whole.</p> <p><i><u>The obligations correspond to those practices that are considered as undermining contestability or being unfair or both by taking into account the features of the digital sector and which have a particularly negative direct impact on business users and end users.</u></i></p> <p><i>Given the fast-moving and dynamic nature of digital markets, and the substantial economic power of gatekeepers, it is important that these obligations are effectively applied without being circumvented. To that end, The obligations in question should apply to any practices by a gatekeeper, irrespective of its form and irrespective of whether it is of a contractual, commercial, technical or any other nature, insofar as a</i></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|---|---|--|
| | | <p><u>presentation of end-user choices in a non-neutral manner, or using the structure, function or manner of operation of a user interface or a part thereof to subvert or impair user autonomy, decision-making, or choice.</u></p> | | <p><i>practice corresponds to the type of practice that is the subject of one of the obligations of this Regulation</i> <u>laid down in this regulation may specifically take into account the nature of the core platform services provided. The obligations in this Regulation should not only ensure contestability and fairness with respect to designated core platform services, but also with respect to other digital products and services into which gatekeepers leverage their gateway position, which are often provided together with or in support of the core platform services.</u></p> <p>Original EC text partially reproduced in recital 58b</p> |
| Recital 33 | | | | |
| 44 | <p>(33) The obligations laid down in this Regulation are limited to what is necessary and justified to address the unfairness of the identified practices by gatekeepers and to ensure contestability in relation to core platform services provided by gatekeepers. Therefore, the obligations should correspond to those practices that are considered unfair by taking into account the features of the digital sector and</p> | <p>(33) The obligations laid down in this Regulation are limited to what is necessary and justified to address the unfairness of the identified practices by gatekeepers and to ensure contestability in relation to core platform services provided by gatekeepers. Therefore, the obligations should correspond to those practices that are considered unfair by taking into account the features of the digital sector and</p> | <p>(33) The obligations laid down in this Regulation are limited to what is necessary and justified to address the unfairness of the identified practices by gatekeepers and to ensure contestability in relation to core platform services provided by gatekeepers. Therefore, the obligations should correspond to those practices that are considered unfair by taking into account the features of the digital sector and</p> | <p>(33) <i>For the purpose of</i><u>The obligations laid down in</u> this Regulation <i>are limited to what is necessary and justified to address the unfairness of the identified practices by gatekeepers and to ensure contestability in relation</i> <u>to contestability should relate to the ability of undertakings to effectively overcome barriers to entry and expansion and</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|--|---|--|
| | <p>where experience gained, for example in the enforcement of the EU competition rules, shows that they have a particularly negative direct impact on the business users and end users. In addition, it is necessary to provide for the possibility of a regulatory dialogue with gatekeepers to tailor those obligations that are likely to require specific implementing measures in order to ensure their effectiveness and proportionality. The obligations should only be updated after a thorough investigation on the nature and impact of specific practices that may be newly identified, following an in-depth investigation, as unfair or limiting contestability in the same manner as the unfair practices laid down in this Regulation while potentially escaping the scope of the current set of obligations.</p> | <p>where experience gained, for example in the enforcement of the EU competition rules, shows that they have a particularly negative direct impact on the business users and end users. <u>The obligations laid down in the Regulation should take into account the nature of the core platform services provided and the presence of different business models.</u> In addition, it is necessary to provide for the possibility of a regulatory dialogue with gatekeepers to tailor those obligations that are likely to require specific implementing measures in order to ensure their effectiveness and proportionality. The obligations should only be updated after a thorough investigation on the nature and impact of specific practices that may be newly identified, following an in-depth investigation, as unfair or limiting contestability in the same manner as the unfair practices laid down in this Regulation while potentially escaping the scope of the current set of obligations.</p> | <p>where experience gained, for example in the enforcement of the EU competition rules, shows that they have a particularly negative direct impact on the business users and end users. <u>The obligations laid down in this regulation may specifically take into account the nature of the core platform services provided.</u> In addition, it is necessary to provide for the possibility of a regulatory dialogue with gatekeepers to tailor those obligations that are likely to require specific implementing measures in order to ensure their effectiveness and proportionality. The obligations should only be updated after a thorough investigation on the nature and impact of specific practices that may be newly identified, following an in-depth investigation, as unfair or limiting contestability in the same manner as the unfair practices laid down in this Regulation while potentially escaping the scope of the current set of obligations. <u>The Commission should be able to launch an investigation with a view to determining whether the existing obligations would need to be updated, either on its own initiative or following a justified request of at least three Member States. When presenting such justified requests Member States may include information on newly introduced</u></p> | <p><u>challenge the gatekeeper on the merits of their products and services. The features of</u> core platform services provided by gatekeepers. Therefore, the obligations should correspond to those practices that are considered unfair by taking into account the features of the digital sector and where experience gained, for example in the enforcement of the EU competition rules, shows that they have a particularly negative direct impact on the business users and end users. In addition, it is necessary to provide for the possibility of a regulatory dialogue with gatekeepers to tailor those obligations that are likely to require specific implementing measures in order to ensure their effectiveness and proportionality. The obligations should only be updated after a thorough investigation on the nature and impact of specific practices that may be newly identified, following an in-depth investigation, as unfair or limiting contestability in the same manner as the unfair practices laid down in this Regulation while potentially escaping the scope of the current set of obligations <u>in the digital sector, such as network effects, strong economies of scale, and benefits from data have limited the contestability of those services and</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---------------------|------------|--|---|
| | | | <p><u>offers of products, services, software or features which raise concerns of contestability or fairness, whether implemented in the context of existing core platform services or otherwise. Where, following a market investigation, the Commission deems it necessary to modify essential elements of the present Regulation, such as the inclusion of new obligations that depart from the same contestability or fairness issues addressed by this Regulation, the Commission should advance a proposal to amend the Regulation.</u></p> | <p><u>the related ecosystems. Such a weak contestability reduces the incentives to innovate and improve products and services for the gatekeeper, its business users, its challengers and customers and thus negatively affects the innovation potential of the wider online platform economy. Contestability of the services in the digital sector can also be limited if there is more than one gatekeeper for a core platform service. This Regulation should therefore ban certain practices by gatekeepers that are liable to increase barriers to entry or expansion, and impose certain obligations on gatekeepers that tend to lower these barriers. The obligations should also address situations where the position of the gatekeeper may be entrenched to such an extent that inter-platform competition is not effective in the short term so that intra-platform competition needs to be created or increased.</u></p> <p>See recital 60a</p> |
| Recital 34 | | | | |
| 45 | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---|---|---|---|
| | <p>(34) The combination of these different mechanisms for imposing and adapting obligations should ensure that the obligations do not extend beyond observed unfair practices, while at the same time ensuring that new or evolving practices can be the subject of intervention where necessary and justified.</p> | <p>(34) The combination of these different mechanisms for imposing and adapting obligations should ensure that the obligations do not extend beyond observed unfair practices, while at the same time ensuring that new or evolving practices can be the subject of intervention where necessary and justified.</p> | <p>(34) The combination of these different mechanisms for imposing and adapting obligations should ensure that the obligations do not extend beyond observed unfair practices, while at the same time ensuring that new or evolving practices can be the subject of intervention where <u>to the extent</u> necessary and justified.</p> | <p>(34) <u>For the purpose of this Regulation unfairness should relate to an imbalance between the rights and obligations of business users where the gatekeeper obtains a disproportionate advantage. Market participants, including business users of core platform services and alternative providers of services provided together with or in support of such core platform services, The combination of these different mechanisms for imposing and adapting obligations should ensure that the obligations do not extend beyond observed unfair practices, while at the same time ensuring that new or evolving practices can be the subject of intervention where necessary and justified have the ability to adequately capture the benefits resulting from their innovative or other efforts. Due to their gateway position and superior bargaining power, gatekeepers can engage in behaviour that does not allow others to capture fully the benefits of their own contributions, and unilaterally set unbalanced conditions for the use of their core platform services or services</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---------------------|------------|-----------------|---|
| | | | | <p><u>provided together with or in support of their core platform services. Such imbalance is not excluded by the fact that the gatekeeper offers a particular service free of charge to a specific group of users, and may also consist in excluding or discriminating against business users, in particular if the latter compete with the gatekeepers' services. This Regulation should therefore impose obligations on gatekeepers addressing such behaviour.</u></p> <p>Text Origin: Council Mandate</p> |
| Recital 34a | | | | |
| 45a | | | | <p><u>(34a) Contestability and fairness are intertwined. The lack of, or weak, contestability for a certain service can enable a gatekeeper to engage in unfair practices. Similarly, unfair practices by a gatekeeper can reduce the possibility of business users or others to contest the gatekeeper's position. A particular obligation in this Regulation may therefore address</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|---|--|--|
| | | | | <u>both elements.</u> |
| Recital 35 | | | | |
| 46 | (35) The obligations laid down in this Regulation are necessary to address identified public policy concerns, there being no alternative and less restrictive measures that would effectively achieve the same result, having regard to need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. | (35) The obligations laid down in this Regulation are necessary to address identified public policy concerns, there being no alternative and less restrictive measures that would effectively achieve the same result, having regard to need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. | (35) The obligations laid down in this Regulation are necessary to address identified public policy concerns, there being no alternative and less restrictive measures that would effectively achieve the same result, having regard to need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. | (35) The obligations laid down in this Regulation are <u>therefore</u> necessary to address identified public policy concerns, there being no alternative and less restrictive measures that would effectively achieve the same result, having regard to need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Text Origin: Commission Proposal |
| Recital 36 | | | | |
| 47 | (36) The conduct of combining end user data from different sources or signing in users to different services of gatekeepers gives them potential advantages in terms of accumulation of data, thereby raising barriers to entry. To ensure that gatekeepers do not unfairly undermine the contestability of core platform services, they should enable their end users to freely choose to opt-in to such business practices by offering a less personalised alternative. The possibility should | (36) The conduct of combining end user data from different sources or signing in users to different services of gatekeepers gives them potential advantages in terms of accumulation of data, thereby raising barriers to entry. To ensure that gatekeepers do not unfairly undermine the contestability of core platform services, they should enable their end users to freely choose to opt-in to such business practices by offering a less personalised <u>but equivalent</u> alternative. <u>The less</u> | (36) The conduct of combining end user data from different sources or signing in users to different services of gatekeepers gives them potential advantages in terms of accumulation of data, thereby raising barriers to entry. To ensure that gatekeepers do not unfairly undermine the contestability of core platform services, they should enable their end users to freely choose to opt-in to such business practices by offering a less personalised <u>but equivalent</u> alternative, <u>and without</u> | (36) <u>Gatekeepers often directly collect personal data of end users for the purpose of providing advertising services when end users use third parties' websites and apps. Third parties may also provide gatekeepers with personal data of their end</u> <u>The conduct of combining end user data from different sources or signing in</u> users <u>in order to make use of certain services offered by the gatekeepers in the context of their core platform</u> <u>to different</u> services, <u>such as custom audiences.</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---|---|---|---|
| | <p>cover all possible sources of personal data, including own services of the gatekeeper as well as third party websites, and should be proactively presented to the end user in an explicit, clear and straightforward manner.</p> | <p><u>personalized alternative should not be different or of degraded quality compared to the service offered to the end users who provide consent to the combining of their personal data.</u> The possibility should cover all possible sources of personal data, including own services of the gatekeeper as well as third party websites, and should be proactively presented to the end user in an explicit, clear and straightforward manner.</p> | <p><u>making the core platform service or certain functionalities thereof conditional upon the end user's consent in the sense of Article 6(1) point (a) of Regulation (EU) 2016/679. This should be without prejudice to the right of the gatekeeper to, subject to end user's consent according to Article 6(1) point (a) of the Regulation (EU) 2016/679, combine data or sign in users to a service under the legal basis established under Article 6(1) of Regulation (EU) 2016/679, with the exception of Article 6(1) points (b) and (f) concerning processing necessary for the execution of a contract or for the purpose of a legitimate interest of the gatekeeper, which are explicitly excluded in this context to avoid the circumvention of this obligation. The less personalized alternative should not be different or of degraded quality compared to the service offered to the end users who provide consent to the combining of their personal data, unless the initial quality of the service provided precisely depends on the combination of such data. Also, this</u> The possibility of data combination should cover all possible sources of personal data, including own <u>core platform services and other services offered by</u> the gatekeeper as well as third</p> | <p><u>The processing for the purpose of providing advertising services of personal data from third parties using</u> of gatekeepers' <u>core platform services</u> gives them gatekeepers potential advantages in terms of accumulation of data, thereby raising barriers to entry. <u>This is because gatekeepers process personal data from a significantly larger number of third parties than other undertakings. Similar advantages result from the conduct of (i) combining end user data collected from a core platform service with data collected from further services, (ii) cross-using personal data from a core platform service in other services offered separately by the gatekeeper, notably services which are not offered together with or in support of the relevant core platform service, and vice-versa or (iii) signing in end users to different services of gatekeepers in order to combine personal data.</u> To ensure that gatekeepers do not unfairly undermine the contestability of core platform services, they gatekeepers should enable their end users to freely choose to opt-in to such business data processing and sign-in practices by offering a less personalised <u>but equivalent</u> alternative. The possibility, and without making the use of the core platform service or certain</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---------------------|------------|--|---|
| | | | <p>party <u>services (where data is obtained, for example, via cookies or like buttons included on third party websites)</u>. <u>When the gatekeeper requests consent, it, and should be proactively presented proactively present a user-friendly solution</u> to the end user <u>to provide, modify or revoke consent</u> in an explicit, clear and straightforward manner. <u>Consent should be given by a clear affirmative act establishing a freely given, specific, informed and unambiguous indication of agreement by the end user. At the time of giving consent, the user should be informed that a refusal may lead to a less personalized offer, but that otherwise the core platform service will remain unchanged and that no functionalities will be suppressed. Lastly, the end user should be presented with the possibility of giving consent to these business practices on a granular basis for each of the core platform services and other services offered by the gatekeeper. End users should be also entitled to subsequently withdraw their consent, if previously provided.</u></p> | <p><u>functionalities thereof conditional upon the end user's consent. This should cover all possible sources of personal data, including own services of the gatekeeper as well as third party websites, and should be proactively presented to the end user in an explicit, clear and straightforward manner be without prejudice to the gatekeeper processing data or signing in end users to a service, relying on the legal basis under Article 6(1), points (c), (d) and (e) of the Regulation (EU) 2016/679 but not being able to rely on Article 6(1), points (b) and (f) of the Regulation (EU) 2016/679.</u></p> |
| Recital 36a | | | | |
| 47a | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---------------------|---|-----------------|---|
| | | <p><u>(36a) Minors merit specific protection with regard to their personal data, in particular as regards the use for the purposes of marketing or creating personality or user profiles and the collection of personal data. Therefore, personal data of minors collected or otherwise generated by gatekeepers should not be processed for commercial purposes, such as direct marketing, profiling and behaviourally targeted advertising.</u></p> | | <p><u>(36a) The less personalised alternative should not be different or of degraded quality compared to the service offered to the end users who provide consent, unless a degradation of quality is a direct consequence of the gatekeeper not being able to process such data or signing in end users to a service. Not giving consent should not be more difficult than giving consent. When the gatekeeper requests consent, it should proactively present a user-friendly solution to the end user to provide, modify or withdraw consent in an explicit, clear and straightforward manner. In particular, consent should be given by a clear affirmative action or statement establishing a freely given, specific, informed and unambiguous indication of agreement by the end user, as defined in Regulation (EU) 2016/679. At the time of giving consent, and only where applicable, the end user should be informed that not giving consent may lead to a less personalized offer, but that otherwise the core platform service will remain unchanged and that no functionalities will be suppressed. Exceptionally, if consent cannot be given directly to the gatekeeper's core platform service, end users should be able to provide consent through each third party service</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---------------------|--|-----------------|--|
| | | | | <p><u>that makes use of that core platform service, to allow the gatekeeper to process personal data for the purposes of providing advertising services.</u> <u>Lastly, it shall be as easy to withdraw as to give consent.</u> <u>Gatekeepers should not design, organise or operate their online interfaces in a way that deceives, manipulates or otherwise materially distorts or impairs the ability of end users to freely give consent. In particular, gatekeepers should not be allowed to prompt end users more than once a year to give consent for the same processing purpose for which they initially did not give consent or had withdrawn it. This Regulation is without prejudice to Regulation (EU) 2016/679, including its enforcement framework, which remains fully applicable with respect to any claims by data subjects relating to an infringement of their rights under Regulation (EU) 2016/679.</u></p> <p>Text Origin: Auxiliary</p> |
| Recital 36b | | | | |
| 47b | | <p><u>(36b) In order to safeguard a fair end user choice, refusing consent should not be more difficult than giving consent. In addition, to</u></p> | | <p><u>(36b) Children merit specific protection with regard to their personal data, in particular as regards the use of their personal</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|---|--|---|
| | | <p><u>safeguard the end users rights and freedoms, the processing of personal data for advertising purposes should be in line with the requirements of data minimisation under Article 5 (1)(c) of Regulation (EU) 2016/679. Furthermore, the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, as well as the data concerning health or a natural person's sex life or sexual orientation should be strictly limited and subject to the appropriate safeguards as outlined in Article 9 of the Regulation (EU) 2016/679.</u></p> | | <p><u>data for the purposes of commercial communication or creating user profiles. The protection of children online is an important objective of the Union and should be reflected in the relevant EU law. [In this context, due regard should be given to Regulation (EU) xx/xx/EU [DSA] of the European Parliament and of the Council]. Nothing in this Regulation exempts gatekeepers from their obligations concerning protection of children laid down in applicable EU law.</u></p> |
| Recital 37 | | | | |
| 48 | <p>(37) Because of their position, gatekeepers might in certain cases restrict the ability of business users of their online intermediation services to offer their goods or services to end users under more favourable conditions, including price, through other online intermediation services. Such restrictions have a significant deterrent effect on the business users of gatekeepers in terms of their use of alternative online intermediation services, limiting inter-platform contestability, which in turn limits</p> | <p>(37) Because of their position, gatekeepers might in certain cases, <u>through the imposition of contractual terms and conditions</u>, restrict the ability of business users of their online intermediation services to offer their goods or services to end users under more favourable conditions, including price, through other online intermediation services <u>or through direct business channels</u>. Such restrictions have a significant deterrent effect on the business users of gatekeepers in terms of their use</p> | <p>(37) Because of their position, gatekeepers might in certain cases restrict the ability of business users of their online intermediation services to offer their goods or services to end users under more favourable conditions, including price, through other online intermediation services. Such restrictions have a significant deterrent effect on the business users of gatekeepers in terms of their use of alternative online intermediation services, limiting inter-platform contestability, which in turn limits</p> | <p>(37) Because of their position, gatekeepers might in certain cases <u>Gatekeepers may in certain cases, for instance through the imposition of contractual terms and conditions</u>, restrict the ability of business users of their online intermediation services to offer their goods <u>products</u> or services to end users under more favourable conditions, including price, through other online intermediation services. Such restrictions have a significant deterrent effect on the business users of gatekeepers in terms of their use</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|---|---|--|
| | <p>choice of alternative online intermediation channels for end users. To ensure that business users of online intermediation services of gatekeepers can freely choose alternative online intermediation services and differentiate the conditions under which they offer their products or services to their end users, it should not be accepted that gatekeepers limit business users from choosing to differentiate commercial conditions, including price. Such a restriction should apply to any measure with equivalent effect, such as for example increased commission rates or de-listing of the offers of business users.</p> | <p>of alternative online intermediation services <u>or direct distribution channels</u>, limiting inter-platform contestability, which in turn limits choice of alternative online intermediation channels for end users. To ensure that business users of online intermediation services of gatekeepers can freely choose alternative online intermediation services <u>or other direct distribution channels</u> and differentiate the conditions under which they offer their products or services to their end users, it should not be accepted that gatekeepers limit business users from choosing to differentiate commercial conditions, including price. Such a restriction should apply to any measure with equivalent effect, such as for example increased commission rates or de-listing of the offers of business users.</p> | <p>choice of alternative online intermediation channels for end users. To ensure that business users of online intermediation services of gatekeepers can freely choose alternative online intermediation services and differentiate the conditions under which they offer their products or services to their end users, it should not be accepted that gatekeepers limit business users from choosing to differentiate commercial conditions, including price. Such a restriction should apply to any measure with equivalent effect, such as for example increased commission rates or de-listing of the offers of business users.</p> | <p>of alternative or through direct distribution channels. Where such restrictions relate to third party online intermediation services, limiting inter-platform they limit inter-platform contestability, which in turn limits choice of alternative online intermediation channels for end users. <u>Where such restrictions relate to direct distribution channels, they unfairly limit the freedom of business users to use such channels.</u> To ensure that business users of online intermediation services of gatekeepers can freely choose alternative online intermediation services <u>or direct distribution channels</u> and differentiate the conditions under which they offer their products or services to their end users, it should not be accepted that gatekeepers limit business users from choosing to differentiate commercial conditions, including price. Such a restriction should apply to any measure with equivalent effect, such as for example increased commission rates or de-listing of the offers of business users.</p> |
| Recital 38 | | | | |
| 49 | (38) To prevent further reinforcing their dependence on the core | (38) To prevent further reinforcing their dependence on the core | (38) To prevent further reinforcing their dependence on the core | (38) To prevent further reinforcing their dependence on the core |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---|---|--|--|
| | <p>platform services of gatekeepers, the business users of these gatekeepers should be free in promoting and choosing the distribution channel they consider most appropriate to interact with any end users that these business users have already acquired through core platform services provided by the gatekeeper. Conversely, end users should also be free to choose offers of such business users and to enter into contracts with them either through core platform services of the gatekeeper, if applicable, or from a direct distribution channel of the business user or another indirect distribution channel such business user may use. This should apply to the promotion of offers and conclusion of contracts between business users and end users. Moreover, the ability of end users to freely acquire content, subscriptions, features or other items outside the core platform services of the gatekeeper should not be undermined or restricted. In particular, it should be avoided that gatekeepers restrict end users from access to and use of such services via a software application running on their core platform service. For example, subscribers to online content purchased outside a software application download or purchased from a software application store</p> | <p>platform services of gatekeepers, the business users of these gatekeepers should be free in promoting and choosing the distribution channel they consider most appropriate to interact with any end users that these business users have already acquired through core platform services provided by the gatekeeper <u>or through other channels. An acquired end user is an end user who has already entered into a contractual relationship with the business user. Such contractual relationships may be on either a paid or a free basis (e.g., free trials, free service tiers) and may have been entered into either on the gatekeeper's core platform service or through any other channel.</u> Conversely, end users should also be free to choose offers of such business users and to enter into contracts with them either through core platform services of the gatekeeper, if applicable, or from a direct distribution channel of the business user or another indirect distribution channel such business user may use. This should apply to the promotion of offers, <u>communication</u> and conclusion of contracts between business users and end users. Moreover, the ability of end users to freely acquire content, subscriptions, features or other items outside the core platform services of</p> | <p>platform services of gatekeepers, <u>and in order to promote multi-homing</u>, the business users of these gatekeepers should be free in promoting and choosing the distribution channel they consider most appropriate to interact with any end users that these business users have already acquired <u>with whom the commercial relationship has previously been established either through core platform services provided by the gatekeeper or through other channels.</u> Conversely, end users should also be free to choose offers of such business users and to enter into contracts with them either through core platform services of the gatekeeper, if applicable, or from a direct distribution channel of the business user or another indirect distribution channel such business user may use. This should apply to the promotion of offers and conclusion of contracts between business users and end users. Moreover, the ability of end users to freely acquire content, subscriptions, features or other items outside the core platform services of the gatekeeper should not be undermined or restricted. In particular, it should be avoided that gatekeepers restrict end users from access to and use of such services via a software application running</p> | <p>platform services of gatekeepers, <u>and in order to promote multi-homing</u>, the business users of these gatekeepers should be free in promoting and choosing the distribution channel they consider most appropriate to interact with any end users that these business users have already acquired through core platform services provided by the gatekeeper. Conversely, end users should also be free to choose offers of such business users and to enter into contracts with them either or through other distribution channels. This should apply to the promotion of offers, including through core platform services a software application of the gatekeeper, if applicable, or from a direct distribution channel of the business user, any form of communication and conclusion of contracts between business user or another indirect distribution channel such business user may use. This should apply to the promotion of offers and conclusion of contracts between users and end users. An acquired end user is an end user who has already entered into a commercial relationship with the business users and end users. <u>Moreover, the ability of end users to freely acquire content, subscriptions, features or other items outside the core platform services user and,</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|--|---|--|
| | <p>should not be prevented from accessing such online content on a software application on the gatekeeper’s core platform service simply because it was purchased outside such software application or software application store.</p> | <p>the gatekeeper should not be undermined or restricted. In particular, it should be avoided that gatekeepers restrict end users from access to and use of such services via a software application running on their core platform service. For example, subscribers to online content purchased outside a software application download or purchased from a software application store should not be prevented from accessing such online content on a software application on the gatekeeper’s core platform service simply because it was purchased outside such software application or software application store.</p> | <p>on their core platform service. For example, subscribers to online content purchased outside a software application download or purchased from a software application store should not be prevented from accessing such online content on a software application on the gatekeeper’s core platform service simply because it was purchased outside such software application or software application store.</p> | <p><u>where applicable, the gatekeeper has been directly or indirectly remunerated by the business user for facilitating the initial acquisition</u> of the gatekeeper <u>should not be undermined or restricted. In particular, it should be avoided that gatekeepers restrict end users from access to and use of such services via a software application running on their</u> <u>end user by the business user. Such commercial relationships may be on either a paid or a free basis, such as free trials or free service tiers, and may have been entered into either on the</u> <u>gatekeeper’s</u> core platform service. For example, subscribers to online content purchased outside a software application download or purchased from a software application store should not be prevented from accessing such online content on a software application on <u>or through any other channel. Conversely, end users should also be free to choose offers of such business users and to enter into contracts with them either through core platform services of</u> the gatekeeper’s core platform service simply because it was purchased outside such software application or software application store, <u>if applicable, or from a direct distribution channel of the business user or another indirect distribution</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|--|--|--|--|
| | | | | <u>channel such business user may use.</u> |
| Recital 38a | | | | |
| 49a | | | <u>(38a) The ability of end users to acquire content, subscriptions, features or other items outside the core platform services of the gatekeeper should not be undermined or restricted. In particular, it should be avoided that gatekeepers restrict end users from access to and use of such services via a software application running on their core platform service. For example, subscribers to online content purchased outside a software application download or purchased from a software application store should not be prevented from accessing such online content on a software application on the gatekeeper's core platform service simply because it was purchased outside such software application or software application store.</u> | <u>(38a) The ability of end users to acquire content, subscriptions, features or other items outside the core platform services of the gatekeeper should not be undermined or restricted. In particular, it should be avoided that gatekeepers restrict end users from access to and use of such services via a software application running on their core platform service. For example, subscribers to online content purchased outside a software application, software application store or virtual assistant should not be prevented from accessing such online content on a software application on the gatekeeper's core platform service simply because it was purchased outside such software application, software application store or virtual assistant.</u> |
| Recital 39 | | | | |
| 50 | (39) To safeguard a fair commercial environment and protect the contestability of the digital sector it is important to safeguard the right of | (39) To safeguard a fair commercial environment and protect the contestability of the digital sector it is important to safeguard the right of | (39) To safeguard a fair commercial environment and protect the contestability of the digital sector it is important to safeguard the right of | (39) To safeguard a fair commercial environment and protect the contestability of the digital sector it is important to safeguard the right of |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---|---|--|---|
| | <p>business users to raise concerns about unfair behaviour by gatekeepers with any relevant administrative or other public authorities. For example, business users may want to complain about different types of unfair practices, such as discriminatory access conditions, unjustified closing of business user accounts or unclear grounds for product de-listings. Any practice that would in any way inhibit such a possibility of raising concerns or seeking available redress, for instance by means of confidentiality clauses in agreements or other written terms, should therefore be prohibited. This should be without prejudice to the right of business users and gatekeepers to lay down in their agreements the terms of use including the use of lawful complaints-handling mechanisms, including any use of alternative dispute resolution mechanisms or of the jurisdiction of specific courts in compliance with respective Union and national law This should therefore also be without prejudice to the role gatekeepers play in the fight against illegal content online.</p> | <p>business users <u>and end users, including whistleblowers</u> to raise concerns about unfair behaviour by gatekeepers with any relevant administrative or other public authorities. For example, business users <u>or end users</u> may want to complain about different types of unfair practices, such as discriminatory access conditions, unjustified closing of business user accounts or unclear grounds for product de-listings. Any practice that would in any way inhibit <u>or hinder</u> such a possibility of raising concerns or seeking available redress, for instance by means of confidentiality clauses in agreements or other written terms, should therefore be prohibited. This should be without prejudice to the right of business users and gatekeepers to lay down in their agreements the terms of use including the use of lawful complaints-handling mechanisms, including any use of alternative dispute resolution mechanisms or of the jurisdiction of specific courts in compliance with respective Union and national law This should therefore also be without prejudice to the role gatekeepers play in the fight against illegal content online.</p> | <p>business users <u>and end users</u> to raise concerns about unfair behaviour by gatekeepers with any relevant administrative or other public authorities, <u>including national courts</u>. For example, business users <u>and end users</u> may want to complain about different types of unfair practices, such as discriminatory access conditions, unjustified closing of business user accounts or unclear grounds for product de-listings. Any practice that would in any way inhibit <u>or hamper</u> such a possibility of raising concerns or seeking available redress, for instance by means of confidentiality clauses in agreements or other written terms <u>or unduly hamper by stipulating which steps to take first</u>, should therefore be prohibited. This should be without prejudice to the right of business users and gatekeepers to lay down in their agreements the terms of use including the use of lawful complaints-handling mechanisms, including any use of alternative dispute resolution mechanisms or of the jurisdiction of specific courts in compliance with respective Union and national law. This should therefore also be without prejudice to the role gatekeepers play in the fight against illegal content online.</p> | <p>business users <u>and end users, including whistleblowers</u>, to raise concerns about unfair behaviour <u>raising any issue of non-compliance with the relevant Union or national law</u> by gatekeepers with any relevant administrative or other public authorities, <u>including national courts</u>. For example, business users <u>or end users</u> may want to complain about different types of unfair practices, such as discriminatory access conditions, unjustified closing of business user accounts or unclear grounds for product de-listings <u>de-listings</u>. Any practice that would in any way inhibit <u>or hinder</u> such a possibility of raising concerns or seeking available redress, for instance by means of confidentiality clauses in agreements or other written terms, should therefore be prohibited. This should be without prejudice to the right of business users and gatekeepers to lay down in their agreements the terms of use including the use of lawful complaints-handling mechanisms, including any use of alternative dispute resolution mechanisms or of the jurisdiction of specific courts in compliance with respective Union and national law. This should therefore also be without prejudice to the role gatekeepers play in the fight against illegal content online.</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|---|---|--|
| Recital 40 | | | | |
| 51 | <p>(40) Identification services are crucial for business users to conduct their business, as these can allow them not only to optimise services, to the extent allowed under Regulation (EU) 2016/679 and Directive 2002/58/EC of the European Parliament and of the Council¹, but also to inject trust in online transactions, in compliance with Union or national law. Gatekeepers should therefore not use their position as provider of core platform services to require their dependent business users to include any identification services provided by the gatekeeper itself as part of the provision of services or products by these business users to their end users, where other identification services are available to such business users.</p> <p>¹. Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).</p> | <p>(40) Identification <u>Gatekeepers offer a range of ancillary services. To ensure contestability, it is is-are crucial for that business users <u>are free to choose such ancillary services without having to fear any detrimental effects for the provision of the core platform service and</u> to conduct their business, as these can allow them not only to optimise services, to the extent allowed under Regulation (EU) 2016/679 and Directive 2002/58/EC of the European Parliament and of the Council¹, but also to inject trust in online transactions, in compliance with Union or national law. Gatekeepers should therefore not use their position as provider of core platform services to require their dependent business users to <u>use, offer or include any ancillary service provided by the gatekeeper or a particular third party, where other ancillary services are available to such business users. Gatekeepers should eventually not use their position as provider of core platform services to require their dependent business users to</u> include any identification services provided by the gatekeeper itself as part of the provision of services or</u></p> | <p>(40) Identification <u>and payment</u> services are crucial for business users to conduct their business, as these can allow them not only to optimise services, to the extent allowed under Regulation (EU) 2016/679 and Directive 2002/58/EC of the European Parliament and of the Council¹, but also to inject trust in online transactions, in compliance with Union or national law. Gatekeepers should therefore not use their position as provider of <u>undertakings providing</u> core platform services to require their dependent business users to include any identification <u>or payment</u> services provided by the gatekeeper itself as part of the provision of services or products by these business users to their end users, where other identification services are available to such business users.</p> <p>¹. Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).</p> | <p>(40) <u>Certain services offered together with or in support of relevant core platform services of the gatekeeper, such as identification services, web browser engines, payment services or technical services that support the provision of payment services, such as payment systems for in-app purchases,</u> are crucial for business users to conduct their business, as these can <u>and</u> allow them not only to optimise services. <u>In particular, each browser is built on a web browser engine, which is responsible for key browser functionality such as speed, reliability and web compatibility. When gatekeepers operate and impose browser engines, they are in a position to determine the functionality and standards that will apply not only to their own web browsers, to the extent allowed under Regulation (EU) 2016/679 and Directive 2002/58/EC of the European Parliament and of the Council¹, but also to inject trust in online transactions, in compliance with Union or national law competing web browsers and, in turn, to web software applications.</u> Gatekeepers should therefore not use</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---------------------|--|-----------------|---|
| | | <p>products by these business users to their end users, where other identification services are available to such business users.</p> <p>1. Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).</p> | | <p>their position as provider <u>of undertakings providing</u> core platform services to require their dependent business users to include any identification <u>use any of those</u> services provided by the gatekeeper itself as part of the provision of services or products by these business users. <u>In order to avoid that gatekeepers indirectly impose</u> to <u>their own services offered together with or in support of core platform services on business users, gatekeepers should also not be able to require</u> end users <u>to use such services, when that requirement would be imposed in the context of the service provided to end users by the business user using the core platform service of the gatekeeper. This provision aims at protecting the freedom of the business user to choose alternative</u>, where other identification services are available to such business <u>to the ones of the gatekeeper, but should not be construed as an obligation on the business user to offer such alternatives to its end</u> users.</p> <p>1. Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|--|---|---|
| Recital 41 | | | | |
| 52 | <p>(41) Gatekeepers should not restrict the free choice of end users by technically preventing switching between or subscription to different software applications and services. Gatekeepers should therefore ensure a free choice irrespective of whether they are the manufacturer of any hardware by means of which such software applications or services are accessed and should not raise artificial technical barriers so as to make switching impossible or ineffective. The mere offering of a given product or service to end users, including by means of pre-installation, as well the improvement of end user offering, such as better prices or increased quality, would not in itself constitute a barrier to switching.</p> | <p>(41) Gatekeepers should not restrict the free choice of end users by technically preventing switching between or subscription to different software applications and services. Gatekeepers should therefore ensure a free choice irrespective of whether they are the manufacturer of any hardware by means of which such software applications or services are accessed and should not raise artificial technical barriers so as to make switching impossible<u>more difficult</u> or ineffective. The mere offering of a given product or service to end users, including by means of pre-installation, as well the improvement of end user offering, such as better prices or increased quality, would not in itself constitute a barrier to switching.</p> | <p>(41) Gatekeepers should not restrict the free choice of<u>The conduct of requiring business users or</u> end users by technically preventing switching between or subscription to different software applications and to<u>subscribe to or register with any other core platform</u> services. of gatekeepers should therefore ensure a free choice irrespective of whether they are the manufacturer of any hardware by<u>as a condition to access, sign up to or register for a core platform service gives the gatekeeper a</u> means of which such software applications or services are accessed and should not raise artificial technical barriers so as to make switching impossible or ineffective. The mere offering of a given product or service to end users, including by means of pre-installation, as well the improvement of end user offering, such as better prices or increased quality, would not in itself constitute a barrier to switching<u>capturing and locking-in new business users and end users for their core platform services by ensuring that business users cannot access one core platform service without also at least registering or creating an account for the purposes of receiving a second core platform service. This conduct also</u></p> | <p>(41) Gatekeepers should not restrict the free choice of<u>The conduct of requiring business users or</u> end users by technically preventing switching between or subscription to different software applications and to<u>subscribe to or register with any further core platform</u> services. of gatekeepers should therefore ensure a free choice irrespective of whether they are the manufacturer of any hardware by means of which such software applications or services are accessed and should not raise artificial technical barriers so as to make switching impossible or ineffective. The mere offering of a given product or<u>identified pursuant to Article 3(7) or which meet the thresholds in Article 3(2) point (b) as a condition to use, access, sign up for or register with a core platform service gives the gatekeeper a means of capturing and locking-in new business users and end users for their core platform services by ensuring that business users cannot access one core platform</u> service to end users, including by means of pre-installation, as well the improvement of end user offering, such as better prices or increased quality, would not in itself constitute a barrier to switching<u>without also at least</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|--|--|---|
| | | | <p><u><i>gives gatekeepers a potential advantage in terms of accumulation of data. As such, this conduct is liable to raise barriers to entry.</i></u></p> | <p><u><i>registering or creating an account for the purposes of receiving a second core platform service. This conduct also gives gatekeepers a potential advantage in terms of accumulation of data. As such, this conduct is liable to raise barriers to entry.</i></u></p> |
| Recital 42 | | | | |
| 53 | <p>(42) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This opacity is partly linked to the practices of a few platforms, but is also due to the sheer complexity of modern day programmatic advertising. The sector is considered to have become more non-transparent after the introduction of new privacy legislation, and is expected to become even more opaque with the announced removal of third-party cookies. This often leads to a lack of information and knowledge for advertisers and publishers about the conditions of the advertising services they purchased and undermines their ability to switch to alternative providers of online advertising services. Furthermore, the costs of online advertising are likely to be</p> | <p>(42) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This opacity is partly linked to the practices of a few platforms, but is also due to the sheer complexity of modern day programmatic advertising. The sector is considered to have become more non-transparent after the introduction of new privacy legislation, and is expected to become even more opaque with the announced removal of third-party cookies. This often leads to a lack of information and knowledge for advertisers and publishers about the conditions of the advertising services they purchased and undermines their ability to switch to alternative providers of online advertising services. Furthermore, the costs of online advertising are likely to be</p> | <p>(42) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This opacity is partly linked to the practices of a few platforms, but is also due to the sheer complexity of modern day programmatic advertising. The sector is considered to have become more non-transparent after the introduction of new privacy legislation, and is expected to become even more opaque with the announced removal of third-party cookies. This often leads to a lack of information and knowledge for advertisers and publishers about the conditions of the advertising services they purchased and undermines their ability to switch to alternative <u><i>providers of undertakings providing</i></u> online advertising services. Furthermore, the costs of online</p> | <p>(42) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This opacity is partly linked to the practices of a few platforms, but is also due to the sheer complexity of modern day programmatic advertising. The sector is considered to have become <i>more non-transparent</i> <u><i>less transparent</i></u> after the introduction of new privacy legislation, <i>and is expected to become even more opaque with the announced removal of third-party cookies.</i> This often leads to a lack of information and knowledge for advertisers and publishers about the conditions of the advertising services they <i>purchased</i> <u><i>purchase</i></u> and undermines their ability to switch <i>to alternative providers of</i> <u><i>between undertakings providing</i></u> online advertising</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|--|--|---|
| | <p>higher than they would be in a fairer, more transparent and contestable platform environment. These higher costs are likely to be reflected in the prices that end users pay for many daily products and services relying on the use of online advertising. Transparency obligations should therefore require gatekeepers to provide advertisers and publishers to whom they supply online advertising services, when requested and to the extent possible, with information that allows both sides to understand the price paid for each of the different advertising services provided as part of the relevant advertising value chain.</p> | <p>higher than they would be in a fairer, more transparent and contestable platform environment. These higher costs are likely to be reflected in the prices that end users pay for many daily products and services relying on the use of online advertising. Transparency obligations should therefore require gatekeepers to provide advertisers and publishers to whom they supply online advertising services, <u>with free of charge, effective, high-quality, continuous and real-time</u> when requested and to the extent possible, with information that allows both sides to understand the price paid for each of the different advertising services provided as part of the relevant advertising value chain <u>and the availability and visibility of advertisement.</u></p> | <p>advertising are likely to be higher than they would be in a fairer, more transparent and contestable platform environment. These higher costs are likely to be reflected in the prices that end users pay for many daily products and services relying on the use of online advertising. Transparency obligations should therefore require gatekeepers to provide advertisers and publishers to whom they supply online advertising services, when requested <u>within one month after a request</u> and to the extent possible, with information that allows both sides to understand the price paid for each of the different advertising services provided as part of the relevant advertising value chain.</p> | <p>services. Furthermore, the costs of online advertising <u>under these conditions</u> are likely to be higher than they would be in a fairer, more transparent and contestable platform environment. These higher costs are likely to be reflected in the prices that end users pay for many daily products and services relying on the use of online advertising. Transparency obligations should therefore require gatekeepers to provide advertisers and publishers to whom they supply online advertising services, when requested, <u>with free of charge</u> and to the extent possible, with information that allows both sides to understand the price paid for each of the different advertising services provided as part of the relevant advertising value chain. <u>This information should be provided, upon request, to an advertiser at the level of an individual advertisement in relation to the price and fees charged to that advertiser and, subject to an agreement by the publisher owning the inventory where the advertisement is displayed, the remuneration received by that consenting publisher. The provision of this information on a daily basis will allow advertisers to receive information that has a sufficient level of granularity necessary to compare the costs of using the</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|---|---|--|
| | | | | <p><u>online advertising services of gatekeepers with the costs of using online advertising services of alternative undertakings. In case some publishers do not provide their consent to the sharing of the relevant information with the advertiser, the gatekeeper should provide the advertiser with the information about the daily average remuneration received by those publishers for the relevant advertisements. The same obligation and principles of sharing the relevant information concerning the provision of online advertising services should apply in case of requests by publishers. Since gatekeepers may use different pricing models for the provision of online advertising services to advertisers and publishers, for instance a price per impression, per view or any other criterion, gatekeepers should also provide the method with which each of the prices and remunerations are calculated.</u></p> <p>Text Origin: Auxiliary</p> |
| Recital 43 | | | | |
| 54 | (43) A gatekeeper may in certain circumstances have a dual role as a provider of core platform services | (43) A gatekeeper may in certain circumstances have a dual role as a provider of core platform services | (43) A gatekeeper may in certain circumstances have a dual role as a <u>provider of an undertaking</u> | (43) A gatekeeper may in certain circumstances have a dual role as a <u>provider of an undertaking</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|--|---|---|
| | <p>whereby it provides a core platform service to its business users, while also competing with those same business users in the provision of the same or similar services or products to the same end users. In these circumstances, a gatekeeper may take advantage of its dual role to use data, generated from transactions by its business users on the core platform, for the purpose of its own services that offer similar services to that of its business users. This may be the case, for instance, where a gatekeeper provides an online marketplace or app store to business users, and at the same time offer services as an online retailer or provider of application software against those business users. To prevent gatekeepers from unfairly benefitting from their dual role, it should be ensured that they refrain from using any aggregated or non-aggregated data, which may include anonymised and personal data that is not publicly available to offer similar services to those of their business users. This obligation should apply to the gatekeeper as a whole, including but not limited to its business unit that competes with the business users of a core platform service.</p> | <p>whereby it provides a core platform service to its business users, while also competing with those same business users in the provision of the same or similar services or products to the same end users. In these circumstances, a gatekeeper may take advantage of its dual role to use data, generated from transactions by its business users on the core platform, for the purpose of its own services that offer similar services to that of its business users. This may be the case, for instance, where a gatekeeper provides an online marketplace or app store to business users, and at the same time offer services as an online retailer or provider of application software against those business users. To prevent gatekeepers from unfairly benefitting from their dual role, it should be ensured that they refrain from using any aggregated or non-aggregated data, which may include anonymised and personal data that is not publicly available to offer similar services to those of their business users. This obligation should apply to the gatekeeper as a whole, including but not limited to its business unit that competes with the business users of a core platform service.</p> | <p><u>providing</u> core platform services whereby it provides a core platform service <u>possibly together with an ancillary service</u> to its business users, while also competing with those same business users in the provision of the same or similar services or products to the same end users. In these circumstances, a gatekeeper may take advantage of its dual role to use data, generated from transactions by its business users on the core platform <u>services or on the ancillary services</u>, for the purpose of its own services that offer similar services to that of its business users. This may be the case, for instance, where a gatekeeper provides an online marketplace or app store to business users, and at the same time offer services as an online retailer or provider of <u>undertaking providing</u> application software against those business users. To prevent gatekeepers from unfairly benefitting from their dual role, it should be ensured that they refrain from using any aggregated or non-aggregated data, which may include anonymised and personal data that is not publicly available to offer similar services to those of their business users. This obligation should apply to the gatekeeper as a whole, including but not limited to its business unit that competes with the business users of a core platform</p> | <p><u>providing</u> core platform services whereby it provides a core platform service, <u>and possibly other services offered together with or in support of that core platform service</u>, to its business users, while also competing <u>or intending to compete</u> with those same business users in the provision of the same or similar services or products to the same end users. In these circumstances, a gatekeeper may take advantage of its dual role to use data, generated from transactions or <u>provided</u> by its business users on <u>in the context of activities by those business users when using</u> the core platform <u>services or the services offered together with or in support of those core platform services</u>, for the purpose of its own services that offer similar services to that or <u>products</u>. <u>The data of the business user may also include any data generated by or provided during the activities</u> of its business <u>end</u> users. This may be the case, for instance, where a gatekeeper provides an online marketplace or app store to business users, and at the same time offer <u>offers</u> services as an online retailer or provider of <u>undertaking providing online retail services or</u> application software against those business users. To prevent gatekeepers from unfairly benefitting from their dual role, it</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|--|--|---|
| | | | service <u>and the ancillary services</u> . | <p>should be ensured that they refrain from using any aggregated or non-aggregated data, which may include anonymised and personal data that is not publicly available to offer similar services to those of their business users. This obligation should apply to the gatekeeper as a whole, including but not limited to its business unit that competes with the business users of a core platform service.</p> <p><small>Text Origin: Auxiliary</small></p> |
| Recital 44 | | | | |
| 55 | <p>(44) Business users may also purchase advertising services from a provider of core platform services for the purpose of providing goods and services to end users. In this case, it may occur that the data are not generated on the core platform service, but are provided to the core platform service by the business user or are generated based on its operations through the core platform service concerned. In certain instances, that core platform service providing advertising may have a dual role, as intermediary and as provider of advertising services. Accordingly, the obligation prohibiting a dual role gatekeeper from using data of business users</p> | <p>(44) Business users may also purchase advertising services from a provider of core platform services for the purpose of providing goods and services to end users. In this case, it may occur that the data are not generated on the core platform service, but are provided to the core platform service by the business user or are generated based on its operations through the core platform service concerned. In certain instances, that core platform service providing advertising may have a dual role, as intermediary and as provider of advertising services. Accordingly, the obligation prohibiting a dual role gatekeeper from using data of business users</p> | <p>(44) Business users may also purchase advertising services from a <u>provider of an undertaking providing</u> core platform services for the purpose of providing goods and services to end users. In this case, it may occur that the data are not generated on the core platform service, but are provided to the core platform service by the business user or are generated based on its operations through the core platform service concerned. In certain instances, that core platform service providing advertising may have a dual role, as intermediary and as provider of <u>undertaking providing</u> advertising services. Accordingly, the obligation prohibiting a dual role</p> | <p>(44) Business users may also purchase advertising services from a <u>provider of an undertaking providing</u> core platform services for the purpose of providing goods and services to end users. In this case, it may occur that the data are not generated on the core platform service, but are provided to the core platform service by the business user or are generated based on its operations through the core platform service concerned. In certain instances, that core platform service providing advertising may have a dual role, as intermediary <u>as an undertaking providing advertising services</u> and as provider of <u>advertising services</u> <u>undertaking</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|--|--|---|
| | should apply also with respect to the data that a core platform service has received from businesses for the purpose of providing advertising services related to that core platform service. | should apply also with respect to the data that a core platform service has received from businesses for the purpose of providing advertising services related to that core platform service. <u>Moreover the gatekeeper should refrain from disclosing any commercially sensitive information obtained in connection with one of its advertising services to any third party belonging to the same undertaking and from using such commercially sensitive information for any purposes other than the provision of the specific advertising service unless this is necessary for carrying out a business transaction.</u> | gatekeeper from using data of business users should apply also with respect to the data that a core platform service has received from businesses for the purpose of providing advertising services related to that core platform service. | <u>providing services competing with business users.</u> Accordingly, the obligation prohibiting a dual role gatekeeper from using data of business users should apply also with respect to the data that a core platform service has received from businesses for the purpose of providing advertising services related to that core platform service. Text Origin: Auxiliary |
| Recital 45 | | | | |
| 56 | (45) In relation to cloud computing services, this obligation should extend to data provided or generated by business users of the gatekeeper in the context of their use of the cloud computing service of the gatekeeper, or through its software application store that allows end users of cloud computing services access to software applications. This obligation should not affect the right of gatekeepers to use aggregated data for providing ancillary data analytics services, subject to compliance with Regulation 2016/679 and Directive 2002/58/EC | (45) In relation to cloud computing services, this obligation should extend to data provided or generated by business users of the gatekeeper in the context of their use of the cloud computing service of the gatekeeper, or through its software application store that allows end users of cloud computing services access to software applications. This obligation should not affect the right of gatekeepers to use aggregated data for providing ancillary data analytics services, subject to compliance with Regulation 2016/679 and Directive 2002/58/EC | (45) In relation to cloud computing services, this obligation should extend to data provided or generated by business users of the gatekeeper in the context of their use of the cloud computing service of the gatekeeper, or through its software application store that allows end users of cloud computing services access to software applications. This obligation should not affect the right of gatekeepers to use aggregated data for providing ancillary data analytics services, subject to compliance with Regulation 2016/679 and <u>Regulation (EU)</u> | (45) In relation to cloud computing services, this obligation should extend to data provided or generated by business users of the gatekeeper in the context of their use of the cloud computing service of the gatekeeper, or through its software application store that allows end users of cloud computing services access to software applications. This obligation should not affect the right of gatekeepers to use aggregated data for providing ancillary <u>other services offered together with or in support of its core platform service,</u> <u>such as</u> data analytics services, |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|--|--|--|
| | as well as with the relevant obligations in this Regulation concerning ancillary services. | as well as with the relevant obligations in this Regulation concerning ancillary services. | <u>2016/679 and</u> Directive 2002/58/EC as well as with the relevant obligations in this Regulation concerning ancillary services. | subject to compliance with Regulation 2016/679 and <u>Regulation (EU) 2016/679 and</u> Directive 2002/58/EC as well as with the relevant obligations in this Regulation concerning ancillary <u>such</u> services. Text Origin: Auxiliary |
| Recital 46 | | | | |
| 57 | (46) A gatekeeper may use different means to favour its own services or products on its core platform service, to the detriment of the same or similar services that end users could obtain through third parties. This may for instance be the case where certain software applications or services are pre-installed by a gatekeeper. To enable end user choice, gatekeepers should not prevent end users from un-installing any pre-installed software applications on its core platform service and thereby favour their own software applications. | (46) A gatekeeper may use different means to favour its own services or products on its core platform service, to the detriment of the same or similar services that end users could obtain through third parties. This may for instance be the case where certain software applications or services are pre-installed by a gatekeeper. To enable end user choice, gatekeepers should not prevent end users from un-installing any pre-installed software applications on its core platform service and thereby favour their own software applications. <u>The gatekeeper may restrict such un-installation when such applications are essential to the functioning of the operating system or the device.</u> | (46) A gatekeeper may <u>can</u> use different means to favour its own <u>or third party</u> services or products on its core platform service <u>an operating system it provides or effectively controls</u> , to the detriment of the same or similar services that end users could obtain through third parties. This may for instance be the case where certain software applications or services are pre-installed by a gatekeeper. To enable end user choice, gatekeepers should not <u>exclusively enable their own software applications and should not</u> prevent end users from un-installing any pre-installed software applications on <u>an operating system they provide or effectively control</u> its core platform service and thereby favour their own <u>or third party</u> software applications. | (46) A gatekeeper may <u>can</u> use different means to favour its own <u>or third party</u> services or products on its core platform service <u>operating system, virtual assistant or web browser</u> , to the detriment of the same or similar services that end users could obtain through other third parties. This may for instance be the case where certain software applications or services are pre-installed by a gatekeeper. To enable end user choice, gatekeepers should not prevent end users from un-installing any pre-installed software applications on its core platform service and thereby <u>operating system. The gatekeeper may restrict such un-installation only when such applications are essential to the functioning of the operating system or the device. Gatekeepers should also allow end users to easily change the default settings</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|---|---|---|
| | | | | <p><u>on the operating system, virtual assistant and web browser when those</u> favour their own software applications <u>and services. This includes prompting a choice screen, at the moment of the users' first use of an online search engine, virtual assistant or web browser of the gatekeeper designated pursuant to Article 3(7), allowing end users to select an alternative default service when the operating system of the gatekeeper directs end users to the gatekeepers' designated online search engine, virtual assistant and/or web browser and when the virtual assistant and/or the web browser of the gatekeeper direct the user to the gatekeepers' designated online search engine.</u></p> |
| Recital 47 | | | | |
| 58 | <p>(47) The rules that the gatekeepers set for the distribution of software applications may in certain circumstances restrict the ability of end users to install and effectively use third party software applications or software application stores on operating systems or hardware of the relevant gatekeeper and restrict the ability of end users to access these software applications or software application stores outside the core platform services of that gatekeeper.</p> | <p>(47) The rules that the gatekeepers set for the distribution of software applications may in certain circumstances restrict the ability of end users to install and effectively use third party software applications or software application stores on operating systems or hardware of the relevant gatekeeper and restrict the ability of end users to access these software applications or software application stores outside the core platform services of that gatekeeper.</p> | <p>(47) The rules that the gatekeepers set for the distribution of software applications may in certain circumstances restrict the ability of end users to install and effectively use third party software applications or software application stores on operating systems or hardware of the relevant gatekeeper and restrict the ability of end users to access these software applications or software application stores outside the core platform services of that gatekeeper.</p> | <p>(47) The rules that the gatekeepers set for the distribution of software applications may in certain circumstances restrict the ability of end users to install and effectively use third party software applications or software application stores on operating systems or hardware of the relevant gatekeeper and restrict the ability of end users to access these software applications or software application stores outside the core platform services of that gatekeeper.</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---|--|--|--|
| | <p>Such restrictions may limit the ability of developers of software applications to use alternative distribution channels and the ability of end users to choose between different software applications from different distribution channels and should be prohibited as unfair and liable to weaken the contestability of core platform services. In order to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper the gatekeeper concerned may implement proportionate technical or contractual measures to achieve that goal if the gatekeeper demonstrates that such measures are necessary and justified and that there are no less restrictive means to safeguard the integrity of the hardware or operating system.</p> | <p>Such restrictions may limit the ability of developers of software applications to use alternative distribution channels and the ability of end users to choose between different software applications from different distribution channels and should be prohibited as unfair and liable to weaken the contestability of core platform services. <u>To ensure contestability, the gatekeeper should prompt where relevant the end user to decide whether the downloaded application or app store should become the default.</u> In order to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper the gatekeeper concerned may implement proportionate technical or contractual measures to achieve that goal if the gatekeeper demonstrates that such measures are necessary and justified and that there are no less restrictive means to safeguard the integrity of the hardware or operating system.</p> | <p>Such restrictions may limit the ability of developers of software applications to use alternative distribution channels and the ability of end users to choose between different software applications from different distribution channels and should be prohibited as unfair and liable to weaken the contestability of core platform services. In order to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper the gatekeeper concerned may implement <u>necessary and</u> proportionate technical or contractual measures to achieve that goal if the gatekeeper demonstrates that such measures are necessary and justified and that there are no less restrictive means to safeguard the integrity of the hardware or operating system.</p> | <p>Such restrictions may limit the ability of developers of software applications to use alternative distribution channels and the ability of end users to choose between different software applications from different distribution channels and should be prohibited as unfair and liable to weaken the contestability of core platform services. <u>To ensure contestability, the gatekeeper should furthermore allow the third party software applications or software application stores to prompt the end user to decide whether that service should become the default and enable that change to be carried out easily.</u> In order to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper the gatekeeper concerned may implement proportionate technical or contractual measures to achieve that goal if the gatekeeper demonstrates that such measures are necessary and justified and that there are no less restrictive means to safeguard the integrity of the hardware or operating system. <u>The integrity of the hardware or the operating system should include any design options that are necessary to be implemented and maintained in order for the hardware or the</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---------------------|------------|--|---|
| | | | | <p><u>operating system to be protected against unauthorised access, by ensuring that security controls specified for the hardware or the operating system concerned cannot be compromised. Furthermore, in order to ensure that third party software applications or software application stores do not undermine end users' security, the gatekeeper may implement strictly necessary and proportionate measures and settings, other than default settings, enabling end users to effectively protect security in relation to third party software applications or software application stores if the gatekeeper demonstrates that such measures and settings are strictly necessary and justified and that there are no less restrictive means to achieve that goal. The gatekeeper should be prevented from implementing such measures as a default setting or pre-installation.</u></p> <p>Text Origin: Commission Proposal</p> |
| Recital 47a | | | | |
| 58a | | | <p><u>(47a) Furthermore, in order to enable end users to safeguard their security, the gatekeeper should not be prevented from taking the strictly necessary and proportionate</u></p> | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|---|--|--|
| | | | <p><u><i>technical measures, if the gatekeeper demonstrates that such measures are necessary and justified and that there are no less restrictive means to achieve this goal. This may include appropriate security-related information by gatekeepers and, for the purpose of parental control, the possibility for end users to deactivate and reactivate third party software applications or software applications stores.</i></u></p> | |
| Recital 48 | | | | |
| 59 | <p>(48) Gatekeepers are often vertically integrated and offer certain products or services to end users through their own core platform services, or through a business user over which they exercise control which frequently leads to conflicts of interest. This can include the situation whereby a gatekeeper offers its own online intermediation services through an online search engine. When offering those products or services on the core platform service, gatekeepers can reserve a better position to their own offering, in terms of ranking, as opposed to the products of third parties also operating on that core platform service. This can occur for instance with products or services,</p> | <p>(48) Gatekeepers are often vertically integrated and offer certain products or services to end users through their own core platform services, or through a business user over which they exercise control which frequently leads to conflicts of interest. This can include the situation whereby a gatekeeper offers its own online intermediation services through an online search engine. When offering those products or services on the core platform service, gatekeepers can reserve a better position to their own offering, in terms of ranking, as opposed to the products of third parties also operating on that core platform service. This can occur for instance with products or services,</p> | <p>(48) Gatekeepers are often vertically integrated and offer certain products or services to end users through their own core platform services, or through a business user over which they exercise control which frequently leads to conflicts of interest. This can include the situation whereby a gatekeeper offers its own online intermediation services through an online search engine. When offering those products or services on the core platform service, gatekeepers can reserve a better position to their own offering <u><i>of online intermediation services, online social networking services or video-sharing platform services</i></u>, in terms of ranking, as opposed to the products of third</p> | <p>(48) Gatekeepers are often vertically integrated and offer certain products or services to end users through their own core platform services, or through a business user over which they exercise control which frequently leads to conflicts of interest. This can include the situation whereby a gatekeeper offers its own online intermediation services through an online search engine. When offering those products or services on the core platform service, gatekeepers can reserve a better position to their own offering, in terms of ranking, <u><i>and related indexing and crawling</i></u>, as opposed to the products of third parties also operating on that core platform service. This can occur for</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|--|---|--|
| | <p>including other core platform services, which are ranked in the results communicated by online search engines, or which are partly or entirely embedded in online search engines results, groups of results specialised in a certain topic, displayed along with the results of an online search engine, which are considered or used by certain end users as a service distinct or additional to the online search engine. Other instances are those of software applications which are distributed through software application stores, or products or services that are given prominence and display in the newsfeed of a social network, or products or services ranked in search results or displayed on an online marketplace. In those circumstances, the gatekeeper is in a dual-role position as intermediary for third party providers and as direct provider of products or services of the gatekeeper. Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper.</p> | <p>including other core platform services, which are ranked in the results communicated by online search engines, or which are partly or entirely embedded in online search engines results, groups of results specialised in a certain topic, displayed along with the results of an online search engine, which are considered or used by certain end users as a service distinct or additional to the online search engine. <u>Such preferential or embedded display of a separate online intermediation service should constitute a favouring irrespective of whether the information or results within the favoured groups of specialised results may also be provided by competing services and are as such ranked in a non-discriminatory way.</u> Other instances are those of software applications which are distributed through software application stores, or products or services that are given prominence and display in the newsfeed of a social network, or products or services ranked in search results or displayed on an online marketplace. In those circumstances, the gatekeeper is in a dual-role position as intermediary for third party providers and as direct provider of products or services of the gatekeeper <u>leading to conflicts of</u></p> | <p>parties also operating on that core platform service. This can occur for instance with products or services, including other core platform services, which are ranked in the results communicated by online search engines, or which are partly or entirely embedded in online search engines results, groups of results specialised in a certain topic, displayed along with the results of an online search engine, which are considered or used by certain end users as a service distinct or additional to the online search engine. Other instances are those of software applications which are distributed through software application stores, or products or services that are given prominence and display in the newsfeed of a social network, or products or services ranked in search results or displayed on an online marketplace. In those circumstances, the gatekeeper is in a dual-role position as intermediary for third party providers<u>undertakings</u> and as direct provider of<u>undertaking directly providing</u> products or services of the gatekeeper. Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper.</p> | <p>instance with products or services, including other core platform services, which are ranked in the results communicated by online search engines, or which are partly or entirely embedded in online search engines results, groups of results specialised in a certain topic, displayed along with the results of an online search engine, which are considered or used by certain end users as a service distinct or additional to the online search engine. Other instances are those of software applications which are distributed through software application stores, <u>or videos distributed through a video sharing platform</u>, or products or services that are given prominence and display in the newsfeed of a social network, or products or services ranked in search results or displayed on an online marketplace, <u>or products or services offered through a virtual assistant. Such reserving of a better position of gatekeeper's own offering may take place even before ranking following a query, such as during crawling and indexing. For example, already during crawling, which is a discovery process by which new and updated content online is being found, as well as indexing, which entails storing and organising of the content found during the crawling process, the</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|---|---|---|
| | | <p><u>interest</u>. Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper.</p> | | <p><u>gatekeeper may favour its own content as opposed to content of third parties</u>. In those circumstances, the gatekeeper is in a dual-role position as intermediary for third party providers <u>undertakings</u> and as <u>undertaking directly providing direct provider of</u> products or services of the gatekeeper. Consequently, these gatekeepers have the ability to undermine directly the contestability for those products or services on these core platform services, to the detriment of business users which are not controlled by the gatekeeper.</p> |
| Recital 49 | | | | |
| 60 | <p>(49) In such situations, the gatekeeper should not engage in any form of differentiated or preferential treatment in ranking on the core platform service, whether through legal, commercial or technical means, in favour of products or services it offers itself or through a business user which it controls. To ensure that this obligation is effective, it should also be ensured that the conditions that apply to such ranking are also generally fair. Ranking should in this context cover all forms of relative prominence, including display, rating, linking or voice results. To ensure that this</p> | <p>(49) In such situations, the gatekeeper should not engage in any form of differentiated or preferential treatment in ranking on the core platform service, whether through legal, commercial or technical means, in favour of products or services it offers itself or through a business user which it controls. To ensure that this obligation is effective, it should also be ensured that the conditions that apply to such ranking are also generally fair. Ranking should in this context cover all forms of relative prominence, including display, rating, linking or voice results. To ensure that this</p> | <p>(49) In such situations, the gatekeeper should not engage in any form of differentiated or preferential treatment in ranking on the core platform service, whether through legal, commercial or technical means, in favour of products or services it offers itself or through a business user which it controls. To ensure that this obligation is effective, it should also be ensured that the conditions that apply to such ranking are also generally fair. Ranking should in this context cover all forms of relative prominence, including display, rating, linking or voice results. To ensure that this</p> | <p>(49) In such situations, the gatekeeper should not engage in any form of differentiated or preferential treatment in ranking on the core platform service, <u>and related indexing and crawling</u>, whether through legal, commercial or technical means, in favour of products or services it offers itself or through a business user which it controls. To ensure that this obligation is effective, it should also be ensured that the conditions that apply to such ranking are also generally fair <u>and transparent</u>. Ranking should in this context cover all forms of relative prominence,</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|---|---|--|
| | <p>obligation is effective and cannot be circumvented it should also apply to any measure that may have an equivalent effect to the differentiated or preferential treatment in ranking. The guidelines adopted pursuant to Article 5 of Regulation (EU) 2019/1150 should also facilitate the implementation and enforcement of this obligation.¹</p> <p>1. Commission Notice: Guidelines on ranking transparency pursuant to Regulation (EU) 2019/1150 of the European Parliament and of the Council (OJ C 424, 8.12.2020, p. 1).</p> | <p>obligation is effective and cannot be circumvented it should also apply to any measure that may have an equivalent effect to the differentiated or preferential treatment in ranking. <u><i>In addition, to avoid any conflicts of interest, gatekeepers should be required to treat its own product or services, as a separate commercial entity that is commercially viable as a stand-alone service.</i></u> The guidelines adopted pursuant to Article 5 of Regulation (EU) 2019/1150 should also facilitate the implementation and enforcement of this obligation.¹</p> <p>1. Commission Notice: Guidelines on ranking transparency pursuant to Regulation (EU) 2019/1150 of the European Parliament and of the Council (OJ C 424, 8.12.2020, p. 1).</p> | <p>obligation is effective and cannot be circumvented it should also apply to any measure that may have an equivalent effect to the differentiated or preferential treatment in ranking. The guidelines adopted pursuant to Article 5 of Regulation (EU) 2019/1150 should also facilitate the implementation and enforcement of this obligation.¹</p> <p>1. Commission Notice: Guidelines on ranking transparency pursuant to Regulation (EU) 2019/1150 of the European Parliament and of the Council (OJ C 424, 8.12.2020, p. 1).</p> | <p>including display, rating, linking or voice results <u><i>and should also include instances where a core platform service presents or communicates only one result to the end user.</i></u> To ensure that this obligation is effective and cannot be circumvented it should also apply to any measure that may have an equivalent effect to the differentiated or preferential treatment in ranking. The guidelines adopted pursuant to Article 5 of Regulation (EU) 2019/1150 should also facilitate the implementation and enforcement of this obligation.[‡]</p> <p>‡. Commission Notice: Guidelines on ranking transparency pursuant to Regulation (EU) 2019/1150 of the European Parliament and of the Council (OJ C 424, 8.12.2020, p. 1).</p> |
| Recital 50 | | | | |
| 61 | <p>(50) Gatekeepers should not restrict or prevent the free choice of end users by technically preventing switching between or subscription to different software applications and services. This would allow more providers to offer their services, thereby ultimately providing greater choice to the end user. Gatekeepers should ensure a free choice irrespective of whether they are the manufacturer of any hardware by</p> | <p>(50) Gatekeepers should not restrict or prevent the free choice of end users by technically preventing switching between or subscription to different software applications and services. This would allow more providers to offer their services, thereby ultimately providing greater choice to the end user. Gatekeepers should ensure a free choice irrespective of whether they are the manufacturer of any hardware by</p> | <p>(50) Gatekeepers should not restrict or prevent the free choice of end users by technically <u><i>or otherwise</i></u> preventing switching between or subscription to different software applications and services. This would allow more providers <u><i>undertakings</i></u> to offer their services, thereby ultimately providing greater choice to the end user. Gatekeepers should ensure a free choice irrespective of whether</p> | <p>(50) Gatekeepers should not restrict or prevent the free choice of end users by technically <u><i>or otherwise</i></u> preventing switching between or subscription to different software applications and services. This would allow more providers <u><i>undertakings</i></u> to offer their services, thereby ultimately providing greater choice to the end user. Gatekeepers should ensure a free choice irrespective of whether</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|--|---|---|
| | means of which such software applications or services are accessed and shall not raise artificial technical barriers so as to make switching impossible or ineffective. The mere offering of a given product or service to consumers, including by means of pre-installation, as well as the improvement of the offering to end users, such as price reductions or increased quality, should not be construed as constituting a prohibited barrier to switching. | means of which such software applications or services are accessed and shall not raise artificial technical barriers so as to make switching impossible or ineffective. The mere offering of a given product or service to consumers, including by means of pre-installation, as well as the improvement of the offering to end users, such as price reductions or increased quality, should not be construed as constituting a prohibited barrier to switching. | they are the manufacturer of any hardware by means of which such software applications or services are accessed and shall not raise artificial technical <i>or other</i> barriers so as to make switching impossible or ineffective. The mere offering of a given product or service to consumers, including by means of pre-installation, as well as the improvement of the offering to end users, such as price reductions or increased quality, should not be construed as constituting a prohibited barrier to switching. | they are the manufacturer of any hardware by means of which such software applications or services are accessed and shall not raise artificial technical <i>or other</i> barriers so as to make switching impossible or ineffective. The mere offering of a given product or service to consumers, including by means of pre-installation, as well as the improvement of the offering to end users, such as price reductions or increased quality, should not be construed as constituting a prohibited barrier to switching. Text Origin: Council Mandate |
| Recital 51 | | | | |
| 62 | (51) Gatekeepers can hamper the ability of end users to access online content and services including software applications. Therefore, rules should be established to ensure that the rights of end users to access an open internet are not compromised by the conduct of gatekeepers. Gatekeepers can also technically limit the ability of end users to effectively switch between different Internet access service providers, in particular through their control over operating systems or hardware. This distorts the level playing field for Internet access | (51) Gatekeepers can hamper the ability of end users to access online content and services including software applications. Therefore, rules should be established to ensure that the rights of end users to access an open internet are not compromised by the conduct of gatekeepers. Gatekeepers can also technically limit the ability of end users to effectively switch between different Internet access service providers, in particular through their control over operating systems or hardware. This distorts the level playing field for Internet access | (51) Gatekeepers can hamper the ability of end users to access online content and services including software applications. Therefore, rules should be established to ensure that the rights of end users to access an open internet are not compromised by the conduct of gatekeepers. Gatekeepers can also technically limit the ability of end users to effectively switch between different <i>undertakings providing</i> Internet access service- providers , in particular through their control over operating systems or hardware. This distorts the level playing field for | (51) Gatekeepers can hamper the ability of end users to access online content and services including software applications. Therefore, rules should be established to ensure that the rights of end users to access an open internet are not compromised by the conduct of gatekeepers. Gatekeepers can also technically limit the ability of end users to effectively switch between different <i>undertakings providing</i> Internet access service- providers , in particular through their control over operating systems or hardware. This distorts the level playing field for |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---|---|--|--|
| | services and ultimately harms end users. It should therefore be ensured that gatekeepers do not unduly restrict end users in choosing their Internet access service provider. | services and ultimately harms end users. It should therefore be ensured that gatekeepers do not unduly restrict end users in choosing their Internet access service provider. | Internet access services and ultimately harms end users. It should therefore be ensured that gatekeepers do not unduly restrict end users in choosing <u>the undertaking providing</u> their Internet access service provider . | Internet access services and ultimately harms end users. It should therefore be ensured that gatekeepers do not unduly restrict end users in choosing <u>the undertaking providing</u> their Internet access service provider . Text Origin: Council Mandate |
| Recital 51a | | | | |
| 62a | | | | <u>(51a) A gatekeeper may provide services or hardware, such as wearable devices, that access software or hardware features of a device accessed or controlled via an operating system or virtual assistant in order to offer specific functionalities to end users. In this case competing service or hardware providers, such as providers of wearable devices, require equally effective interoperability with, and access for the purposes of interoperability to, the same software or hardware features to be able to provide a competitive offering to end users.</u> |
| Recital 52 | | | | |
| 63 | (52) Gatekeepers may also have a dual role as developers of operating systems and device manufacturers, | (52) Gatekeepers may also have a dual role as developers of operating systems and device manufacturers, | (52) Gatekeepers may also have a dual role as developers of operating systems and device manufacturers, | (52) Gatekeepers may also have a dual role as developers of operating systems and device manufacturers, |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|--|--|---|
| | <p>including any technical functionality that such a device may have. For example, a gatekeeper that is a manufacturer of a device may restrict access to some of the functionalities in this device, such as near-field-communication technology and the software used to operate that technology, which may be required for the effective provision of an ancillary service by the gatekeeper as well as by any potential third party provider of such an ancillary service. Such access may equally be required by software applications related to the relevant ancillary services in order to effectively provide similar functionalities as those offered by gatekeepers. If such a dual role is used in a manner that prevents alternative providers of ancillary services or of software applications to have access under equal conditions to the same operating system, hardware or software features that are available or used in the provision by the gatekeeper of any ancillary services, this could significantly undermine innovation by providers of such ancillary services as well as choice for end users of such ancillary services. The gatekeepers should therefore be obliged to ensure access under equal conditions to, and interoperability with, the same operating system,</p> | <p>including any technical functionality that such a device may have. For example, a gatekeeper that is a manufacturer of a device may restrict access to some of the functionalities in this device, such as near-field-communication technology and the software used to operate that technology, which may be required for the effective provision of an ancillary service by the gatekeeper as well as by any potential third party provider of such an ancillary service. Such access may equally be required by software applications related to the relevant ancillary services in order to effectively provide similar functionalities as those offered by gatekeepers. If such a dual role is used in a manner that prevents alternative providers of ancillary services or of software applications to have access under equal conditions to the same operating system, hardware or software features that are available or used in the provision by the gatekeeper of any ancillary services, this could significantly undermine innovation by providers of such ancillary services as well as choice for end users of such ancillary services. The gatekeepers should therefore be obliged to ensure access under equal conditions to, and interoperability with, the same operating system,</p> | <p>including any technical functionality that such a device may have. For example, a gatekeeper that is a manufacturer of a device may restrict access to some of the functionalities in this device, such as near-field-communication technology and the software used to operate that technology, which may be required for the effective provision of an ancillary service by the gatekeeper as well as by any potential third party provider <u>of undertakings providing</u> such an ancillary service. Such access may equally be required by software applications related to the relevant ancillary services in order to effectively provide similar functionalities as those offered by gatekeepers. If such a dual role is used in a manner that prevents alternative providers of <u>undertakings providing</u> ancillary services or of software applications to have access under equal conditions to the same operating system, hardware or software features that are available or used in the provision by the gatekeeper of any ancillary services, this could significantly undermine innovation by providers <u>of undertakings providing</u> such ancillary services as well as choice for end users of such ancillary services. The gatekeepers should therefore be obliged to ensure access</p> | <p>including any technical functionality that such a device may have. For example, a gatekeeper that is a manufacturer of a device may restrict access to some of the functionalities in this device, such as near-field-communication technology <u>secure elements and processors, authentication mechanisms and</u> and the software used to operate that technology <u>these technologies</u>, which may be required for the effective provision of an ancillary <u>a</u> service by the gatekeeper as well as by any potential third party provider of such an ancillary service. Such access may equally be required by software applications related to the relevant ancillary services in order to effectively provide similar functionalities as those offered by gatekeepers. If such a dual role is used in a manner that prevents alternative providers of ancillary services or of software applications to have access under equal conditions to the same operating system, hardware or software features that are available or used in the provision <u>together with or in support of the core platform service</u> by the gatekeeper of any ancillary services, this could significantly undermine innovation by providers of such ancillary services as well as choice for end users of such ancillary services. The</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|--|---|---|---|
| | hardware or software features that are available or used in the provision of any ancillary services by the gatekeeper. | hardware or software features that are available or used in the provision of any ancillary services by the gatekeeper. | under equal conditions to, and interoperability with, the same operating system, hardware or software features that are available or used in the provision of any ancillary services by the gatekeeper. | <p>gatekeepers should therefore be obliged to ensure access under equal conditions to, and interoperability with, the same operating system, hardware or software features that are available or used in the provision of any ancillary services by the gatekeeper. <u>as well as by any potential third party undertaking providing such service.</u></p> <p>Text Origin: Council Mandate</p> |
| Recital 52a | | | | |
| 63a | | <p><u>(52a) The lack of interconnection features among the gatekeeper services may substantially affect users choice and ability to switch due to the incapacity for end user to reconstruct social connections and networks provided by the gatekeeper even if multi-homing is possible. Therefore, it should be allowed for any providers of equivalent core platform services to interconnect with the gatekeepers number independent interpersonal communication services or social network services upon their request and free of charge. Interconnection should be provided under the conditions and quality that are available or used by the gatekeeper, while ensuring a high level of security and personal data</u></p> | | <p><u>(52a) If dual roles are used in a manner that prevents alternative service and hardware providers from having access under equal conditions to the same operating system, hardware or software features that are available or used by the gatekeeper in the provision of its own complementary or supporting services or hardware, this could significantly undermine innovation by such alternative providers as well as choice for end users. The gatekeepers should, therefore, be obliged to ensure free of charge effective interoperability with, and access for the purposes of interoperability to, the same operating system, hardware or software features that are available or used in the provision of its own</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---------------------|--|-----------------|--|
| | | <p><u>protection. In the particular case of number-dependant intercommunication services, interconnection requirements should mean giving the possibility for third-party providers to request access and interconnection for features such as text, video, voice and picture, while it should provide access and interconnection on basic features such as posts, likes and comments for social networking services. Interconnection measures of number-independent interpersonal communication services should be imposed in accordance with the provisions of the Electronic Communications Code and particularly the conditions and procedures laid down in Article 61 thereof. It should nevertheless presume that the providers of number-independent interpersonal communications services that has been designated as a gatekeeper, reaches the conditions required to trigger the procedures, namely they reach a significant level of coverage and user uptake, and should therefore provide for minimum applicable interoperability requirements.</u></p> | | <p><u>complementary and supporting services and hardware. Such access may equally be required by software applications related to the relevant services offered together with or in support of the core platform service in order to effectively develop and provide functionalities interoperable with those offered by gatekeepers. The aim of the obligations is to allow competing third parties to interconnect through interfaces or similar solutions to the respective features as effectively as the gatekeeper's own services or hardware.</u></p> |
| Recital 53 | | | | |
| 64 | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|--|---|---|
| | <p>(53) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This often leads to a lack of information for advertisers and publishers about the effect of a given ad. To further enhance fairness, transparency and contestability of online advertising services designated under this Regulation as well as those that are fully integrated with other core platform services of the same provider, the designated gatekeepers should therefore provide advertisers and publishers, when requested, with free of charge access to the performance measuring tools of the gatekeeper and the information necessary for advertisers, advertising agencies acting on behalf of a company placing advertising, as well as for publishers to carry out their own independent verification of the provision of the relevant online advertising services.</p> | <p>(53) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This often leads to a lack of information for advertisers and publishers about the effect of a given ad. To further enhance fairness, transparency and contestability of online advertising services designated under this Regulation as well as those that are fully integrated with other core platform services of the same provider, the designated gatekeepers should therefore provide advertisers and publishers <u>for entire disclosure and transparency of the parameters and data used for decision making, execution and measurement of the intermediation services. A gatekeeper should further provide</u> when requested, with free of charge access to the performance measuring tools of the gatekeeper and the information necessary for advertisers, advertising agencies acting on behalf of a company placing advertising, as well as for publishers to carry out their own independent verification of the provision of the relevant online advertising services.</p> | <p>(53) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This often leads to a lack of information for advertisers and publishers about the effect of a given ad. To further enhance fairness, transparency and contestability of online advertising services designated under this Regulation as well as those that are fully integrated with other core platform services of the same provider<u>undertaking</u>, the designated gatekeepers should therefore provide advertisers and publishers, when requested, with free of charge access to the performance measuring tools of the gatekeeper and the information, <u>including aggregated data</u>, necessary for advertisers, advertising agencies acting on behalf of a company placing advertising, as well as for publishers to carry out their own independent verification of the provision of the relevant online advertising services <u>effectively</u>.</p> | <p>(53) The conditions under which gatekeepers provide online advertising services to business users including both advertisers and publishers are often non-transparent and opaque. This often leads to a lack of information for advertisers and publishers about the effect of a given ad. To further enhance fairness, transparency and contestability of online advertising services designated under this Regulation as well as those that are fully integrated with other core platform services of the same provider<u>undertaking</u>, the designated gatekeepers should therefore provide advertisers and publishers, <u>and third parties authorised by advertisers and publishers</u>, when requested, with free of charge access to the gatekeepers' <u>gatekeepers'</u> performance measuring tools of the gatekeeper and the information<u>and the data, including aggregated and non-aggregated data</u>, necessary for advertisers, advertising agencies acting on behalf of a company placing advertising, as well as for publishers to carry out their own independent verification of the provision of the relevant online advertising services.</p> <p><small>Text Origin: EP Mandate</small></p> |

Recital 54

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----|--|--|---|---|
| 65 | <p>(54) Gatekeepers benefit from access to vast amounts of data that they collect while providing the core platform services as well as other digital services. To ensure that gatekeepers do not undermine the contestability of core platform services as well as the innovation potential of the dynamic digital sector by restricting the ability of business users to effectively port their data, business users and end users should be granted effective and immediate access to the data they provided or generated in the context of their use of the relevant core platform services of the gatekeeper, in a structured, commonly used and machine-readable format. This should apply also to any other data at different levels of aggregation that may be necessary to effectively enable such portability. It should also be ensured that business users and end users can port that data in real time effectively, such as for example through high quality application programming interfaces. Facilitating switching or multi-homing should lead, in turn, to an increased choice for business users and end users and an incentive for gatekeepers and business users to innovate.</p> | <p>(54) Gatekeepers benefit from access to vast amounts of data that they collect while providing the core platform services as well as other digital services. To ensure that gatekeepers do not undermine the contestability of core platform services as well as the innovation potential of the dynamic digital sector by restricting the ability of business users to effectively port their data, business users and end users should be granted effective and immediate access to the data they provided or generated in the context of their use of the relevant core platform services of the gatekeeper, in a structured, commonly used and machine-readable format. This should apply also to any other data at different levels of aggregation that may be necessary to effectively enable such portability. It should also be ensured that business users and end users can port that data in real time effectively, such as for example through high quality application programming interfaces. Facilitating switching or multi-homing should lead, in turn, to an increased choice for business users and end users and an incentive for gatekeepers and business users to innovate.</p> | <p>(54) Gatekeepers benefit from access to vast amounts of data that they collect while providing the core platform services as well as other digital services. To ensure that gatekeepers do not undermine the contestability of core platform services as well as the innovation potential of the dynamic digital sector by restricting the ability of business users to effectively port their data, business users and <u>switching or multi-homing</u>, end users should be granted effective and immediate access to the data they provided or generated in the context of that was generated through <u>their use of activity on</u> the relevant core platform services of the gatekeeper; in a structured, commonly used and machine-readable format. This should apply also to any other data at different levels of aggregation that may be necessary to effectively enable such portability. It <u>for the purposes of portability of the data in line with Regulation (EU) 2016/679. The data should be received in a format that can be immediately and effectively accessed and used by the end user or the relevant third party to which the data is ported. Gatekeepers</u> should also be ensured that <u>business ensure by means of appropriate technical measures,</u></p> | <p>(54) Gatekeepers benefit from access to vast amounts of data that they collect while providing the core platform services as well as other digital services. To ensure that gatekeepers do not undermine the contestability of core platform services as well as the innovation potential of the dynamic digital sector by restricting the ability of business <u>switching or multi-homing, end users, and third parties authorised by an end user, to effectively port their data, business users and end users</u> should be granted effective and immediate access to the data they provided or generated in the context of that was generated through <u>activity on use of</u> the relevant core platform services of the gatekeeper; in a structured, commonly used and machine-readable format. The data should be received in a format that can be immediately and effectively accessed and used by the end user or the relevant third party authorised by the end user to which the data is ported. Gatekeepers should also ensure by means of appropriate and high quality</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|---|---|---|
| | | | <p><u>such as application programming interfaces, that end users and/or third parties authorised by end users can port that data the data continuously and in real time. This should apply also to any other data at different levels of aggregation that may be necessary to effectively enable such portability effectively, such as for example through high quality application programming interfaces. Facilitating switching or multi-homing should lead, in turn, to an increased choice for business users and end users and an incentive for gatekeepers and business users to innovate.</u></p> | <p><u>technical measures, such as application programming interfaces, that end users or third parties authorised by end users can freely port the data continuously and in real time.</u> This should apply also to any other data at different levels of aggregation that may be necessary to effectively enable such portability. It should also be ensured that business users and end users can port that data in real time effectively, such as for example through high quality application programming interfaces <u>For the avoidance of doubt, the obligation on the gatekeeper to ensure effective portability of data under this Regulation complements the right of data portability under the Regulation (EU) 2016/679.</u> Facilitating switching or multi-homing <u>multi-homing</u> should lead, in turn, to an increased choice for business users and end users and an incentive for gatekeepers and business users to innovate.</p> |
| Recital 55 | | | | |
| 66 | (55) Business users that use large core platform services provided by gatekeepers and end users of such | (55) Business users that use large core platform services provided by gatekeepers and end users of such | (55) Business users that use large core platform services provided by gatekeepers and end users of such | (55) Business users that use large core platform services provided by gatekeepers, and end users of such |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---|---|--|---|
| | <p>business users provide and generate a vast amount of data, including data inferred from such use. In order to ensure that business users have access to the relevant data thus generated, the gatekeeper should, upon their request, allow unhindered access, free of charge, to such data. Such access should also be given to third parties contracted by the business user, who are acting as processors of this data for the business user. Data provided or generated by the same business users and the same end users of these business users in the context of other services provided by the same gatekeeper may be concerned where this is inextricably linked to the relevant request. To this end, a gatekeeper should not use any contractual or other restrictions to prevent business users from accessing relevant data and should enable business users to obtain consent of their end users for such data access and retrieval, where such consent is required under Regulation (EU) 2016/679 and Directive 2002/58/EC. Gatekeepers should also facilitate access to these data in real time by means of appropriate technical measures, such as for example putting in place high quality application programming interfaces.</p> | <p>business users provide and generate a vast amount of data, including data inferred from such use. In order to ensure that business users have access to the relevant data thus generated, the gatekeeper should, upon their request, allow unhindered access, free of charge, to such data. Such access should also be given to third parties contracted by the business user, who are acting as processors of this data for the business user. Data provided or generated by the same business users and the same end users of these business users in the context of other services provided by the same gatekeeper may be concerned where this is inextricably linked to the relevant request. To this end, a gatekeeper should not use any contractual or other restrictions to prevent business users from accessing relevant data and should enable business users to obtain consent of their end users for such data access and retrieval, where such consent is required under Regulation (EU) 2016/679 and Directive 2002/58/EC. Gatekeepers should also facilitate access to these data in real time by means of appropriate technical measures, such as for example putting in place high quality application programming interfaces.</p> | <p>business users provide and generate a vast amount of data, including data inferred from such use. In order to ensure that business users have access to the relevant data thus generated, the gatekeeper should, upon their request, allow unhindered access, free of charge, to such data. Such access should also be given to third parties contracted by the business user, who are acting as processors of this data for the business user. Data provided or generated by the same business users and the same end users of these business users in the context of other services provided by the same gatekeeper may be concerned where this is inextricably linked to the relevant request. To this end, a gatekeeper should not use any contractual or other restrictions to prevent business users from accessing relevant data and should enable business users to obtain consent of their end users for such data access and retrieval, where such consent is required under Regulation (EU) 2016/679 and Directive 2002/58/EC. Gatekeepers should also <u>facilitate ensure the continuous and real time</u> access to these data in real-time by means of appropriate technical measures, such as for example putting in place high quality application programming interfaces.</p> | <p>business users provide and generate a vast amount of data, including data inferred from such use. In order to ensure that business users have access to the relevant data thus generated, the gatekeeper should, upon their request, allow unhindered <u>provide effective</u> access, free of charge, to such data. Such access should also be given to third parties contracted by the business user, who are acting as processors of this data for the business user. Data provided or generated by the same business users and the same end users of these business users in the context of other services provided by the same gatekeeper, <u>including services offered together with or in support of core platform services</u>, may be concerned where this is inextricably linked to the relevant request. To this end, a gatekeeper should not use any contractual or other restrictions to prevent business users from accessing relevant data and should enable business users to obtain consent of their end users for such data access and retrieval, where such consent is required under Regulation (EU) 2016/679 and Directive 2002/58/EC. Gatekeepers should also <u>facilitate ensure the continuous and real time</u> access to these data in real-time by means of appropriate technical measures, such as for example putting in place high</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|--|---|--|
| | | | | <p>quality application programming interfaces <u>or integrated tools for small volume business users</u>.</p> <p>Text Origin: Auxiliary</p> |
| Recital 56 | | | | |
| 67 | <p>(56) The value of online search engines to their respective business users and end users increases as the total number of such users increases. Providers of online search engines collect and store aggregated datasets containing information about what users searched for, and how they interacted with, the results that they were served. Providers of online search engine services collect these data from searches undertaken on their own online search engine service and, where applicable, searches undertaken on the platforms of their downstream commercial partners. Access by gatekeepers to such ranking, query, click and view data constitutes an important barrier to entry and expansion, which undermines the contestability of online search engine services. Gatekeepers should therefore be obliged to provide access, on fair, reasonable and non-discriminatory terms, to these ranking, query, click and view data in relation to free and paid search generated by consumers</p> | <p>(56) The value of online search engines to their respective business users and end users increases as the total number of such users increases. Providers of online search engines collect and store aggregated datasets containing information about what users searched for, and how they interacted with, the results that they were served. Providers of online search engine services collect these data from searches undertaken on their own online search engine service and, where applicable, searches undertaken on the platforms of their downstream commercial partners. Access by gatekeepers to such ranking, query, click and view data constitutes an important barrier to entry and expansion, which undermines the contestability of online search engine services. Gatekeepers should therefore be obliged to provide access, on fair, reasonable and non-discriminatory terms, to these ranking, query, click and view data in relation to free and paid search generated by consumers</p> | <p>(56) The value of online search engines to their respective business users and end users increases as the total number of such users increases. Providers of <u>Undertakings providing</u> online search engines collect and store aggregated datasets containing information about what users searched for, and how they interacted with, the results that they were served. Providers of <u>Undertakings providing</u> online search engine services collect these data from searches undertaken on their own online search engine service and, where applicable, searches undertaken on the platforms of their downstream commercial partners. Access by gatekeepers to such ranking, query, click and view data constitutes an important barrier to entry and expansion, which undermines the contestability of online search engine services. Gatekeepers should therefore be obliged to provide access, on fair, reasonable and non-discriminatory terms, to these ranking, query, click</p> | <p>(56) The value of online search engines to their respective business users and end users increases as the total number of such users increases. Providers of <u>Undertakings providing</u> online search engines collect and store aggregated datasets containing information about what users searched for, and how they interacted with, the results that they were served. Providers of <u>Undertakings providing</u> online search engine services collect these data from searches undertaken on their own online search engine service and, where applicable, searches undertaken on the platforms of their downstream commercial partners. Access by gatekeepers to such ranking, query, click and view data constitutes an important barrier to entry and expansion, which undermines the contestability of online search engine services. Gatekeepers should therefore be obliged to provide access, on fair, reasonable and non-discriminatory <u>non-discriminatory</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|--|--|--|
| | <p>on online search engine services to other providers of such services, so that these third-party providers can optimise their services and contest the relevant core platform services. Such access should also be given to third parties contracted by a search engine provider, who are acting as processors of this data for that search engine. When providing access to its search data, a gatekeeper should ensure the protection of the personal data of end users by appropriate means, without substantially degrading the quality or usefulness of the data.</p> | <p>on online search engine services to other providers of such services, so that these third-party providers can optimise their services and contest the relevant core platform services. Such access should also be given to third parties contracted by a search engine provider, who are acting as processors of this data for that search engine. When providing access to its search data, a gatekeeper should ensure the protection of the personal data of end users by appropriate means, without substantially degrading the quality or usefulness of the data.</p> | <p>and view data in relation to free and paid search generated by consumers on online search engine services to other providers of<u>undertakings providing</u> such services, so that these third-party providers<u>undertakings</u> can optimise their services and contest the relevant core platform services. Such access should also be given to third parties contracted by a search engine provider, who are acting as processors of this data for that search engine. When providing access to its search data, a gatekeeper should ensure the protection of the personal data of end users, <u>including against possible re-identification risks</u>, by appropriate means, <u>such as anonymisation of such personal data</u>, without substantially degrading the quality or usefulness of the data. <u>The relevant data is anonymised if personal data is irreversibly altered in such a way that information does not relate to an identified or identifiable natural person or where personal data is rendered anonymous in such a manner that the data subject is not or no longer identifiable.</u></p> | <p>terms, to these ranking, query, click and view data in relation to free and paid search generated by consumers on online search engine services to other providers of<u>undertakings providing</u> such services, so that these third-party providers<u>undertakings</u> can optimise their services and contest the relevant core platform services. Such access should also be given to third parties contracted by a search engine provider, who are acting as processors of this data for that search engine. When providing access to its search data, a gatekeeper should ensure the protection of the personal data of end users, <u>including against possible re-identification risks</u>, by appropriate means, <u>such as anonymisation of such personal data</u>, without substantially degrading the quality or usefulness of the data. <u>The relevant data is anonymised if personal data is irreversibly altered in such a way that information does not relate to an identified or identifiable natural person or where personal data is rendered anonymous in such a manner that the data subject is not or no longer identifiable.</u></p> <p>Text Origin: Council Mandate</p> |
| Recital 57 | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----|--|---|--|--|
| 68 | <p>(57) In particular gatekeepers which provide access to software application stores serve as an important gateway for business users that seek to reach end users. In view of the imbalance in bargaining power between those gatekeepers and business users of their software application stores, those gatekeepers should not be allowed to impose general conditions, including pricing conditions, that would be unfair or lead to unjustified differentiation. Pricing or other general access conditions should be considered unfair if they lead to an imbalance of rights and obligations imposed on business users or confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users or lead to a disadvantage for business users in providing the same or similar services as the gatekeeper. The following benchmarks can serve as a yardstick to determine the fairness of general access conditions: prices charged or conditions imposed for the same or similar services by other providers of software application stores; prices charged or conditions imposed by the provider of the software application store for different related or similar services or to different types of end users;</p> | <p>(57) In particular gatekeepers which provide access to software application stores <u>core platform services</u> serve as an important gateway for business users that seek to reach end users. In view of the imbalance in bargaining power between those gatekeepers and business users of their software application stores <u>core platform services</u>, those gatekeepers should not be allowed to impose general conditions, including pricing conditions, that would be unfair or lead to unjustified differentiation. Pricing or other general access conditions should be considered unfair if they lead to an imbalance of rights and obligations imposed on business users or confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users or lead to a disadvantage for business users in providing the same or similar services as the gatekeeper. The following benchmarks can serve as a yardstick to determine the fairness of general access conditions: prices charged or conditions imposed for the same or similar services by other providers of software application stores <u>core platform services</u>; prices charged or conditions imposed by the provider of the software</p> | <p>(57) In particular gatekeepers which provide access to software application stores serve as an important gateway for business users that seek to reach end users. In view of the imbalance in bargaining power between those gatekeepers and business users of their software application stores, those gatekeepers should not be allowed to impose general conditions, including pricing conditions, <u>data usage conditions or conditions related to the licensing of rights held by the business user</u>, that would be unfair or lead to unjustified differentiation. <u>Imposing conditions encompasses both explicit and implicit demands, by means of contract or fact, including, for example, an online search engine making the raking results dependent on the transfer of certain rights or data.</u> Pricing or other general access conditions should be considered unfair if they lead to an imbalance of rights and obligations imposed on business users or confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users or lead to a disadvantage for business users in providing the same or similar services as the gatekeeper. The following benchmarks can serve as a yardstick to determine the fairness of</p> | <p>(57) <u>For software application stores, online search engines and online social networking services identified pursuant to Article 3 (7), gatekeepers should publish and apply general conditions of access that should be fair, reasonable and non-discriminatory. These general conditions should provide for a Union based alternative dispute settlement mechanism that should be easily accessible, impartial, independent and, free of charge for the business user, without prejudice to the business user's own cost and proportionate measures aimed at preventing the abuse of the dispute settlement mechanism by business users. The dispute settlement mechanism should be without prejudice to the right of business users to seek redress before judicial authorities in accordance with national and Union law.</u> In particular gatekeepers which provide access to software application stores serve as an important gateway for business users that seek to reach end users. In view of the imbalance in bargaining power between those gatekeepers and business users of their software application stores, those gatekeepers should not be allowed to impose general conditions, including pricing conditions, that would be unfair or</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|---|---|---|
| | <p>prices charged or conditions imposed by the provider of the software application store for the same service in different geographic regions; prices charged or conditions imposed by the provider of the software application store for the same service the gatekeeper offers to itself. This obligation should not establish an access right and it should be without prejudice to the ability of providers of software application stores to take the required responsibility in the fight against illegal and unwanted content as set out in Regulation [Digital Services Act].</p> | <p>application store for different related or similar services or to different types of end users; prices charged or conditions imposed by the provider of the software application store for the same service in different geographic regions; prices charged or conditions imposed by the provider of the software application store for the same service the gatekeeper offers to itself. This obligation should not establish an access right and it should be without prejudice to the ability of providers of software application stores <u>core platform services</u> to take the required responsibility in the fight against illegal and unwanted content as set out in Regulation [Digital Services Act].</p> | <p>general access conditions: prices charged or conditions imposed for the same or similar services by other providers of undertakings providing software application stores; prices charged or conditions imposed by the provider of undertaking <u>providing</u> the software application store for different related or similar services or to different types of end users; prices charged or conditions imposed by the provider of undertaking providing the software application store for the same service in different geographic regions; prices charged or conditions imposed by the provider of undertaking providing the software application store for the same service the gatekeeper offers to itself. <u>It should also be considered unfair if access to the service or the quality and other conditions of the service are made dependent on the transfer of data or the granting of rights by the business user which are unrelated to or not necessary for providing the core platform service.</u> This obligation should not establish an access right and it should be without prejudice to the ability of providers of undertakings providing software application stores to take the required responsibility in the fight against illegal and unwanted content as set out in Regulation [Digital Services</p> | <p>lead to unjustified differentiation. Pricing or other general access conditions should be considered unfair if they lead to an imbalance of rights and obligations imposed on business users or confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users or lead to a disadvantage for business users in providing the same or similar services as the gatekeeper. The following benchmarks can serve as a yardstick to determine the fairness of general access conditions: prices charged or conditions imposed for the same or similar services by other providers of software application stores; prices charged or conditions imposed by the provider of the software application store for different related or similar services or to different types of end users; prices charged or conditions imposed by the provider of the software application store for the same service in different geographic regions; prices charged or conditions imposed by the provider of the software application store for the same service the gatekeeper offers to itself. This obligation should not establish an access right and it should be without prejudice to the ability of providers of software application stores, <u>online search</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---------------------|--|-----------------|--|
| | | | Act]. | <p><u>engines and online social networking services</u> to take the required responsibility in the fight against illegal and unwanted content as set out in Regulation [Digital Services Act].</p> <p>Text Origin: Commission Proposal</p> |
| Recital 57a | | | | |
| 68a | | <p><u>(57a) The implementation of gatekeepers' obligations related to access, installation, portability or interoperability could be facilitated by the use of technical standards. In this respect the Commission should identify appropriate, widely-used ICT technical standards from standards organisations as provided for under Article 13 of Regulation (EU) No 1025/2012 or where appropriate ask/ request European standardisation bodies to develop them.</u></p> | | <p><u>(57a) Gatekeepers can hamper the ability of business users and end users to unsubscribe from a core platform service that they have previously subscribed to. Therefore, rules should be established to avoid that gatekeepers undermine the rights of business users and end users to freely choose which core platform service they use. To safeguard free choice of business users and end users, a gatekeeper should not be allowed to make it unnecessarily difficult or complicated for business users or end users to unsubscribe from a core platform service. Closing an account or un-subscribing should not be made be more complicated than opening an account or subscribing to the same service. Gatekeepers should not demand additional fees when terminating agreements with their end users or</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---------------------|------------|---|---|
| | | | | <p><u><i>business users. Gatekeepers should ensure that the conditions for terminating contracts are always proportionate and can be exercised without undue difficulty by end users, such as for example in relation to the reasons for termination, the notice period, or the form of such termination. This is without prejudice to national legislation applicable in accordance with the Union law laying down rights and obligations concerning conditions of termination of core platform services by end users.</i></u></p> |
| Recital 57a | | | | |
| 68b | | | <p><u><i>(57a) Gatekeepers can hamper the ability of business users and end users to unsubscribe from a core platform service that they have previously subscribed to. Therefore, rules should be established to avoid that gatekeepers undermine the rights of business users and end users to freely choose which core platform service they use. To safeguard free choice of business users and end users, a gatekeeper should not be allowed to make it unnecessarily difficult or complicated for business users or end users to unsubscribe from a core platform service. Gatekeepers should ensure that the conditions</i></u></p> | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---------------------|------------|--|--|
| | | | <p><u>for terminating contracts are always proportionate and can be exercised without undue difficulty by end users, such as for example in relation to the reasons for termination, the notice period, or the form of such termination. This is without prejudice to national legislation applicable in accordance with the Union law laying down rights and obligations concerning conditions of termination of core platform services by end users.</u></p> | |
| Recital 57b | | | | |
| 68c | | | | <p><u>(57b) The lack of interoperability allows gatekeepers that provide number-independent interpersonal communications services to benefit from strong network effects, which contributes to weakening contestability. Furthermore, regardless of whether end users multi-home, gatekeepers often provide number-independent interpersonal communications services as part of their platform ecosystem, which further exacerbates entry barriers for alternative providers of these services as well as increases costs for end users to switch. Without prejudice to Directive (EU) 2018/1972 and particularly the conditions and procedures laid</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---------------------|------------|-----------------|--|
| | | | | <p><u>down in Article 61 thereof, gatekeepers should therefore ensure, free of charge and upon request, interoperability with certain basic functionalities of their number-independent interpersonal communications services that they provide to their own end users, to third party providers of such services. Gatekeepers should ensure interoperability to third party providers of number-independent interpersonal communication services that offer or intend to offer to end users and business users in the Union. To facilitate the practical implementation of such interoperability, the gatekeeper concerned should be obliged to publish a reference offer laying down the technical details and general terms and conditions of interoperability with its number-independent interpersonal communications service. The Commission may, if applicable, consult the Body of European Regulators for Electronic Communications, during proceedings pursuant to Article 7(2) in order to determine whether the reference offer that the gatekeeper intends to implement or has implemented ensures compliance with this obligation. In all cases, the gatekeeper and the requesting provider should ensure that</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|---|---|--|
| | | | | <p><u><i>interoperability does not undermine a high level of security and data protection in line with their obligations laid down in this Regulation and applicable EU law, in particular Regulation (EU) 2016/679 and Directive 2002/58/EC. The obligation related to interoperability should be without prejudice to the information and choices to be made available to end users of the number-independent interpersonal communication services of the gatekeeper and the requesting provider under this Regulation and other EU law, in particular Regulation (EU) 2016/679.</i></u></p> |
| Recital 58 | | | | |
| 69 | <p>(58) To ensure the effectiveness of the obligations laid down by this Regulation, while also making certain that these obligations are limited to what is necessary to ensure contestability and tackling the harmful effects of the unfair behaviour by gatekeepers, it is important to clearly define and circumscribe them so as to allow the gatekeeper to immediately comply with them, in full respect of Regulation (EU) 2016/679 and Directive 2002/58/EC, consumer protection, cyber security and</p> | <p>(58) <u><i>This aim of this Regulation is to ensure that the digital economy remains fair and contestable in order to promote innovation, high quality of digital products and services, fair and competitive prices and a high quality and choice for end users in the digital sector.</i></u> To ensure the effectiveness of the obligations laid down by this Regulation, while also making certain that these obligations are limited to what is necessary to ensure contestability and tackling the harmful effects of the unfair</p> | <p>(58) To ensure the effectiveness of the obligations laid down by this Regulation, while also making certain that these obligations are limited to what is necessary to ensure contestability and tackling the harmful effects of the unfair behaviour by gatekeepers, it is important to clearly define and circumscribe them so as to allow the gatekeeper to immediately<u>fully</u> comply with them, in full respect of <u><i>applicable law, in particular</i></u> Regulation (EU) 2016/679 and Directive 2002/58/EC, consumer</p> | <p>(58) To ensure the effectiveness of the obligations laid down by this Regulation, while also making certain that these obligations are limited to what is necessary to ensure contestability and tackling the harmful effects of the unfair behaviour by gatekeepers, it is important to clearly define and circumscribe them so as to allow the gatekeeper to immediately<u>fully</u> comply with them, in full respect of <u><i>applicable law, in particular</i></u> Regulation (EU) 2016/679 and Directive 2002/58/EC, consumer</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|--|---|--|
| | <p>product safety. The gatekeepers should ensure the compliance with this Regulation by design. The necessary measures should therefore be as much as possible and where relevant integrated into the technological design used by the gatekeepers. However, it may in certain cases be appropriate for the Commission, following a dialogue with the gatekeeper concerned, to further specify some of the measures that the gatekeeper concerned should adopt in order to effectively comply with those obligations that are susceptible of being further specified. This possibility of a regulatory dialogue should facilitate compliance by gatekeepers and expedite the correct implementation of the Regulation.</p> | <p>behaviour by gatekeepers, it is important to clearly define and circumscribe them so as to allow the gatekeeper to immediately comply with them, in full respect of Regulation (EU) 2016/679 and Directive 2002/58/EC, consumer protection, cyber security and product safety <u>as well as with accessibility requirements for the persons with disabilities in accordance with the Directive (EU) 2019/882</u>. The gatekeepers should ensure the compliance with this Regulation by design. The necessary measures should therefore be as much as possible and where relevant integrated into the technological design used by the gatekeepers. However, it may in certain cases be appropriate for the Commission, following a dialogue with the gatekeeper concerned, <u>and, where appropriate, a consultation of interested third parties</u>, to further specify <u>in a decision</u> some of the measures that the gatekeeper concerned should adopt in order to effectively comply with those obligations that are susceptible of being further specified. This possibility of a regulatory dialogue should facilitate compliance by gatekeepers and expedite the correct implementation of the Regulation.</p> | <p>protection, cyber security and product safety. The gatekeepers should ensure the compliance with this Regulation by design. The necessary measures should therefore be as much as possible and where relevant integrated into the technological design used by the gatekeepers. However, It may in certain cases be appropriate for the Commission, following a dialogue with the gatekeeper concerned, to further specify some of the measures that the gatekeeper concerned should adopt in order to effectively comply with those obligations that are susceptible of being further specified. <u>In particular, such further specification should be possible where the implementation of an obligation susceptible to being further specified can be affected by variations of services within a single category of core platform services. For this purpose, there should be the possibility for the gatekeeper to request the Commission to engage in a regulatory dialogue where the Commission can further specify some of the measures that the gatekeeper concerned should adopt in order to effectively comply with those obligations that are susceptible of being further specified. The Commission should retain discretion in deciding if and</u></p> | <p>protection, cyber security and product safety <u>and accessibility requirements, including Directive (EU) 2019/882 and Directive (EU) 2016/2102</u>. The gatekeepers should ensure the compliance with this Regulation by design. The necessary measures should therefore be as much as possible and where relevant integrated into the technological design used by the gatekeepers. However, It may in certain cases be appropriate for the Commission, following a dialogue with the gatekeeper concerned <u>and, after enabling third parties to make comments</u>, to further specify some of the measures that the gatekeeper concerned should adopt in order to effectively comply with those obligations that are susceptible of being further specified <u>or, in case of circumvention, with all obligations. In particular, such further specification should be possible where the implementation of an obligation susceptible to being further specified can be affected by variations of services within a single category of core platform services. For this purpose, there should be the</u> This possibility <u>for the gatekeeper to request the Commission to engage in a process where the Commission can further specify some of the measures that the gatekeeper concerned should</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---------------------|------------|---|--|
| | | | <p><u>when such further specification should be provided, while respecting equal treatment, proportionality, and the principle of good administration. In this respect, the Commission should provide the main reasons underlying its assessment, including enforcement priority setting. The regulatory dialogue should not be used to undermine the effectiveness of this Regulation. Furthermore, the regulatory dialogue is without prejudice to the powers of the Commission to adopt a decision establishing non-compliance with any of the obligations laid down in this Regulation by a gatekeeper, including the possibility to impose fines or periodic penalty payments.</u></p> <p>This possibility of a regulatory dialogue should facilitate compliance by gatekeepers and expedite the correct implementation of the Regulation.</p> | <p><u>adopt in order to effectively comply with those obligations. The Commission of a regulatory dialogue should facilitate compliance by gatekeepers and expedite the correct implementation of the retain discretion in deciding if and when such further specification should be provided, while respecting equal treatment, proportionality, and the principle of good administration. In this respect, the Commission should provide the main reasons underlying its assessment, including enforcement priority setting. This process should not be used to undermine the effectiveness of this Regulation. Furthermore, this process is without prejudice to the powers of the Commission to adopt a decision establishing non-compliance with any of the obligations laid down in this Regulation by a gatekeeper, including the possibility to impose fines or periodic penalty payments. The Commission should be able to reopen proceedings, including where the specified measures turn out not to be effective. A reopening due to an ineffective specification adopted by decision should enable the Commission to amend the specification prospectively. The Commission</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---------------------|------------|---|---|
| | | | | <p><i><u>should also be able to set a reasonable time period within which the specification decision may be reopened if the specified measures turn out not to be effective.</u></i></p> |
| Recital 58a | | | | |
| 69a | | | <p><i><u>(58a) Within the timeframe for complying with their obligations under this Regulation, designated gatekeepers should inform the Commission, through mandatory reporting, about the measures they intend to implement or have implemented to ensure effective compliance with these obligations, and which should allow the Commission to fulfil its duties under this Regulation. Also, a clear, comprehensible non-confidential version of such information should be made publicly available while taking into account the legitimate interest of designated gatekeepers regarding the protection of their business secrets. This non-confidential publication should enable third parties to check whether the designated gatekeeper complies with the obligations laid down in this Regulation. Such reporting should be without prejudice to any enforcement action</u></i></p> | <p><i><u>(58a) Within the timeframe for complying with their obligations under this Regulation, designated gatekeepers should inform the Commission, through mandatory reporting, about the measures they intend to implement or have implemented to ensure effective compliance with these obligations, including concerning compliance with Regulation (EU) 2016/679 to the extent they are relevant for compliance with the obligations provided under this Regulation, and which should allow the Commission to fulfil its duties under this Regulation, . In addition, a clear and comprehensible non-confidential version of such information should be made publicly available while taking into account the legitimate interest of designated gatekeepers in the protection of their business secrets and other confidential information. This non-</u></i></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---------------------|------------|--|---|
| | | | <p><u>by the Commission. The Commission shall publish the non-confidential report, as well as all other public information based on information obligations from this Regulation, online, in order to ensure accessibility of such information in usable and comprehensive manner, in particular for SMEs.</u></p> | <p><u>confidential publication should enable third parties to assess whether the designated gatekeepers comply with the obligations laid down in this Regulation. Such reporting should be without prejudice to any enforcement action by the Commission at any time following the reporting. The Commission shall publish the non-confidential report, as well as all other public information based on information obligations from this Regulation, online, in order to ensure accessibility of such information in usable and comprehensive manner, in particular for SMEs.</u></p> <p>Text Origin: Council Mandate</p> |
| Recital 58b | | | | |
| 69b | | | | <p><u>(58b) Given the substantial economic power of gatekeepers, it is important that these obligations are effectively applied without being circumvented. To that end, the obligations in question should apply to any practices by a gatekeeper, irrespective of its form and irrespective of whether it is of a contractual, commercial, technical or any other nature, insofar as a practice corresponds to the type of practice that is the subject of one of</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---------------------|------------|-----------------|--|
| | | | | <p><u>the obligations of this Regulation. The gatekeepers should not engage in behaviour that would undermine the effectiveness of the prohibitions and obligations laid down in this Regulation. Such behaviour includes the design used by the gatekeeper, the presentation of end-user choices in a non-neutral manner, or using the structure, function or manner of operation of a user interface or a part thereof to subvert or impair user autonomy, decision-making, or choice. Furthermore, the gatekeeper should not be allowed to engage in any behaviour undermining interoperability as required under this Regulation, such as for example by using unjustified technical protection measures, discriminatory terms of service, unlawfully claiming a copyright on application programming interfaces or providing misleading information. Gatekeepers should not be allowed to circumvent their designation by artificially segmenting, dividing, subdividing, fragmenting or splitting this core platform service to circumvent the quantitative thresholds laid down in this regulation.</u></p> |
| Recital 59 | | | | |
| 70 | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|---|--|---|
| | (59) As an additional element to ensure proportionality, gatekeepers should be given an opportunity to request the suspension, to the extent necessary, of a specific obligation in exceptional circumstances that lie beyond the control of the gatekeeper, such as for example an unforeseen external shock that has temporarily eliminated a significant part of end user demand for the relevant core platform service, where compliance with a specific obligation is shown by the gatekeeper to endanger the economic viability of the Union operations of the gatekeeper concerned. | (59) As an additional element to ensure proportionality, gatekeepers should be given an opportunity to request the suspension, to the extent necessary, of a specific obligation in exceptional circumstances that lie beyond the control of the gatekeeper, such as for example an unforeseen external shock that has temporarily eliminated a significant part of end user demand for the relevant core platform service, where compliance with a specific obligation is shown by the gatekeeper to endanger the economic viability of the Union operations of the gatekeeper concerned. <u><i>The Commission should state in its decision the reasons for granting the suspension and review it on a regular basis to assess whether the conditions for granting it are still viable or not.</i></u> | (59) As an additional element to ensure proportionality, gatekeepers should be given an opportunity to request the suspension, to the extent necessary, of a specific obligation in exceptional circumstances that lie beyond the control of the gatekeeper, such as for example an unforeseen external shock that has temporarily eliminated a significant part of end user demand for the relevant core platform service, where compliance with a specific obligation is shown by the gatekeeper to endanger the economic viability of the Union operations of the gatekeeper concerned. | (59) As an additional element to ensure proportionality, gatekeepers should be given an opportunity to request the suspension, to the extent necessary, of a specific obligation in exceptional circumstances that lie beyond the control of the gatekeeper, such as for example an unforeseen external shock that has temporarily eliminated a significant part of end user demand for the relevant core platform service, where compliance with a specific obligation is shown by the gatekeeper to endanger the economic viability of the Union operations of the gatekeeper concerned. <u><i>The Commission should identify the exceptional circumstances justifying the suspension and review it on a regular basis to assess whether the conditions for granting it are still viable.</i></u> |
| Recital 60 | | | | |
| 71 | (60) In exceptional circumstances justified on the limited grounds of public morality, public health or public security, the Commission should be able to decide that the obligation concerned does not apply to a specific core platform service. Affecting these public interests can indicate that the cost to society as a whole of enforcing a certain | (60) In exceptional circumstances justified on the limited grounds of public morality, public health or public security, the Commission should be able to decide that the obligation concerned does not apply to a specific core platform service. Affecting these public interests can indicate that the cost to society as a whole of enforcing a certain | (60) In exceptional circumstances justified on the limited grounds of public morality, public health or public security, <u><i>as laid down in Union law and interpreted by the Court of,</i></u> the Commission should be able to decide that the obligation concerned does not apply to a specific core platform service. Affecting these public interests can | (60) In exceptional circumstances justified on the limited grounds of public morality, public health or public security, <u><i>as laid down in Union law and interpreted by the Court of Justice,</i></u> the Commission should be able to decide that the obligation concerned does not apply to a specific core platform service. Affecting <u><i>A harm to</i></u> these public |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|--|---|---|---|
| | <p>obligation would in a certain exceptional case be too high and thus disproportionate. The regulatory dialogue to facilitate compliance with limited suspension and exemption possibilities should ensure the proportionality of the obligations in this Regulation without undermining the intended ex ante effects on fairness and contestability.</p> | <p>obligation would in a certain exceptional case be too high and thus disproportionate. The regulatory dialogue to facilitate compliance with limited <u>and duly justified</u> suspension and exemption possibilities should ensure the proportionality of the obligations in this Regulation without undermining the intended ex ante effects on fairness and contestability. <u>Where such an exemption is granted, the Commission should review its decision every year.</u></p> | <p>indicate that the cost to society as a whole of enforcing a certain obligation would in a certain exceptional case be too high and thus disproportionate. The regulatory dialogue to facilitate compliance with limited suspension and exemption possibilities should ensure the proportionality of the obligations in this Regulation without undermining the intended ex ante effects on fairness and contestability.</p> | <p>interests can indicate that the cost to society as a whole of enforcing a certain obligation would in a certain exceptional case be too high and thus disproportionate. <u>Where appropriate the Commission should be able</u>The regulatory dialogue to facilitate compliance with<u>by assessing whether a</u> limited <u>and duly justified</u> suspension and/or exemption possibilities <u>is justified.</u> <u>This</u> should ensure the proportionality of the obligations in this Regulation without undermining the intended ex ante effects on fairness and contestability. <u>Where such an exemption is granted, the Commission should review its decision every year.</u></p> |
| Recital 60a | | | | |
| 71a | | | <p><u>(60a) Gatekeepers should not be allowed to circumvent their compliance with this Regulation. Therefore, it is important to prohibit any form of circumvention by an undertaking providing core platform services or a gatekeeper through behaviour that may be of contractual, commercial, technical or any other nature. For instance, an undertaking providing a core platform service should not artificially segment, divide, subdivide, fragment or split this</u></p> | <p><u>(60a) The obligations should only be updated after a thorough investigation on the nature and impact of specific practices that may be newly identified, following an in-depth investigation, as unfair or limiting contestability in the same manner as the unfair practices laid down in this Regulation while potentially escaping the scope of the current set of obligations. The Commission should be able to launch an investigation with a view to</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---------------------|------------|--|--|
| | | | <p><u>core platform service to circumvent the quantitative thresholds laid down in this regulation. By the same token, gatekeepers should not engage in behaviour that would undermine the effectiveness of the prohibitions and obligations laid down in this Regulation, for instance, by using behavioural techniques, including for example dark patterns or interface design.</u></p> | <p><u>determining whether the existing obligations would need to be updated, either on its own initiative or following a justified request of at least three Member States. When presenting such justified requests Member States may include information on newly introduced offers of products, services, software or features which raise concerns of contestability or fairness, whether implemented in the context of existing core platform services or otherwise. Where, following a market investigation, the Commission deems it necessary to modify essential elements of the present Regulation, such as the inclusion of new obligations that depart from the same contestability or fairness issues addressed by this Regulation, the Commission should advance a proposal to amend the Regulation.</u></p> <p>Text Origin: Council Mandate</p> |
| Recital 60b | | | | |
| 6 71b | | | | <p><u>(60b) To ensure the effectiveness of the review of gatekeeper status as well as the possibility to adjust the list of core platform services provided by a gatekeeper, the gatekeepers should inform the Commission of all of their intended</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---------------------|------------|-----------------|--|
| | | | | <p><u>acquisitions, prior to their implementation, of other undertakings providing core platform services or any other services provided within the digital sector or other services that enable the collection of data. Such information should not only serve the review process mentioned above, regarding the status of individual gatekeepers, but will also provide information that is crucial to monitoring broader contestability trends in the digital sector and can therefore be a useful factor for consideration in the context of the market investigations foreseen by this Regulation.</u></p> <p><u>Furthermore, the Commission should inform Member States of such information, given the possibility of using the information for national merger control purposes and as under certain circumstances the competent national authority may refer those acquisitions to the Commission for the purposes of merger control. The Commission should also publish annually a list of acquisitions of which it has been informed by gatekeepers. To ensure the necessary transparency and usefulness of such information for different purposes foreseen by this Regulation, gatekeepers should provide at least information about</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|--|---|--|
| | | | | <p><u>the undertakings concerned by the concentration, their Union and worldwide annual turnover, their field of activity, including activities directly related to the concentration, the transaction value or an estimation thereof, a summary of the concentration, including its nature and rationale, as well as a list of the Member States concerned by the operation</u></p> |
| Recital 61 | | | | |
| 72 | <p>(61) The data protection and privacy interests of end users are relevant to any assessment of potential negative effects of the observed practice of gatekeepers to collect and accumulate large amounts of data from end users. Ensuring an adequate level of transparency of profiling practices employed by gatekeepers facilitates contestability of core platform services, by putting external pressure on gatekeepers to prevent making deep consumer profiling the industry standard, given that potential entrants or start-up providers cannot access data to the same extent and depth, and at a similar scale. Enhanced transparency should allow other providers of core platform services to differentiate themselves better through the use of superior privacy guaranteeing</p> | <p>(61) The data protection and privacy interests of end users are relevant to any assessment of potential negative effects of the observed practice of gatekeepers to collect and accumulate large amounts of data from end users. Ensuring an adequate level of transparency of profiling practices employed by gatekeepers facilitates contestability of core platform services, by putting external pressure on gatekeepers to prevent making deep consumer profiling the industry standard, given that potential entrants or start-up providers cannot access data to the same extent and depth, and at a similar scale. Enhanced transparency should allow other providers of core platform services to differentiate themselves better through the use of superior privacy guaranteeing</p> | <p>(61) The data protection and privacy interests of end users are relevant to any assessment of potential negative effects of the observed practice of gatekeepers to collect and accumulate large amounts of data from end users. Ensuring an adequate level of transparency of profiling practices employed by gatekeepers, <u>including, but not limited to, profiling within the meaning of Article 4(4) of Regulation (EU) 2016/679</u>, facilitates contestability of core platform services, by putting external pressure on gatekeepers to prevent making deep consumer profiling the industry standard, given that potential entrants or start-up providers <u>start-ups</u> cannot access data to the same extent and depth, and at a similar scale. Enhanced</p> | <p>(61) The data protection and privacy interests of end users are relevant to any assessment of potential negative effects of the observed practice of gatekeepers to collect and accumulate large amounts of data from end users. Ensuring an adequate level of transparency of profiling practices employed by gatekeepers, <u>including, but not limited to, profiling within the meaning of Article 4(4) of Regulation (EU) 2016/679</u>, facilitates contestability of core platform services, by putting <u>Transparency puts</u> external pressure on gatekeepers to prevent making <u>not to make</u> deep consumer profiling the industry standard, given that potential entrants or start-up providers <u>start-ups</u> cannot access data to the same extent and depth,</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---|--|---|--|
| | <p>facilities. To ensure a minimum level of effectiveness of this transparency obligation, gatekeepers should at least provide a description of the basis upon which profiling is performed, including whether personal data and data derived from user activity is relied on, the processing applied, the purpose for which the profile is prepared and eventually used, the impact of such profiling on the gatekeeper’s services, and the steps taken to enable end users to be aware of the relevant use of such profiling, as well as to seek their consent.</p> | <p>facilities. To ensure a minimum level of effectiveness of this transparency obligation, gatekeepers should at least provide a description of the basis upon which profiling is performed, including whether personal data and data derived from user activity is relied on, the processing applied, the purpose for which the profile is prepared and eventually used, the impact of such profiling on the gatekeeper’s services, and the steps taken to enable end users to be aware of the relevant use of such profiling, as well as to seek their consent. <u>The expertise of consumer protection authorities’, as members of the High Level Group of Digital Regulators, should be especially taken into consideration for assessing consumer profiling techniques. The Commission should develop, in consultation with the EU Data Protection Supervisor, the European Data Protection Board, civil society and experts, the standards and process of the audit.</u></p> | <p>transparency should allow other providers of <u>undertakings providing</u> core platform services to differentiate themselves better through the use of superior privacy guaranteeing facilities. To ensure a minimum level of effectiveness of this transparency obligation, gatekeepers should at least provide a description of the basis upon which profiling is performed, including whether personal data and data derived from user activity <u>in line with Regulation (EU) 2016/679</u> is relied on, the processing applied, the purpose for which the profile is prepared and eventually used, the <u>duration of the profiling, the</u> impact of such profiling on the gatekeeper’s services, and the steps taken to <u>effectively</u> enable end users to be aware of the relevant use of such profiling, as well as <u>steps</u> to seek their <u>consent or provide them with the possibility of denying or withdrawing</u> consent.</p> | <p>and at a similar scale. Enhanced transparency should allow other providers of <u>undertakings providing</u> core platform services to differentiate themselves better through the use of superior privacy guaranteeing facilities <u>guarantees</u>. To ensure a minimum level of effectiveness of this transparency obligation, gatekeepers should at least provide a description of the basis upon which profiling is performed, including whether personal data and data derived from user activity <u>in line with Regulation (EU) 2016/679</u> is relied on, the processing applied, the purpose for which the profile is prepared and eventually used, the <u>duration of the profiling, the</u> impact of such profiling on the gatekeeper’s services, and the steps taken to <u>effectively</u> enable end users to be aware of the relevant use of such profiling, as well as <u>steps</u> to seek their consent <u>or provide them with the possibility of denying or withdrawing consent.</u> <u>The Commission should transfer the audited description to the European Data Protection Board to inform the enforcement of EU data protection rules.</u> <u>The Commission should be empowered to develop the methodology and process of the audit, in consultation with the</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|--|---|---|
| | | | | <u>European Data Protection Supervisor, the European Data Protection Board, civil society and experts, in line with Regulation 2018/1725 and comitology rules.</u> |
| Recital 62 | | | | |
| 73 | <p>(62) In order to ensure the full and lasting achievement of the objectives of this Regulation, the Commission should be able to assess whether a provider of core platform services should be designated as a gatekeeper without meeting the quantitative thresholds laid down in this Regulation; whether systematic non-compliance by a gatekeeper warrants imposing additional remedies; and whether the list of obligations addressing unfair practices by gatekeepers should be reviewed and additional practices that are similarly unfair and limiting the contestability of digital markets should be identified. Such assessment should be based on market investigations to be run in an appropriate timeframe, by using clear procedures and deadlines, in order to support the ex ante effect of this Regulation on contestability and fairness in the digital sector, and to provide the requisite degree of legal certainty.</p> | <p>(62) In order to ensure the full and lasting achievement of the objectives of this Regulation, the Commission should be able to assess whether a provider of core platform services should be designated as a gatekeeper without meeting the quantitative thresholds laid down in this Regulation; whether systematic non-compliance by a gatekeeper warrants imposing additional remedies; and whether the list of obligations addressing unfair practices by gatekeepers should be reviewed; <u>and whether</u> and additional practices that are similarly unfair and limiting the contestability of digital markets should be identified <u>need to be investigated</u>. Such assessment should be based on market investigations to be run <u>carried out</u> in an appropriate timeframe, by using clear procedures and <u>binding</u> deadlines, in order to support the ex ante effect of this Regulation on contestability and fairness in the digital sector, and to provide the requisite degree of legal certainty.</p> | <p>(62) In order to ensure the full and lasting achievement of the objectives of this Regulation, the Commission should be able to assess whether a provider of an undertaking <u>providing</u> core platform services should be designated as a gatekeeper without meeting the quantitative thresholds laid down in this Regulation; whether systematic non-compliance by a gatekeeper warrants imposing additional remedies; and whether the list of obligations addressing unfair practices by gatekeepers should be reviewed and additional practices that are similarly unfair and limiting the contestability of digital markets should be identified. Such assessment should be based on market investigations to be run in an appropriate timeframe, by using clear procedures and deadlines, in order to support the ex ante effect of this Regulation on contestability and fairness in the digital sector, and to provide the requisite degree of legal certainty.</p> | <p>(62) In order to ensure the full and lasting achievement of the objectives of this Regulation, the Commission should be able to assess whether a provider of an undertaking <u>providing</u> core platform services should be designated as a gatekeeper without meeting the quantitative thresholds laid down in this Regulation; whether systematic non-compliance by a gatekeeper warrants imposing additional remedies; and whether the list of obligations addressing unfair practices by gatekeepers should be reviewed and <u>whether more services within the digital sector should be added to the list of core platform services; and whether</u> additional practices that are similarly unfair and limiting the contestability of digital markets should be identified <u>need to be investigated</u>. Such assessment should be based on market investigations to be run <u>carried out</u> in an appropriate timeframe, by using clear</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|---|--|---|
| | | | | <p>procedures and deadlines, in order to support the ex ante effect of this Regulation on contestability and fairness in the digital sector, and to provide the requisite degree of legal certainty.</p> |
| Recital 63 | | | | |
| 74 | <p>(63) Following a market investigation, an undertaking providing a core platform service could be found to fulfil all of the overarching qualitative criteria for being identified as a gatekeeper. It should then, in principle, comply with all of the relevant obligations laid down by this Regulation. However, for gatekeepers that have been designated by the Commission as likely to enjoy an entrenched and durable position in the near future, the Commission should only impose those obligations that are necessary and appropriate to prevent that the gatekeeper concerned achieves an entrenched and durable position in its operations. With respect to such emerging gatekeepers, the Commission should take into account that this status is in principle of a temporary nature, and it should therefore be decided at a given moment whether such a provider of core platform services should be</p> | <p>(63) Following a market investigation, an undertaking providing a core platform service could be found to fulfil all of the overarching qualitative criteria for being identified as a gatekeeper. It should then, in principle, comply with all of the relevant obligations laid down by this Regulation. However, for gatekeepers that have been designated by the Commission as likely to enjoy an entrenched and durable position in the near future, the Commission should only impose those obligations that are necessary and appropriate to prevent that the gatekeeper concerned achieves an entrenched and durable position in its operations. With respect to such emerging gatekeepers, the Commission should take into account that this status is in principle of a temporary nature, and it should therefore be decided at a given moment whether such a provider of core platform services should be</p> | <p>(63) Following a market investigation, an undertaking providing a core platform service could be found to fulfil all of the overarching qualitative criteria for being identified as a gatekeeper. It should then, in principle, comply with all of the relevant obligations laid down by this Regulation. However, for gatekeepers that have been designated by the Commission as likely to enjoy an entrenched and durable position in the near future, the Commission should only impose those obligations that are necessary and appropriate to prevent that the gatekeeper concerned achieves an entrenched and durable position in its operations. With respect to such emerging gatekeepers, the Commission should take into account that this status is in principle of a temporary nature, and it should therefore be decided at a given moment whether such a provider <u>of an undertaking providing</u> core</p> | <p>(63) <u>The Commission should be able to find</u>, following a market investigation, <u>that</u> an undertaking providing a core platform service could be found to fulfil <u>fulfils</u> all of the overarching qualitative criteria for being identified as a gatekeeper. #The undertaking should then, in principle, comply with all of the relevant obligations laid down by this Regulation. However, for gatekeepers that have been designated by the Commission as likely to enjoy an entrenched and durable position in the near future, the Commission should only impose those obligations that are necessary and appropriate to prevent that the gatekeeper concerned achieves an entrenched and durable position in its operations. With respect to such emerging gatekeepers, the Commission should take into account that this status is in principle of a temporary nature, and it should therefore be decided at a given</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|--|--|---|--|
| | subjected to the full set of gatekeeper obligations because it has acquired an entrenched and durable position, or conditions for designation are ultimately not met and therefore all previously imposed obligations should be waived. | subjected to the full set of gatekeeper obligations because it has acquired an entrenched and durable position, or conditions for designation are ultimately not met and therefore all previously imposed obligations should be waived. | platform services should be subjected to the full set of gatekeeper obligations because it has acquired an entrenched and durable position, or conditions for designation are ultimately not met and therefore all previously imposed obligations should be waived. | moment whether such a provider <u>of an undertaking providing</u> core platform services should be subjected to the full set of gatekeeper obligations because it has acquired an entrenched and durable position, or <u>the</u> conditions for designation are ultimately not met and therefore all previously imposed obligations should be waived. Text Origin: Council Mandate |
| Recital 63a | | | | |
| 74a | | | | <u>(63a) When preparing non-confidential summaries for publication in order to effectively enable interested third parties to provide comments, the Commission should give due regard to the legitimate interest of undertakings in the protection of their business secrets and other confidential information.</u> |
| Recital 64 | | | | |
| 75 | (64) The Commission should investigate and assess whether additional behavioural, or, where appropriate, structural remedies are justified, in order to ensure that the gatekeeper cannot frustrate the objectives of this Regulation by | (64) The Commission should investigate and assess whether additional behavioural, or, where appropriate, structural remedies are justified, in order to ensure that the gatekeeper cannot frustrate the objectives of this Regulation by | (64) The Commission should investigate and assess whether additional behavioural, or, where appropriate, structural remedies are justified, in order to ensure that the gatekeeper cannot frustrate the objectives of this Regulation by | (64) The Commission should investigate and assess whether additional behavioural, or, where appropriate, structural remedies are justified, in order to ensure that the gatekeeper cannot frustrate the objectives of this Regulation by |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|---|--|--|
| | <p>systematic non-compliance with one or several of the obligations laid down in this Regulation, which has further strengthened its gatekeeper position. This would be the case if the gatekeeper's size in the internal market has further increased, economic dependency of business users and end users on the gatekeeper's core platform services has further strengthened as their number has further increased and the gatekeeper benefits from increased entrenchment of its position. The Commission should therefore in such cases have the power to impose any remedy, whether behavioural or structural, having due regard to the principle of proportionality. Structural remedies, such as legal, functional or structural separation, including the divestiture of a business, or parts of it, should only be imposed either where there is no equally effective behavioural remedy or where any equally effective behavioural remedy would be more burdensome for the undertaking concerned than the structural remedy. Changes to the structure of an undertaking as it existed before the systematic non-compliance was established would only be proportionate where there is a substantial risk that this systematic non-compliance results from the very structure of the undertaking</p> | <p>systematic non-compliance<u>systematically failing to comply</u> with one or several of the obligations laid down in this Regulation,which has further strengthened its gatekeeper position. This would be the case if the gatekeeper's size in the internal market has further increased, economic dependency of business users and end users on the gatekeeper's core platform services has further strengthened as their number has further increased and the gatekeeper benefits from increased entrenchment of its position. <u>The Commission should therefore in such cases of systematic non-compliance have the power to impose any remedy, whether behavioural or structural that is necessary to ensure effective compliance with this Regulation.</u> The Commission should therefore in such cases have the power to impose any remedy, whether behavioural or structural, having due regard<u>might prohibit gatekeepers from engaging on acquisitions (including "killer-acquisitions") in the areas relevant to this regulation such as digital or to the principle of proportionality.</u> Structural remedies, such as legal, functional or structural separation, including the divestiture of a business, or parts of it, should only be imposed either<u>use of data related</u></p> | <p>systematic non-compliance with one or several of the obligations laid down in this Regulation, which has further strengthened its gatekeeper position. This would be the case <u>where the Commission has issued against a gatekeeper at least three non-compliance decisions, which can concern three different core platform services and different obligations laid down in this Regulation, and</u> if the gatekeeper's size in the internal market has further increased, economic dependency of business users and end users on the gatekeeper's core platform services has further strengthened as their number has further increased and/or the gatekeeper benefits from increased entrenchment of its position. The Commission should therefore in such cases have the power to impose any remedy, whether behavioural or structural, having due regard to the principle of proportionality. Structural remedies, such as legal, functional or structural separation, including the divestiture of a business, or parts of it, should only be imposed either where there is no equally effective behavioural remedy or where any equally effective behavioural remedy would be more burdensome for the undertaking concerned than the structural remedy. Changes to the</p> | <p>systematic non-compliance with one or several of the obligations laid down in this Regulation,which has further strengthened its. <u>This would be the case where the Commission has issued against a gatekeeper position.</u>This would be the case at <u>least three non-compliance decisions within the period of eight years, which can concern different core platform services and different obligations laid down in this Regulation, and</u> if the gatekeeper's size has maintained, extended or further strengthened its impact in the internal market has further increased, <u>the economic dependency of its business users and end users on the gatekeeper's core platform services has further or the entrenchment of its position. A gatekeeper should be deemed to have maintained, extended or strengthened as their number has further increased and the gatekeeper benefits from increased entrenchment of its position</u> <u>its gatekeeper position where despite the enforcement actions taken by the commission, the undertaking still holds or has further consolidated or entrenched its importance as a gateway for business users to reach end users.</u> The Commission should therefore in such cases have the power to impose any remedy, whether behavioural or</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---------------------|---|---|--|
| | concerned. | <p><u>sectors e.g. gaming, research institutes, consumer goods, fitness devices, health tracking financial services, and for a limited period of time</u> where there is no equally effective behavioural remedy or where any equally effective behavioural remedy would be more burdensome for the undertaking concerned than the structural remedy. <u>Changes to the structure of an undertaking as it existed before the systematic non-compliance was established would only be proportionate where there is a substantial risk that this systematic non-compliance results from the very structure</u> <u>this is necessary and proportionate to undue the damage caused by repeated infringements or to prevent further damage to the contestability and fairness of the internal market. In doing so, the Commission might take into account different elements, such as likely network effects, data consolidation, and possible long-term effects or whether and when the acquisition of targets with specific data resources can significantly put in danger the contestability and the competitiveness of the undertaking concerned</u> <u>markets through horizontal, vertical or conglomerate effects.</u></p> | <p>structure of an undertaking as it existed before the systematic non-compliance was established would only be proportionate where there is a substantial risk that this systematic non-compliance results from the very structure of the undertaking concerned.</p> | <p>structural, having due regard to the principle of proportionality. Structural remedies, such as legal, functional or structural separation, including the divestiture of a business, or parts of it, should only be imposed either where there is no equally effective behavioural remedy or where any equally effective behavioural remedy would be more burdensome for the undertaking concerned than the structural remedy <u>In this context, the Commission should have the power to prohibit, to the extent that such remedy is proportionate and necessary in order to maintain or restore fairness and contestability as affected by the systematic non-compliance, during a limited time-period, for the gatekeeper to enter into a concentration regarding those core platform services or the other services provided in the digital sector or services enabling the collection of data that are affected by the systematic non-compliance. In order to enable effective involvement of third parties and the possibility to test remedies</u> Changes to the structure of an undertaking as it existed <u>before its application, the Commission should publish a detailed non confidential summary of the case and the measures to be taken.</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|--|--|---|
| | | | | <p><u>The Commission should be able to reopen proceedings, including</u>the systematic non-compliance was established would only be proportionate where there is a substantial risk that this systematic non-compliance results from the very structure of the undertaking concerned<u>the specified remedies turn out not to be effective. A reopening due to ineffective remedies adopted by decision should enable the Commission to amend the remedies prospectively. The Commission should also be able to set a reasonable time period within which the remedies decision may be reopened if the remedies turn out not to be effective.</u></p> <p>Text Origin: Auxiliary</p> |
| Recital 65 | | | | |
| 76 | <p>(65) The services and practices in core platform services and markets in which these intervene can change quickly and to a significant extent. To ensure that this Regulation remains up to date and constitutes an effective and holistic regulatory response to the problems posed by gatekeepers, it is important to provide for a regular review of the lists of core platform services as well</p> | <p>(65) The services and practices in core platform services and markets in which these intervene can change quickly and to a significant extent. To ensure that this Regulation remains up to date and constitutes an effective and holistic regulatory response to the problems posed by gatekeepers, it is important to provide for a regular review of the lists of core platform services as well</p> | <p>(65) The services and practices in core platform services and markets in which these intervene can change quickly and to a significant extent. To ensure that this Regulation remains up to date and constitutes an effective and holistic regulatory response to the problems posed by gatekeepers, it is important to provide for a regular review of the lists of core platform services as well</p> | <p>(65) The services and practices in core platform services and markets in which<u>in the digital sector and the types of practices relating to</u> these intervene<u>services</u> can change quickly and to a significant extent. To ensure that this Regulation remains up to date and constitutes an effective and holistic regulatory response to the problems posed by gatekeepers, it is important to</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---|---|--|---|
| | <p>as of the obligations provided for in this Regulation. This is particularly important to ensure that behaviour that may limit the contestability of core platform services or is unfair is identified. While it is important to conduct a review on a regular basis, given the dynamically changing nature of the digital sector, in order to ensure legal certainty as to the regulatory conditions, any reviews should be conducted within a reasonable and appropriate time-frame. Market investigations should also ensure that the Commission has a solid evidentiary basis on which it can assess whether it should propose to amend this Regulation in order to expand, or further detail, the lists of core platform services. They should equally ensure that the Commission has a solid evidentiary basis on which it can assess whether it should propose to amend the obligations laid down in this Regulation or whether it should adopt a delegated act updating such obligations.</p> | <p>as of the obligations provided for in this Regulation. This is particularly important to ensure that behaviour that may limit the contestability of core platform services or is unfair is identified. While it is important to conduct a review on a regular basis, given the dynamically changing nature of the digital sector, in order to ensure legal certainty as to the regulatory conditions, any reviews should be conducted within a reasonable and appropriate time-frame. Market investigations should also ensure that the Commission has a solid evidentiary basis on which it can assess whether it should propose to amend this Regulation in order to expand, or further detail, the lists of core platform services. They should equally ensure that the Commission has a solid evidentiary basis on which it can assess whether it should propose to amend the obligations laid down in this Regulation or whether it should adopt a delegated act updating such obligations.</p> | <p>as of the obligations provided for in this Regulation. This is particularly important to ensure that behaviour that may limit the contestability of core platform services or is unfair is identified. While it is important to conduct a review on a regular basis, given the dynamically changing nature of the digital sector, in order to ensure legal certainty as to the regulatory conditions, any reviews should be conducted within a reasonable and appropriate time-frame. Market investigations should also ensure that the Commission has a solid evidentiary basis on which it can assess whether it should propose to amend this Regulation in order to <u>review</u>, expand, or further detail, the lists of core platform services. They should equally ensure that the Commission has a solid evidentiary basis on which it can assess whether it should propose to amend the obligations laid down in this Regulation or whether it should adopt a delegated act updating such obligations.</p> | <p>provide for a regular review of the lists of core platform services as well as of the obligations provided for in this Regulation. This is particularly important to ensure that behaviour that may limit the contestability of core platform services or is unfair is identified. While it is important to conduct a review on a regular basis, given the dynamically changing nature of the digital sector, in order to ensure legal certainty as to the regulatory conditions, any reviews should be conducted within a reasonable and appropriate time-frame. Market investigations should also ensure that the Commission has a solid evidentiary basis on which it can assess whether it should propose to amend this Regulation in order to <u>review</u>, expand, or further detail, the lists of core platform services. They should equally ensure that the Commission has a solid evidentiary basis on which it can assess whether it should propose to amend the obligations laid down in this Regulation or whether it should adopt a delegated act updating such obligations.</p> <p><small>Text Origin: Council Mandate</small></p> |
| Recital 65a | | | | |
| 6 76a | | <u>(65a) Interim measures can be an</u> | | <u>(65a) With regard to conduct</u> 6 |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---------------------|--|--|---|
| | | <p><u>important tool to ensure that, while an investigation is ongoing, the infringement being investigated does not lead to serious and immediate damage for business users or end users of gatekeepers. In case of urgency, where a risk of serious and immediate damage for business users or end-users of gatekeepers could result from new practices that may undermine contestability of core platform services, the Commission should be empowered to impose interim measures by temporarily imposing obligations to the gatekeeper concerned. These interim measures should be limited to what is necessary and justified. They should apply pending the conclusion of the market investigation and the corresponding final decision of the Commission pursuant to Article 17.</u></p> | | <p><u>implemented by gatekeepers that does not fall under the obligations set out in this Regulation, the Commission should have the possibility to open a market investigation into new services and new practices for the purposes of identifying whether the obligations set out in this Regulation are to be supplemented by means of a delegated act falling within the scope detailed by the Regulation for such delegated acts, or by presenting a proposal to amend this Regulation. This is without prejudice to the possibility for the Commission to, in appropriate cases, open proceedings under Article 101 or 102 of the TFEU. Such proceedings should be conducted in accordance with Council Regulation (EC) No 1/2003¹. In case of urgency due to the risk of serious and irreparable damage to competition, the Commission should consider adopting interim measures in accordance with Article 8 of Regulation (EC) No 1/2003.</u></p> |
| Recital 65a | | | | |
| 76b | | | <p><u>(65a) With regard to conduct implemented by gatekeepers that</u></p> | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---------------------|------------|---|-----------------|
| | | | <p><u>does not fall under the obligations set out in this Regulation, the Commission should have the possibility to open a market investigation into new services and new practices for the purposes of identifying whether the obligations set out in this Regulation are to be supplemented by means of a delegated act falling within the scope detailed by the Regulation for such delegated acts, or by presenting a proposal to amend this Regulation, for example to add additional core platform services in the scope of the Regulation. This is without prejudice to the possibility for the Commission to, in appropriate cases, open proceedings under Article 101 or 102 of the TFEU. Such proceedings should be conducted in accordance with Council Regulation (EC) No 1/2003¹. In case of urgency due to the risk of serious and irreparable damage to competition, the Commission should consider adopting interim measures in accordance with Article 8 of Regulation (EC) No 1/2003.</u></p> <p><u>1. Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, p. 1).</u></p> | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|--|--|---|
| Recital 66 | | | | |
| 77 | <p>(66) In the event that gatekeepers engage in behaviour that is unfair or that limits the contestability of the core platform services that are already designated under this Regulation but without these behaviours being explicitly covered by the obligations, the Commission should be able to update this Regulation through delegated acts. Such updates by way of delegated act should be subject to the same investigatory standard and therefore following a market investigation. The Commission should also apply a predefined standard in identifying such behaviours. This legal standard should ensure that the type of obligations that gatekeepers may at any time face under this Regulation are sufficiently predictable.</p> | <p>(66) In the event that gatekeepers engage in behaviour that is unfair or that limits the contestability of the core platform services that are already designated under this Regulation but without these behaviours being explicitly covered by the obligations, the Commission should be able to update this Regulation through delegated acts. Such updates by way of delegated act should be subject to the same investigatory standard and therefore following a market investigation. The Commission should also apply a predefined standard in identifying such behaviours. This legal standard should ensure that the type of obligations that gatekeepers may at any time face under this Regulation are sufficiently predictable.</p> | <p>(66) In the event that gatekeepers engage in behaviour that is unfair or that limits the contestability of the core platform services that are already designated under this Regulation but without these behaviours being explicitly covered by the obligations, the Commission should be able to update this Regulation through delegated acts. Such updates by way of delegated act should be subject to the same investigatory standard and therefore following a market investigation. The Commission should also apply a predefined standard in identifying such behaviours. This legal standard should ensure that the type of obligations that gatekeepers may at any time face under this Regulation are sufficiently predictable.</p> | <p>(66) In the event that gatekeepers engage in behaviour that is unfair or that limits the contestability of the core platform services that are already designated under this Regulation but without these behaviours being explicitly covered by the obligations, the Commission should be able to update this Regulation through delegated acts. Such updates by way of delegated act should be subject to the same investigatory standard and therefore following a market investigation. The Commission should also apply a predefined standard in identifying such behaviours. This legal standard should ensure that the type of obligations that gatekeepers may at any time face under this Regulation are sufficiently predictable.</p> <p><small>Text Origin: Commission Proposal</small></p> |
| Recital 67 | | | | |
| 78 | <p>(67) Where, in the course of a proceeding into non-compliance or an investigation into systemic non-compliance, a gatekeeper offers commitments to the Commission, the latter should be able to adopt a decision making these commitments</p> | <p><i>deleted</i></p> | <p>(67) Where, in the course of a proceeding into non-compliance or an investigation into systemic non-compliance, a gatekeeper offers commitments to the Commission, the latter should be able to adopt a decision making these commitments</p> | <p>(67) Where, in the course of a proceeding into non-compliance or an investigation into systemic<u>systematic</u> non-compliance, a gatekeeper offers commitments to the Commission, the latter should be able to adopt a decision making</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|---|--|---|---|
| | binding on the gatekeeper concerned, where it finds that the commitments ensure effective compliance with the obligations of this Regulation. This decision should also find that there are no longer grounds for action by the Commission. | | binding on the gatekeeper concerned, where it finds that the commitments ensure effective compliance with the obligations of this Regulation. This decision should also find that there are no longer grounds for action by the Commission. | these commitments binding on the gatekeeper concerned, where it finds that the commitments ensure effective compliance with the obligations of this Regulation. This decision should also find that there are no longer grounds for action by the Commission <u>as regards the systematic non-compliance under investigation. In assessing whether the commitments offered by the gatekeeper are sufficient to ensure effective compliance with the obligations under this Regulation, the Commission may take into account tests undertaken by the gatekeeper to demonstrate the effectiveness of the offered commitments in practice. The Commission should verify that the commitments decision is fully respected and reaches its objectives, and should be entitled to reopen the decision if it finds that the commitments are not effective.</u> Text Origin: Commission Proposal |
| Recital 68 | | | | |
| 79 | (68) In order to ensure effective implementation and compliance with this Regulation, the Commission should have strong investigative and enforcement powers, to allow it to | (68) In order to ensure effective implementation and compliance with this Regulation, the Commission should have strong investigative and enforcement powers, to allow it to | (68) In order to ensure effective implementation and compliance with this Regulation, the Commission should have strong investigative and enforcement powers, to allow it to | (68) In order to ensure effective implementation and compliance with this Regulation, the Commission should have strong investigative and enforcement powers, to allow it to |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|--|--|--|
| | investigate, enforce and monitor the rules laid down in this Regulation, while at the same time ensuring the respect for the fundamental right to be heard and to have access to the file in the context of the enforcement proceedings. The Commission should dispose of these investigative powers also for the purpose of carrying out market investigations for the purpose of updating and reviewing this Regulation. | investigate, enforce and monitor the rules laid down in this Regulation, while at the same time ensuring the respect for the fundamental right to be heard and to have access to the file in the context of the enforcement proceedings. The Commission should dispose of these investigative powers also for the purpose of carrying out market investigations for the purpose of updating and reviewing this Regulation. | investigate, enforce and monitor the rules laid down in this Regulation, while at the same time ensuring the respect for the fundamental right to be heard and to have access to the file in the context of the enforcement proceedings. The Commission should dispose of these investigative powers also for the purpose of carrying out market investigations for the purpose of updating and reviewing this Regulation. | investigate, enforce and monitor the rules laid down in this Regulation, while at the same time ensuring the respect for the fundamental right to be heard and to have access to the file in the context of the enforcement proceedings. The Commission should dispose of these investigative powers also for the purpose of carrying out market investigations, including for the purpose of updating and reviewing this Regulation. Text Origin: Commission Proposal |
| Recital 69 | | | | |
| 80 | (69) The Commission should be empowered to request information necessary for the purpose of this Regulation, throughout the Union. In particular, the Commission should have access to any relevant documents, data, database, algorithm and information necessary to open and conduct investigations and to monitor the compliance with the obligations laid down in this Regulation, irrespective of who possesses the documents, data or information in question, and regardless of their form or format, their storage medium, or the place where they are stored. | (69) The Commission should be empowered to request information necessary for the purpose of this Regulation, throughout the Union. In particular, the Commission should have access to any relevant documents, data, database, algorithm and information necessary to open and conduct investigations and to monitor the compliance with the obligations laid down in this Regulation, irrespective of who possesses the documents, data or information in question, and regardless of their form or format, their storage medium, or the place where they are stored. | (69) The Commission should be empowered to request information necessary for the purpose of this Regulation, throughout the Union. In particular, the Commission should have access to any relevant documents, data, database, algorithm and information necessary to open and conduct investigations and to monitor the compliance with the obligations laid down in this Regulation, irrespective of who possesses the documents, data or information in question, and regardless of their form or format, their storage medium, or the place where they are stored. | (69) The Commission should be empowered to request information necessary for the purpose of this Regulation, throughout the Union . In particular, the Commission should have access to any relevant documents, data, database, algorithm and information necessary to open and conduct investigations and to monitor the compliance with the obligations laid down in this Regulation, irrespective of who possesses the documents, data or information in question, and regardless of their form or format, their storage medium, or the place where they are stored. |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|---|--|--|
| | | | | Text Origin: Commission Proposal |
| Recital 70 | | | | |
| 81 | (70) The Commission should be able to directly request that undertakings or association of undertakings provide any relevant evidence, data and information. In addition, the Commission should be able to request any relevant information from any public authority, body or agency within the Member State, or from any natural person or legal person for the purpose of this Regulation. When complying with a decision of the Commission, undertakings are obliged to answer factual questions and to provide documents. | (70) The Commission should be able to directly request that undertakings or association of undertakings provide any relevant evidence, data and information. <u>The time limits fixed by the Commission for the request of information should respect the size and capabilities of an undertaking or association of undertakings.</u> In addition, the Commission should be able to request any relevant information from any public authority, body or agency within the Member State, or from any natural person or legal person for the purpose of this Regulation. When complying with a decision of the Commission, undertakings are obliged to answer factual questions and to provide documents. | (70) The Commission should be able to directly request that undertakings or association of undertakings provide any relevant evidence, data and information. In addition, the Commission should be able to request any relevant information from any public authority, body or agency <u>competent authorities</u> within the Member State, or from any natural person or legal person for the purpose of this Regulation. When complying with a decision of the Commission, undertakings are obliged to answer factual questions and to provide documents. | (70) The Commission should be able to directly request that undertakings or association of undertakings provide any relevant evidence, data and information. In addition, the Commission should be able to request any relevant information from any public authority, body or agency <u>competent authorities</u> within the Member State, or from any natural person or legal person for the purpose of this Regulation. When complying with a decision of the Commission, undertakings are obliged to answer factual questions and to provide documents. |
| Recital 71 | | | | |
| 82 | (71) The Commission should also be empowered to undertake onsite inspections and to interview any persons who may be in possession of useful information and to record the | (71) The Commission should also be empowered to undertake onsite inspections and to interview any persons who may be in possession of useful information and to record the | (71) The Commission should also be empowered to undertake onsite inspections <u>inspections at the premises of any undertaking or association of undertakings</u> and to | (71) The Commission should also be empowered to undertake onsite inspections <u>of any undertaking or association of undertakings</u> and to interview any persons who may be |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---------------------|------------------|--|--|
| | statements made. | statements made. | interview any persons who may be in possession of useful information and to record the statements made. | in possession of useful information and to record the statements made. Text Origin: Council Mandate |
| Recital 71a | | | | |
| 82a | | | <p><u>(71a) Interim measures can be an important tool to ensure that, while an investigation is ongoing, the infringement being investigated does not lead to serious and irreparable damage for business users or end users of gatekeepers. This tool is important to avoid developments that could be very difficult to reverse by a decision taken by the Commission at the end of the proceedings. The Commission should therefore have the power to impose interim measures by decision in the context of proceedings opened in view of the possible adoption of a decision of non-compliance. This power should apply in cases where the Commission has made a prima facie finding of infringement of obligations by gatekeepers and where there is a risk of serious and irreparable damage for business users or end users of gatekeepers. A decision imposing interim measures should only be valid for a specified period, either until the conclusion of the proceedings by the</u></p> | <p><u>(71a) Interim measures can be an important tool to ensure that, while an investigation is ongoing, the infringement being investigated does not lead to serious and irreparable damage for business users or end users of gatekeepers. This tool is important to avoid developments that could be very difficult to reverse by a decision taken by the Commission at the end of the proceedings. The Commission should therefore have the power to impose interim measures by decision in the context of proceedings opened in view of the possible adoption of a decision of non-compliance. This power should apply in cases where the Commission has made a prima facie finding of infringement of obligations by gatekeepers and where there is a risk of serious and irreparable damage for business users or end users of gatekeepers. A decision imposing interim measures should only be valid for a specified period, either until the conclusion of the proceedings by the</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|--|--|--|---|
| | | | <u>Commission, or for a fixed time period which can be renewed insofar as it is necessary and appropriate.</u> | <u>Commission, or for a fixed time period which can be renewed insofar as it is necessary and appropriate.</u> See Row 76a |
| Recital 72 | | | | |
| 83 | (72) The Commission should be able to take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in this Regulation. Such actions should include the ability of the Commission to appoint independent external experts, such as and auditors to assist the Commission in this process, including where applicable from competent independent authorities, such as data or consumer protection authorities. | (72) The Commission should be able to take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in this Regulation. Such actions should include the ability of the Commission to appoint independent external experts, such as and auditors to assist the Commission in this process, including where applicable from competent independent authorities, such as data or consumer protection authorities. | (72) The Commission should be able to take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in this Regulation. Such actions should include the ability of the Commission to appoint independent external experts, such as and auditors to assist the Commission in this process, including where applicable from competent independent authorities <u>authorities of the Member States</u> , such as data or consumer protection authorities. | (72) The Commission should be able to take the necessary actions to monitor the effective implementation <u>of</u> and compliance with the obligations laid down in this Regulation. Such actions should include the ability of the Commission to appoint independent external experts, such as and <u>independent authorities</u> <u>authorities of the Member States</u> , such as data or consumer protection authorities. <u>When appointing auditors, the Commission should ensure sufficient rotation.</u> |
| Recital 72a | | | | |
| 83a | | | <u>(72a) The coherent, effective and complementary enforcement of available legal instruments applied to gatekeepers requires cooperation and coordination between the</u> | <u>(72a) The coherent, effective and complementary enforcement of available legal instruments applied to gatekeepers requires cooperation and coordination between the</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---------------------|------------|--|---|
| | | | <p><u>Commission and national authorities within the remit of their competences. The Commission and Member States should cooperate and coordinate their actions necessary for the enforcement of the available legal instruments applied to gatekeepers within the meaning of this Regulation and respect the principle of sincere cooperation laid down in Article 4 of the TFEU. The support by competent authorities of the Member States may include providing the Commission with all necessary information in their possession or assisting, upon request, the Commission with the exercise of its powers in order for the Commission to carry out the duties assigned to it by this Regulation.</u></p> | <p><u>Commission and national authorities within the remit of their competences. The Commission and national authorities should cooperate and coordinate their actions necessary for the enforcement of the available legal instruments applied to gatekeepers within the meaning of this Regulation and respect the principle of sincere cooperation laid down in Article 4 of the TFEU. The support by national authorities may include providing the Commission with all necessary information in their possession or assisting, upon request, the Commission with the exercise of its powers in order for the Commission to carry out the duties assigned to it by this Regulation.</u></p> |
| Recital 72b | | | | |
| 83b | | | <p><u>(72b) The Commission is the sole authority empowered to enforce this Regulation. In order to support the Commission, Member States may empower competent authorities enforcing competition rules to conduct investigative measures into possible infringements of obligations for gatekeepers, including obligations susceptible of being further specified, under this</u></p> | <p><u>(72b) The Commission is the sole authority empowered to enforce this Regulation. In order to support the Commission, Member States may empower competent authorities enforcing competition rules to conduct investigative measures into possible infringements of Articles 5 or 6 or 6a of this Regulation. This may in particular be relevant for cases where it cannot be determined</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---------------------|------------|--|--|
| | | | <p><u>Regulation. This may in particular be relevant for cases where it cannot be determined from the outset whether a gatekeeper's behaviour may infringe this Regulation, competition rules which the competent authority is empowered to enforce or both. The competent authority enforcing competition rules should be able to report on its findings on possible infringements of obligations for gatekeepers, including obligations susceptible of being further specified, under this Regulation to the Commission in view of the Commission opening proceedings to investigate any non-compliance with the provisions laid down in this Regulation. The Commission shall have full discretion to decide on the opening of these proceedings. In order to avoid overlapping investigations under this Regulation, the competent authority concerned should inform the Commission before taking its first investigative measure into a possible infringement of this Regulation.</u></p> | <p><u>from the outset whether a gatekeeper's behaviour may infringe this Regulation, competition rules which the competent authority is empowered to enforce or both. The competent authority enforcing competition rules should be able to report on its findings on possible infringements of Articles 5, 6, and 6a to the Commission in view of the Commission opening proceedings to investigate any non-compliance as the sole enforcer of the provisions laid down in this Regulation. The Commission shall have full discretion to decide on the opening of these proceedings. In order to avoid overlapping investigations under this Regulation, the competent authority concerned should inform the Commission before taking its first investigative measure into a possible infringement of Article 5, 6 or 6a of this Regulation. The competent national authorities should also closely cooperate and coordinate with the Commission when applying national competition rules against gatekeepers, including with regard to the setting of fines. To this end, they should inform the Commission when initiating proceedings based on national competition rules against gatekeepers as well as prior</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---------------------|------------|--|--|
| | | | | <p><u>to imposing obligations on gatekeepers in such proceedings. In order to avoid duplication, information of the draft decision pursuant to Article 11 of Council Regulation (EC) No 1/2003, where applicable, may serve as notification under this regulation.</u></p> |
| Recital 72c | | | | |
| 83c | | | <p><u>(72c) In order to safeguard the harmonized application and enforcement of this Regulation it is important to ensure that national authorities, including national courts, have all necessary information to ensure that their decisions do not run counter to a decision adopted by the Commission under this Regulation. This is without prejudice to the ability of national courts to request a preliminary ruling under Article 267 of the TFEU.</u></p> | <p><u>(72c) In order to safeguard the harmonized application and enforcement of this Regulation it is important to ensure that national authorities, including national courts, have all necessary information to ensure that their decisions do not run counter to a decision adopted by the Commission under this Regulation. National Courts should be allowed to ask the Commission to send them information or opinions on questions concerning the application of this Regulation. At the same time, the Commission should be able to submit oral or written observations to courts of the Member States. This is without prejudice to the ability of national courts to request a preliminary ruling under Article 267 of the TFEU.</u></p> |
| Recital 73 | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----|--|--|---|---|
| 84 | <p>(73) Compliance with the obligations imposed under this Regulation should be enforceable by means of fines and periodic penalty payments. To that end, appropriate levels of fines and periodic penalty payments should also be laid down for non-compliance with the obligations and breach of the procedural rules subject to appropriate limitation periods. The Court of Justice should have unlimited jurisdiction in respect of fines and penalty payments.</p> | <p>(73) Compliance with the obligations imposed under this Regulation should be enforceable by means of fines and periodic penalty payments. To that end, appropriate levels of fines and periodic penalty payments should also be laid down for non-compliance with the obligations and breach of the procedural rules subject to appropriate limitation periods. The Court of Justice should have unlimited jurisdiction in respect of fines and penalty payments.</p> | <p>(73) Compliance with the obligations imposed under this Regulation should be enforceable by means of fines and periodic penalty payments. To that end, appropriate levels of fines and periodic penalty payments should also be laid down for non-compliance with the obligations and breach of the procedural rules subject to appropriate limitation periods. The Court of Justice should have unlimited jurisdiction in respect of fines and penalty payments.</p> | <p>(73) Compliance with the obligations imposed under this Regulation should be enforceable by means of fines and periodic penalty payments. To that end, appropriate levels of fines and periodic penalty payments should also be laid down for non-compliance with the obligations and breach of the procedural rules subject to appropriate limitation periods. The Court of Justice, <u>in accordance with the principles of proportionality and ne bis in idem. The Commission and the relevant national authorities</u> should have unlimited jurisdiction in respect of <u>coordinate in order to ensure that the aforementioned principles are respected. In particular, the Commission should take into account any fines and penalties imposed on the same legal person for the same facts through a final decision in proceedings relating to an infringement of other national or EU rules, so as to ensure that the overall fines and penalties imposed correspond to the seriousness of the offences committed</u> penalty payments.</p> <p>Text Origin: Council Mandate</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|---|--|--|
| Recital 74 | | | | |
| 85 | (74) In order to ensure effective recovery of fines imposed on associations of undertakings for infringements that they have committed, it is necessary to lay down the conditions on which the Commission may require payment of the fine from the members of the association where the association is not solvent. | (74) In order to ensure effective recovery of fines imposed on associations of undertakings for infringements that they have committed, it is necessary to lay down the conditions on which the Commission may require payment of the fine from the members of the association where the association is not solvent. | (74) In order to ensure effective recovery of fines imposed on associations of undertakings for infringements that they have committed, it is necessary to lay down the conditions on which the Commission may require payment of the fine from the members of the association where the association is not solvent. | (74) In order to ensure effective recovery of fines imposed on associations of undertakings for infringements that they have committed, it is necessary to lay down the conditions on which the Commission may require payment of the fine from the members of the association where the association is not solvent. Text Origin: Commission Proposal |
| Recital 75 | | | | |
| 86 | (75) In the context of proceedings carried out under this Regulation, the undertakings concerned should be accorded the right to be heard by the Commission and the decisions taken should be widely publicised. While ensuring the rights to good administration and the rights of defence of the undertakings concerned, in particular, the right of access to the file and the right to be heard, it is essential that confidential information be protected. Furthermore, while respecting the confidentiality of the information, the Commission should ensure that | (75) In the context of proceedings carried out under this Regulation, the undertakings concerned should be accorded the right to be heard by the Commission and the decisions taken should be widely publicised. While ensuring the rights to good administration and the rights of defence of the undertakings concerned, in particular, the right of access to the file and the right to be heard, it is essential that confidential <u>and sensitive commercial information, which could affect the privacy of trade secrets,</u> be protected. Furthermore, while | (75) In the context of proceedings carried out under this Regulation, the undertakings concerned should be accorded the right to be heard by the Commission and the decisions taken should be widely publicised. While ensuring the rights to good administration and the rights of defence of the undertakings concerned, in particular, the right of access to the file and the right to be heard, it is essential that confidential information be protected. Furthermore, while respecting the confidentiality of the information, the Commission should ensure that | (75) In the context of proceedings carried out under this Regulation, the undertakings <u>undertaking</u> concerned should be accorded the right to be heard by the Commission and the decisions taken should be widely publicised. While ensuring the rights to good administration and the rights of defence of the undertakings concerned, in particular, the right of access to the file and the right to be heard, it is essential that <u>to protect</u> confidential information be protected . Furthermore, while respecting the confidentiality |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|--|---|--|---|
| | <p>any information relied on for the purpose of the decision is disclosed to an extent that allows the addressee of the decision to understand the facts and considerations that led up to the decision. Finally, under certain conditions certain business records, such as communication between lawyers and their clients, may be considered confidential if the relevant conditions are met.</p> | <p>respecting the confidentiality of the information, the Commission should ensure that any information relied on for the purpose of the decision is disclosed to an extent that allows the addressee of the decision to understand the facts and considerations that led up to the decision. Finally, under certain conditions certain business records, such as communication between lawyers and their clients, may be considered confidential if the relevant conditions are met.</p> | <p>any information relied on for the purpose of the decision is disclosed to an extent that allows the addressee of the decision to understand the facts and considerations that led up to the decision. <u><i>It is also necessary to ensure that the Commission only uses information collected for the purposes of this Regulation.</i></u> Finally, under certain conditions certain business records, such as communication between lawyers and their clients, may be considered confidential if the relevant conditions are met.</p> | <p>of the information, the Commission should ensure that any information relied on for the purpose of the decision is disclosed to an extent that allows the addressee of the decision to understand the facts and considerations that led up to the decision. <u><i>It is also necessary to ensure that the Commission only uses information collected pursuant to this Regulation for the purposes of this Regulation, except where specifically envisaged otherwise.</i></u> Finally, under certain conditions certain business records, such as communication between lawyers and their clients, may be considered confidential if the relevant conditions are met.</p> |
| Recital 75a | | | | |
| 86a | | <p><u><i>(75a) In order to facilitate cooperation and coordination between the Commission and Member States in their enforcement actions, a high-level group of regulators with responsibilities in the digital sector should be established with the power to advise the Commission. Establishing that group of regulators should enable the exchange of information and best practices among the Members States, and enhance better</i></u></p> | | <p><u><i>(75a) In order to ensure coherence and effective complementarity in the implementation of this Regulation and of other sectoral regulations applying to gatekeepers, the Commission should benefit from the expertise of a dedicated high-level group. The High-Level Group may also assist the Commission by means of advice, expertise and recommendations, when relevant, in general matters relating to the implementation or</i></u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---------------------|--|---|--|
| | | <u>monitoring and thus strengthen the implementation of this Regulation.</u> | | <u>enforcement of this Regulation. The High-Level Group should be composed of the relevant European bodies and networks, and its composition should ensure a high level of expertise and a geographical balance. Members of the High-Level Group should regularly report to the bodies and networks they represent regarding the tasks performed in the context of the group, and consult them in that regard.</u> |
| Recital 75a | | | | |
| 86b | | | <u>(75a) All decisions taken by the Commission under this Regulation are subject to review by the Court of Justice in accordance with the TFEU. In accordance with Article 261 thereof, the Court of Justice should have unlimited jurisdiction in respect of fines and penalty payments.</u> | <u>(75b) Decisions taken by the Commission under this Regulation are subject to review by the Court of Justice in accordance with the TFEU. In accordance with Article 261 thereof, the Court of Justice should have unlimited jurisdiction in respect of fines and penalty payments.</u> Text Origin: Council Mandate |
| Recital 75b | | | | |
| 86c | | <u>(75b) The Commission should apply the provisions of this Regulation in close cooperation with the competent national authorities, to ensure effective</u> | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|--|--|--|--|
| | | <u>enforceability as well as coherent implementation of this Regulation and to facilitate the cooperation with national authorities.</u> | | |
| Recital 76 | | | | |
| 87 | <p>(76) In order to ensure uniform conditions for the implementation of Articles 3, 6, 12, 13, 15, 16, 17, 20, 22, 23, 25 and 30, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182//2011 of the European Parliament and of the Council¹.</p> <p>1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, (OJ L 55, 28.2.2011, p. 13).</p> | <p>(76) In order to ensure uniform conditions for the implementation of Articles 3, <u>5</u>, 6, 12, 13, 15, 16, 17, 20, 22, 23, 25 and 30, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182//2011 <u>No 182/2011</u> of the European Parliament and of the Council¹.</p> <p>1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, (OJ L 55, 28.2.2011, p. 13).</p> | <p>(76) In order to ensure uniform conditions for the implementation of Articles <u>1, 3, 6, 7, 8, 9, 9a, 3, 6</u>, 12, 13, 15, 16, 17, 20, 22, 23, 25 and 30, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182//2011 <u>No 182/2011</u> of the European Parliament and of the Council¹.</p> <p>1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, (OJ L 55, 28.2.2011, p. 13).</p> | <p>(76) In order to ensure uniform conditions for the implementation of Articles <u>1, 3, 5, 6, 6a, 7, 8, 9, 9a, 3, 6</u>, 12, 13, 15, 16, 17, 20, 22, 23, 25 and 30, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182//2011 <u>No 182/2011</u> of the European Parliament and of the Council¹.</p> <p>1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, (OJ L 55, 28.2.2011, p. 13).</p> |
| Recital 76a | | | | |
| 87a | | | <u>(76a) The examination procedure should be used for the adoption of an implementing act on the practical arrangements for the cooperation and coordination between the Commission and</u> | <u>(76a) The examination procedure should be used for the adoption of an implementing act on the practical arrangements for the cooperation and coordination between the</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---------------------|------------|--|---|
| | | | <p><u>Member States. The advisory procedure should be used for remaining implementing acts envisaged by this Regulation. This is justified by the fact that these remaining implementing acts consider practical aspects of the procedures laid down in this Regulation, such as form, content and other details of various procedural steps as well as the practical arrangements of different procedural steps, such as, for example, extension of procedural deadlines or right to be heard. The advisory procedure will also be followed for individual decisions adopted under this Regulation.</u></p> | <p><u>Commission and Member States. The advisory procedure should be used for the remaining implementing acts envisaged by this Regulation. This is justified by the fact that these remaining implementing acts consider practical aspects of the procedures laid down in this Regulation, such as form, content and other details of various procedural steps as well as the practical arrangements of different procedural steps, such as, for example, extension of procedural deadlines or right to be heard. The advisory procedure will also be followed for individual decisions adopted under this Regulation.</u></p> |
| Recital 76b | | | | |
| 87b | | | <p><u>(76b) The Commission may develop guidelines to provide further guidance on different procedural aspects of this Regulation or to assist undertakings providing core platform services in the implementation of the obligations under this Regulation. Such guidance may in particular be based on the experience that the Commission obtains through the monitoring of compliance with this Regulation. The issuing of any guidelines under this Regulation is</u></p> | <p><u>(76b) The Commission may develop guidelines to provide further guidance on different aspects of this Regulation or to assist undertakings providing core platform services in the implementation of the obligations under this Regulation. Such guidance may in particular be based on the experience that the Commission obtains through the monitoring of compliance with this Regulation. The issuing of any guidelines</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---|--|---|--|
| | | | <u><i>a prerogative and at the sole discretion of the Commission and should not be considered as a constitutive element to ensure compliance with the obligations under this Regulation by the undertakings or association of undertakings concerned.</i></u> | <u><i>under this Regulation is a prerogative and at the sole discretion of the Commission and should not be considered as a constitutive element to ensure compliance with the obligations under this Regulation by the undertakings or association of undertakings concerned.</i></u> |
| Recital 76c | | | | |
| 87c | | | | <u><i>(76c) The implementation of some of the gatekeepers' obligations such as those related to data access, data portability or interoperability could be facilitated by the use of technical standards. In this respect, the Commission may, where appropriate and necessary, request European standardisation bodies to develop them.</i></u> |
| Recital 77 | | | | |
| 88 | (77) The advisory committee established in accordance with Regulation (EU) No 182//2011 should also deliver opinions on certain individual decisions of the Commission issued under this Regulation. In order to ensure contestable and fair markets in the digital sector across the Union where gatekeepers are present, the power to | (77) The advisory committee established in accordance with Regulation (EU) No 182//2011 <u>No 182/2011</u> should also deliver opinions on certain individual decisions of the Commission issued under this Regulation. In order to ensure contestable and fair markets in the digital sector across the Union where gatekeepers are present, the | (77) The advisory committee established in accordance with Regulation (EU) No 182//2011 <u>No 182/2011</u> should also deliver opinions on certain individual decisions of the Commission issued under this Regulation. In order to ensure contestable and fair markets in the digital sector across the Union where gatekeepers are present, the | (77) The advisory committee established In accordance with Regulation (EU) No 182//2011 should also deliver opinions on certain individual decisions of the Commission issued under this Regulation. In order to ensure contestable and fair markets in the digital sector across the Union where gatekeepers are present, the |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|--|--|---|
| | <p>adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to supplement this Regulation. In particular, delegated acts should be adopted in respect of the methodology for determining the quantitative thresholds for designation of gatekeepers under this Regulation and in respect of the update of the obligations laid down in this Regulation where, based on a market investigation the Commission has identified the need for updating the obligations addressing practices that limit the contestability of core platform services or are unfair. It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016¹. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.</p> | <p>power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to supplement this Regulation. In particular, delegated acts should be adopted in respect of the methodology for determining the quantitative thresholds for designation of gatekeepers under this Regulation and in respect of the update of the obligations laid down in this Regulation where, based on a market investigation the Commission has identified the need for updating the obligations addressing practices that limit the contestability of core platform services or are unfair. It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016¹. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.</p> | <p>power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to supplement this Regulation. In particular, delegated acts should be adopted in respect of the methodology for determining the quantitative thresholds for designation of gatekeepers under this Regulation and in respect of the update of the obligations laid down in this Regulation where, based on a market investigation the Commission has identified the need for updating the obligations addressing practices that limit the contestability of core platform services or are unfair. It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016¹. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts <u>the sole prerogative of the Member States to decide who will represent them in the advisory</u></p> | <p>power to adopt acts in accordance with Article 290 of the Treaty <u>Regulation 182/2011, each Member State</u> should be delegated to the Commission to supplement this Regulation. In particular, delegated acts should be adopted in respect of the methodology for determining the quantitative thresholds for designation of gatekeepers under this Regulation and in respect of the update of the obligations laid down in this Regulation where, based on a market investigation the Commission has identified the need for updating the obligations addressing practices that limit the contestability of core platform services or are unfair. It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016¹. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as <u>represented in the advisory committee and decide on the composition of its delegation.</u> <u>Such delegation can include inter alia experts from the competent authorities within the</u> Member</p> |
| | | <p>¹. Interinstitutional Agreement between the</p> | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|--|---|--|---|
| | <p>1. Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p.1).</p> | <p>European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p.1), 1, <u>1</u>.</p> | <p><u>committee, subject to compliance with Regulation (EU) No 182/2011.</u></p> <p>f. Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p.1).</p> | <p>States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts <u>which hold the relevant expertise for a specific issue presented to the advisory committee.</u></p> <p>f. Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p.1).</p> |
| Recital 77a | | | | |
| 88a | | <p><u>(77a) National courts will have an important role in applying this Regulation and should be allowed to ask the Commission to send them information or opinions on questions concerning the application of this Regulation. At the same time, the Commission should be able to submit oral or written observations to courts of the Member States.</u></p> | | <p><u>(77a) In order to ensure contestable and fair markets in the digital sector across the Union where gatekeepers are present, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission in respect of amending the methodology for determining whether the quantitative thresholds regarding active end users and active business users for the designation of gatekeepers are met, which is contained in an Annex of this Regulation, in respect of further specifying the additional elements of the methodology not falling in this Annex for determining whether the quantitative thresholds</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---------------------|------------|-----------------|--|
| | | | | <p><u>regarding the designation of gatekeepers are met, and in respect of supplementing the existing obligations laid down in this Regulation where, based on a market investigation the Commission has identified the need for updating the obligations addressing practices that limit the contestability of core platform services or are unfair and the considered update falls within the scope detailed by the Regulation for such delegated acts. It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016¹.</u></p> <p><u>In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and their experts systematically should have access to meetings of Commission expert groups dealing with the preparation of delegated acts.</u></p> |
| Recital 77a | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-----|---------------------|------------|---|-----------------|
| 88b | | | <p><u>(77a) In order to ensure contestable and fair markets in the digital sector across the Union where gatekeepers are present, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission in respect of amending the methodology for determining whether the quantitative thresholds regarding active end users and active business users for the designation of gatekeepers are met, which is contained in an Annex of this Regulation, in respect of further specifying the additional elements of the methodology not falling in this Annex for determining whether the quantitative thresholds regarding the designation of gatekeepers are met, and in respect of supplementing the existing obligations laid down in this Regulation where, based on a market investigation the Commission has identified the need for updating the obligations addressing practices that limit the contestability of core platform services or are unfair and the considered update falls within the scope detailed by the Regulation for such delegated acts. It is of particular importance that the Commission carries out appropriate</u></p> | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---------------------|--|--|--|
| | | | <p><u>consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016¹. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.</u></p> <p><u>1. Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p.1).</u></p> | |
| Recital 77b | | | | |
| 88c | | <p><u>(77b) Whistleblowers can bring new information to the attention of competent authorities which helps them in detecting infringements of this Regulation and imposing penalties. This Regulation should therefore ensure that adequate arrangements are in place to enable whistleblowers to alert competent authorities to actual or potential infringements of this Regulation and to protect them from</u></p> | | <p><u>(77b) Whistle-blowers can bring new information to the attention of competent authorities which may help the competent authorities detect infringements of this Regulation and enable them to impose penalties. It should be ensured that adequate arrangements are in place to enable whistle-blowers to alert the competent authorities to actual or potential infringements of this</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---------------------|---------------------|-----------------|---|
| | | <u>retaliation.</u> | | <u>Regulation and to protect the whistle-blowers from retaliation. For that purpose, it should be provided in this Regulation that Directive (EU) 2019/1937 of the European Parliament and of the Council (*) is applicable to the reporting of breaches of this Regulation and to the protection of persons reporting such breaches.</u> |
| Recital 77c | | | | |
| 88d | | | | <u>(77c) To enhance legal certainty, the applicability, pursuant to this Regulation, of Directive (EU) 2019/1937 to reports of breaches of this Regulation and to the protection of persons reporting such breaches should be reflected in Directive (EU) 2019/1937. The Annex to Directive (EU) 2019/1937 should therefore be amended accordingly. It is for the Member States to ensure that that amendment is reflected in their transposition measures adopted in accordance with Directive (EU) 2019/1937, although the adoption of national transposition measures is not a condition for the applicability of Directive (EU) 2019/1937 to the reporting of breaches of this Regulation and to the protection of reporting persons from the date of application of this</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---------------------|--|-----------------|--|
| | | | | <u>Regulation.</u> |
| Recital 77c | | | | |
| 88e | | <p><u>(77c) End users should be entitled to enforce their rights in relation to the obligations imposed on gatekeepers under this Regulation through representative actions in accordance with Directive (EU) 2020/1828.</u></p> | | <p><u>(77d) Consumers should be entitled to enforce their rights in relation to the obligations imposed on gatekeepers under this Regulation through representative actions in accordance with Directive (EU) 2020/1828 of the European Parliament and of the Council¹. For that purpose, it should be provided in this Regulation that Directive (EU) 2020/1828 is applicable to the representative actions brought against infringements by gatekeepers of provisions of this Regulation that harm or may harm the collective interests of consumers. The annex to Directive (EU) 2020/1828 should therefore be amended accordingly. It is for the Member States to ensure that that amendment is reflected in their transposition measures adopted in accordance with Directive (EU) 2020/1828, although the adoption of national transposition measures in this regard is not a condition for the applicability of Directive (EU) 2020/1828</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------|--|---|--|---|
| | | | | <p><i>to those representative actions. The applicability of Directive (EU) 2020/1828 to the representative actions brought against infringements by gatekeepers of provisions of this Regulation that harm or may harm the collective interests of consumers should start from the date of application of Member States' laws, regulations and administrative provisions necessary to transpose that Directive, or from the date of application of this Regulation, whichever is the latest.</i></p> <p><i>1. Directive (EU) 2020/1828 on Representative Actions for the Protection of the Collective Interests of Consumers (OJ L 409, 4.12.2020, p. 1–27)</i></p> |
| Recital 78 | | | | |
| 89 | <p>(78) The Commission should periodically evaluate this Regulation and closely monitor its effects on the contestability and fairness of commercial relationships in the online platform economy, in particular with a view to determining the need for amendments in light of relevant technological or commercial developments. This evaluation should include the regular review of the list of core platform services and the obligations</p> | <p>(78) The Commission should periodically evaluate this Regulation and closely monitor its effects on the contestability and fairness of commercial relationships in the online platform economy, in particular with a view to determining the need for amendments in light of relevant technological or commercial developments. This evaluation should include the regular review of the list of core platform services <i>and the obligations</i></p> | <p>(78) The Commission should periodically evaluate this Regulation and closely monitor its effects on the contestability and fairness of commercial relationships in the online platform economy, in particular with a view to determining the need for amendments in light of relevant technological or commercial developments. This evaluation should include the regular review of the list of core platform services and the obligations</p> | <p>(78) The Commission should periodically evaluate this Regulation and closely monitor its effects on the contestability and fairness of commercial relationships in the online platform economy, in particular with a view to determining the need for amendments in light of relevant technological or commercial developments. This evaluation should include the regular review of the list of core platform services and the obligations</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---|---|---|--|
| | <p>addressed to gatekeepers as well as enforcement of these, in view of ensuring that digital markets across the Union are contestable and fair. In order to obtain a broad view of developments in the sector, the evaluation should take into account the experiences of Member States and relevant stakeholders. The Commission may in this regard also consider the opinions and reports presented to it by the Observatory on the Online Platform Economy that was first established by Commission Decision C(2018)2393 of 26 April 2018. Following the evaluation, the Commission should take appropriate measures. The Commission should to maintain a high level of protection and respect for the common EU rights and values, particularly equality and non-discrimination, as an objective when conducting the assessments and reviews of the practices and obligations provided in this Regulation.</p> | <p>addressed to gatekeepers as well as enforcement of these, in view of ensuring that digital markets across the Union are contestable and fair. In order to obtain a broad view of developments in the sector, the evaluation should take into account the experiences of Member States and relevant stakeholders. The Commission may in this regard also consider the opinions and reports presented to it by the Observatory on the Online Platform Economy that was first established by Commission Decision C(2018)2393 of 26 April 2018. Following the evaluation, the Commission should take appropriate measures. The Commission should to maintain a high level of protection and respect for the common EU rights and values, particularly equality and non-discrimination, as an objective when conducting the assessments and reviews of the practices and obligations provided in this Regulation.</p> | <p>addressed to gatekeepers as well as enforcement of these, in view of ensuring that digital markets across the Union are contestable and fair. In order to obtain a broad view of developments in the sector, the evaluation should take into account the experiences of Member States and relevant stakeholders. The Commission may in this regard also consider the opinions and reports presented to it by the Observatory on the Online Platform Economy that was first established by Commission Decision C(2018)2393 of 26 April 2018. Following the evaluation, the Commission should take appropriate measures. The Commission should to maintain a high level of protection and respect for the common EU rights and values, particularly equality and non-discrimination, as an objective when conducting the assessments and reviews of the practices and obligations provided in this Regulation.</p> | <p>addressed to gatekeepers, as well as enforcement of these, in view of ensuring that digital markets across the Union are contestable and fair. <u>In this context, the Commission should also evaluate the scope of Article X.</u></p> <p>In order to obtain a broad view of developments in the sector, the evaluation should take into account the experiences of Member States and relevant stakeholders. The Commission may in this regard also consider the opinions and reports presented to it by the Observatory on the Online Platform Economy that was first established by Commission Decision C(2018)2393 of 26 April 2018. Following the evaluation, the Commission should take appropriate measures. The Commission should to maintain a high level of protection and respect for the common EU rights and values, particularly equality and non-discrimination, as an objective when conducting the assessments and reviews of the practices and obligations provided in this Regulation.</p> <p><small>Text Origin: Commission Proposal</small></p> |
| Recital 78a | | | | |
| 89a | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------------------------|---|---|---|---|
| | | <p><u>(78a) Without prejudice to the budgetary procedure and through existing financial instruments, adequate human, financial and technical resources should be allocated to the Commission to ensure that it can effectively perform its duties and exercise its powers in respect of the enforcement of this Regulation.</u></p> | | <p><u>(78a) Without prejudice to the budgetary procedure and through existing financial instruments, adequate human, financial and technical resources should be allocated to the Commission to ensure that it can effectively perform its duties and exercise its powers in respect of the enforcement of this Regulation.</u></p> <p>Text Origin: EP Mandate</p> |
| Recital 79, introductory part | | | | |
| 90 | <p>(79) The objective of this Regulation is to ensure a contestable and fair digital sector in general and core platform services in particular, with a view to promoting innovation, high quality of digital products and services, fair and competitive prices, as well as a high quality and choice for end users in the digital sector. This cannot be sufficiently achieved by the Member States, but can only, by reason of the business model and operations of the gatekeepers and the scale and effects of their operations, be fully achieved at Union level. The Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that</p> | <p>(79) The objective of this Regulation is to ensure a contestable and fair digital sector in general and core platform services in particular, with a view to promoting innovation, high quality of digital products and services, fair and competitive prices, as well as a high quality and choice for end users in the digital sector. This cannot be sufficiently achieved by the Member States, but can only, by reason of the business model and operations of the gatekeepers and the scale and effects of their operations, be fully achieved at Union level. The Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that</p> | <p>(79) The objective of this Regulation is to ensure a contestable and fair digital sector in general and core platform services in particular, with a view to promoting innovation, high quality of digital products and services, fair and competitive prices, as well as a high quality and choice for end users in the digital sector. This cannot be sufficiently achieved by the Member States, but can only, by reason of the business model and operations of the gatekeepers and the scale and effects of their operations, be fully achieved at Union level. The Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that</p> | <p>(79) The objective of this Regulation is to ensure a contestable and fair digital sector in general and core platform services in particular, with a view to promoting innovation, high quality of digital products and services, fair and competitive prices, as well as a high quality and choice for end users in the digital sector. This cannot be sufficiently achieved by the Member States, but can only, by reason of the business model and operations of the gatekeepers and the scale and effects of their operations, be fully achieved at Union level. The Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-----------------------|---|--|--|--|
| | Article, this Regulation does not go beyond what is necessary in order to achieve that objective. | Article, this Regulation does not go beyond what is necessary in order to achieve that objective. | Article, this Regulation does not go beyond what is necessary in order to achieve that objective. | Article, this Regulation does not go beyond what is necessary in order to achieve that objective. Text Origin: Commission Proposal |
| Recital 79, point () | | | | |
| 91 | This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, in particular Articles 16, 47 and 50 thereof. Accordingly, this Regulation should be interpreted and applied with respect to those rights and principles | <u>(79)</u> This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, in particular Articles 16, 47 and 50 thereof. Accordingly, this Regulation should be interpreted and applied with respect to those rights and principles. | deleted | <i>This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, in particular Articles 16, 47 and 50 thereof. Accordingly, this Regulation should be interpreted and applied with respect to those rights and principles</i> deleted |
| Recital 79a | | | | |
| 91a | | | <u>(79a) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation 2018/1725 and delivered an opinion on 10 February 2021¹.</u> <u>1. OJ C 147, 26.4.2021, p. 4.</u> | <u>(79a) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation 2018/1725 and delivered an opinion on 10 February 2021¹.</u> <u>1. OJ C 147, 26.4.2021, p. 4.</u> Text Origin: Council Mandate |
| Recital 79b | | | | |
| 91b | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-----------|--|--|--|--|
| | | | <i><u>(79b) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, in particular Articles 16, 47 and 50 thereof. Accordingly, this Regulation should be interpreted and applied with respect to those rights and principles.</u></i> | <i><u>(79b) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, in particular Articles 16, 47 and 50 thereof. Accordingly, this Regulation should be interpreted and applied with respect to those rights and principles.</u></i> |
| Formula | | | | |
| 92 | HAVE ADOPTED THIS REGULATION: | HAVE ADOPTED THIS REGULATION: | HAVE ADOPTED THIS REGULATION: | HAVE ADOPTED THIS REGULATION: Text Origin: Commission Proposal |
| Chapter I | | | | |
| 93 | Chapter I Subject matter, scope and definitions | Chapter I Subject matter, scope and definitions | Chapter I Subject matter, scope and definitions | Chapter I Subject matter, scope and definitions Text Origin: Commission Proposal |
| Article 1 | | | | |
| 94 | Article 1 Subject-matter and scope | Article 1 Subject-matter and scope | Article 1 Subject-matter and scope | Article 1 Subject-matter and scope Text Origin: Commission Proposal |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--------------|---|--|---|--|
| Article 1(1) | | | | |
| 95 | 1. This Regulation lays down harmonised rules ensuring contestable and fair markets in the digital sector across the Union where gatekeepers are present. | 1. <u>The purpose of</u> this Regulation lays <u>is to contribute to the proper functioning of the internal market by laying</u> down harmonised rules ensuring contestable and fair markets <u>for all businesses to the benefit of both business users and end users</u> in the digital sector across the Union where gatekeepers are present <u>so as to foster innovation and increase consumer welfare.</u> | 1. <u>The purpose of</u> this Regulation lays <u>is to contribute to the proper functioning of the internal market by laying</u> down harmonised rules ensuring contestable and fair markets in the digital sector across the Union where gatekeepers are present. | 1. <u>The purpose of</u> this Regulation lays <u>is to contribute to the proper functioning of the internal market by laying</u> down harmonised rules ensuring contestable and fair markets <u>for all businesses to the benefit of both business users and end users</u> in the digital sector across the Union where gatekeepers are present. Text Origin: EP Mandate |
| Article 1(2) | | | | |
| 96 | 2. This Regulation shall apply to core platform services provided or offered by gatekeepers to business users established in the Union or end users established or located in the Union, irrespective of the place of establishment or residence of the gatekeepers and irrespective of the law otherwise applicable to the provision of service. | 2. This Regulation shall apply to core platform services provided or offered by gatekeepers to business users established in the Union or end users established or located in the Union <u>and business users</u> , irrespective of the place of establishment or residence of the gatekeepers <u>or business users</u> and irrespective of the law otherwise applicable to the provision of service. <u>This Regulation shall apply and be interpreted in full respect of fundamental rights and the principles recognised by the Charter of Fundamental Rights of the European Union, in particular Articles 11, 16, 47 and 50 thereof.</u> | 2. This Regulation shall apply to core platform services provided or offered by gatekeepers to business users established in the Union or end users established or located in the Union, irrespective of the place of establishment or residence of the gatekeepers and irrespective of the law otherwise applicable to the provision of service. | 2. This Regulation shall apply to core platform services provided or offered by gatekeepers to business users established in the Union or end users established or located in the Union, irrespective of the place of establishment or residence of the gatekeepers and irrespective of the law otherwise applicable to the provision of service. Text Origin: Commission Proposal |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------------|---|---|---|---|
| Article 1(3), introductory part | | | | |
| 97 | 3. This Regulation shall not apply to markets: | 3. This Regulation shall not apply to markets: | 3. This Regulation shall not apply to markets: | 3. This Regulation shall not apply to markets: Text Origin: Commission Proposal |
| Article 1(3), point (a) | | | | |
| 98 | (a) related to electronic communications networks as defined in point (1) of Article 2 of Directive (EU) 2018/1972 of the European Parliament and of the Council ¹ ; <hr/> 1. Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (Recast) (OJ L 321, 17.12.2018, p. 36). | (a) related to electronic communications networks as defined in point (1) of Article 2 of Directive (EU) 2018/1972 of the European Parliament and of the Council ¹ ; <hr/> 1. Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (Recast) (OJ L 321, 17.12.2018, p. 36). | (a) related to electronic communications networks as defined in point (1) of Article 2 of Directive (EU) 2018/1972 of the European Parliament and of the Council ¹ ; <hr/> 1. Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (Recast) (OJ L 321, 17.12.2018, p. 36). | (a) related to electronic communications networks as defined in point (1) of Article 2 of Directive (EU) 2018/1972 of the European Parliament and of the Council ¹ ; <hr/> 1. Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (Recast) (OJ L 321, 17.12.2018, p. 36). Text Origin: Commission Proposal |
| Article 1(3), point (b) | | | | |
| 99 | (b) related to electronic communications services as defined in point (4) of Article 2 of Directive (EU) 2018/1972 other than those related to interpersonal communication services as defined in point (4)(b) of Article 2 of that Directive. | (b) related to electronic communications services as defined in point (4) of Article 2 of Directive (EU) 2018/1972 other than those related to <u>number-independent</u> interpersonal communication services as defined in point (4)(b) (7) of Article 2 of that Directive. | (b) related to electronic communications services as defined in point (4) of Article 2 of Directive (EU) 2018/1972 other than those related to <u>number-independent</u> interpersonal communication services as defined in point (4)(b) (7) of Article 2 of that Directive. | (b) related to electronic communications services as defined in point (4) of Article 2 of Directive (EU) 2018/1972 other than those related to <u>number-independent</u> interpersonal communication services as defined in point (4)(b) (7) of Article 2 of that Directive. Text Origin: Council Mandate |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--------------|--|---|---|---|
| Article 1(4) | | | | |
| 100 | 4. With regard to interpersonal communication services this Regulation is without prejudice to the powers and tasks granted to the national regulatory and other competent authorities by virtue of Article 61 of Directive (EU) 2018/1972. | 4. With regard to interpersonal communication services this Regulation is without prejudice to the powers and tasks granted to the national regulatory and other competent authorities by virtue of Article 61 of Directive (EU) 2018/1972. | 4. With regard to interpersonal communication services this Regulation is without prejudice to the powers and tasks <u>responsibilities</u> granted to the national regulatory and other competent authorities by virtue of Article 61 of Directive (EU) 2018/1972. | 4. With regard to interpersonal communication services this Regulation is without prejudice to the powers and tasks <u>responsibilities</u> granted to the national regulatory and other competent authorities by virtue of Article 61 of Directive (EU) 2018/1972. Text Origin: Council Mandate |
| Article 1(5) | | | | |
| 101 | 5. Member States shall not impose on gatekeepers further obligations by way of laws, regulations or administrative action for the purpose of ensuring contestable and fair markets. This is without prejudice to rules pursuing other legitimate public interests, in compliance with Union law. In particular, nothing in this Regulation precludes Member States from imposing obligations, which are compatible with Union law, on undertakings, including providers of core platform services where these obligations are unrelated to the relevant undertakings having a status of gatekeeper within the meaning of this Regulation in order to protect consumers or to fight | 5. <u>In order to avoid the fragmentation of the internal market</u> , Member States shall not impose on gatekeepers <u>within the meaning of this Regulation</u> further obligations by way of laws, regulations or administrative action for the purpose of ensuring contestable and fair markets. This is without prejudice to rules pursuing other legitimate public interests, in compliance with Union law. In particular, nothing in this Regulation precludes Member States from imposing obligations, which are compatible with Union law, on undertakings, including providers of core platform services where these obligations are unrelated to the | 5. Member States shall not impose on gatekeepers further obligations by way of laws, regulations or administrative action for the purpose of ensuring contestable and fair markets. This is without prejudice to rules pursuing other legitimate public interests, in compliance with Union law. In particular, Nothing in this Regulation precludes Member States from imposing obligations, which are compatible with Union law, on undertakings, including providers of <u>undertakings providing</u> core platform services, <u>for matters falling outside the scope of this Regulation</u> , where these obligations are unrelated to <u>do not result from</u> the relevant undertakings having a | 5. <u>In order to avoid the fragmentation of the internal market</u> , Member States shall not impose on gatekeepers further obligations by way of laws, regulations or administrative action for the purpose of ensuring contestable and fair markets. This is without prejudice to rules pursuing other legitimate public interests, in compliance with Union law. In particular, Nothing in this Regulation precludes Member States from imposing obligations, which are compatible with Union law, on undertakings, including providers of <u>undertakings providing</u> core platform services, <u>for matters falling outside the scope of this</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--------------|---|--|--|--|
| | against acts of unfair competition. | relevant undertakings having a status of gatekeeper within the meaning of this Regulation in order to protect consumers or to fight against acts of unfair competition <u>or to pursue other legitimate public interests</u> . | status of gatekeeper within the meaning of this Regulation in order to protect consumers or to fight against acts of unfair competition . | <u>Regulation</u> , where these obligations are unrelated to <u>do not result from</u> the relevant undertakings having a status of gatekeeper within the meaning of this Regulation in order to protect consumers or to fight against acts of unfair competition . |
| Article 1(6) | | | | |
| 102 | <p>6. This Regulation is without prejudice to the application of Articles 101 and 102 TFEU. It is also without prejudice to the application of: national rules prohibiting anticompetitive agreements, decisions by associations of undertakings, concerted practices and abuses of dominant positions; national competition rules prohibiting other forms of unilateral conduct insofar as they are applied to undertakings other than gatekeepers or amount to imposing additional obligations on gatekeepers; Council Regulation (EC) No 139/2004¹ and national rules concerning merger control; Regulation (EU) 2019/1150 and Regulation (EU) .../.. of the European Parliament and of the Council².</p> <p>1. Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC</p> | <p>6. This Regulation is without prejudice to the application of Articles 101 and 102 TFEU. It is also without prejudice to the application of: national rules prohibiting anticompetitive agreements, decisions by associations of undertakings, concerted practices and abuses of dominant positions; national competition rules prohibiting other forms of unilateral conduct insofar as they <u>these rules</u> are applied to undertakings other than gatekeepers <u>within the meaning of this Regulation</u> or amount to imposing additional obligations on gatekeepers; Council Regulation (EC) No 139/2004¹ and national rules concerning merger control; Regulation (EU) 2019/1150 and Regulation (EU) .../.. of the European Parliament and of the Council² <u>2019/1150</u>.</p> <p>1. Council Regulation (EC) No 139/2004 of</p> | <p>6. This Regulation is without prejudice to the application of Articles 101 and 102 TFEU. It is also without prejudice to the application of: national <u>competition</u> rules prohibiting anticompetitive agreements, decisions by associations of undertakings, concerted practices and abuses of dominant positions; national competition rules prohibiting other forms of unilateral conduct insofar as they are applied to undertakings other than gatekeepers or amount to imposing additional obligations on gatekeepers; <u>and</u> Council Regulation (EC) No 139/2004¹ and national rules concerning merger control; Regulation (EU) 2019/1150 and Regulation (EU) .../.. of the European Parliament and of the Council².</p> <p>1. Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC</p> | <p>6. This Regulation is without prejudice to the application of Articles 101 and 102 TFEU. It is also without prejudice to the application of: national <u>competition</u> rules prohibiting anticompetitive agreements, decisions by associations of undertakings, concerted practices and abuses of dominant positions; national competition rules prohibiting other forms of unilateral conduct insofar as they are applied to undertakings other than gatekeepers or amount to imposing additional obligations on gatekeepers; <u>and</u> Council Regulation (EC) No 139/2004¹ and national rules concerning merger control; Regulation (EU) 2019/1150 and Regulation (EU) .../.. of the European Parliament and of the Council².</p> <p>1. Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---|--|--|--|---|
| | <p>Merger Regulation) (OJ L 24, 29.1.2004, p. 1).</p> <p>2. Regulation (EU) .../.. of the European Parliament and of the Council – proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC.</p> | <p>20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).</p> <p>2. Regulation (EU) .../.. of the European Parliament and of the Council – proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC.</p> | <p>Merger Regulation) (OJ L 24, 29.1.2004, p. 1).</p> <p>2. Regulation (EU) .../.. of the European Parliament and of the Council – proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC.</p> | <p>EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).</p> <p>2. Regulation (EU) .../.. of the European Parliament and of the Council – proposal on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC.</p> |
| Article 1(7) | | | | |
| 103 | <p>7. National authorities shall not take decisions which would run counter to a decision adopted by the Commission under this Regulation. The Commission and Member States shall work in close cooperation and coordination in their enforcement actions.</p> | <p>7. National authorities shall not take decisions which would run counter to a decision adopted by the Commission under this Regulation. The Commission and Member States shall work in close cooperation and coordination in their enforcement actions <u>on the basis of the principles established in Article 31d.</u></p> | <p>7. National authorities shall not take decisions which would run counter to a decision adopted by the Commission under this Regulation. The Commission and Member States shall work in close cooperation and coordination in their enforcement actions<u>The Commission and Member States shall cooperate and coordinate in their enforcement actions on the basis of the principles and rules established in Article 32a.</u></p> | <p>7. National authorities shall not take decisions which would run counter to a decision adopted by the Commission under this Regulation. The Commission and Member States shall work in close cooperation and coordination in their enforcement actions <u>on the basis of the principles established in Articles [...] and [...].</u></p> <p>Text Origin: Commission Proposal</p> |
| Article 2 | | | | |
| 104 | Article 2 Definitions | Article 2 Definitions | Article 2 Definitions | Article 2 Definitions |
| | | | | Text Origin: Commission Proposal |
| Article 2, first paragraph, introductory part | | | | |
| 105 | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---|---|---|---|
| | For the purposes of this Regulation, the following definitions apply: | For the purposes of this Regulation, the following definitions apply: | For the purposes of this Regulation, the following definitions apply: | For the purposes of this Regulation, the following definitions apply: Text Origin: Commission Proposal |
| Article 2, first paragraph, point (1) | | | | |
| 106 | (1) ‘Gatekeeper’ means a provider of core platform services designated pursuant to Article 3; | (1) ‘Gatekeeper’ means a provider of core platform services designated pursuant to Article 3; | (1) ‘Gatekeeper’ means a provider <u>of an undertaking providing</u> core platform services, designated pursuant to Article 3; | (1) ‘Gatekeeper’ means a provider <u>of an undertaking providing</u> core platform services, designated pursuant to Article 3; Text Origin: Council Mandate |
| Article 2, first paragraph, point (2), introductory part | | | | |
| 107 | (2) ‘Core platform service’ means any of the following: | (2) ‘Core platform service’ means any of the following: | (2) ‘Core platform service’ means any of the following: | (2) ‘Core platform service’ means any of the following: Text Origin: Commission Proposal |
| Article 2, first paragraph, point (2)(a) | | | | |
| 108 | (a) online intermediation services; | (a) online intermediation services; | (a) online intermediation services; | (a) online intermediation services; Text Origin: Commission Proposal |
| Article 2, first paragraph, point (2)(b) | | | | |
| 109 | (b) online search engines; | (b) online search engines; | (b) online search engines; | (b) online search engines; Text Origin: Commission Proposal |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---|---|--|--|--|
| | Article 2, first paragraph, point (2)(c) | | | |
| 6 | 110 (c) online social networking services; | (c) online social networking services; | (c) online social networking services; | (c) online social networking services; Text Origin: Commission Proposal |
| | Article 2, first paragraph, point (2)(d) | | | |
| 6 | 111 (d) video-sharing platform services; | (d) video-sharing platform services; | (d) video-sharing platform services; | (d) video-sharing platform services; Text Origin: Commission Proposal |
| | Article 2, first paragraph, point (2)(e) | | | |
| 6 | 112 (e) number-independent interpersonal communication services; | (e) number-independent interpersonal communication services; | (e) number-independent interpersonal communication services; | (e) number-independent interpersonal communication services; Text Origin: Commission Proposal |
| | Article 2, first paragraph, point (2)(f) | | | |
| 6 | 113 (f) operating systems; | (f) operating systems; | (f) operating systems; | (f) operating systems; Text Origin: Commission Proposal |
| | Article 2, first paragraph, point (2)(fa) | | | |
| 6 | 113a | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---|---------------------|---|---|---|
| | | <u>(fa) web browsers;</u> | | <u>(fa) Web browsers;</u> Text Origin: EP Mandate |
| Article 2, first paragraph, point (2)(fb) | | | | |
| 6 | 113b | <u>(fb) virtual assistants;</u> | | <u>(fb) Virtual assistants;</u> Text Origin: EP Mandate |
| Article 2, first paragraph, point (2)(fc) | | | | |
| 6 | 113c | <u>(fc) connected TV;</u> | | |
| Article 2, first paragraph, point (2)(g) | | | | |
| 6 | 114 | (g) cloud computing services; | (g) cloud computing services; | (g) cloud computing services; Text Origin: Commission Proposal |
| Article 2, first paragraph, point (2)(h) | | | | |
| 6 | 115 | (h) advertising services, including any advertising networks, advertising exchanges and any other advertising intermediation services, provided by a provider of any of the core platform services listed in points (a) to (g); | (h) <u>online</u> advertising services, including any advertising networks, advertising exchanges and any other advertising intermediation services, provided by <u>a provider where the undertaking to which it belongs is also</u> a provider of any of the core platform services listed in points (a) to (g); | (h) <u>online</u> advertising services, including any advertising networks, advertising exchanges and any other advertising intermediation services, provided by a provider of an undertaking providing any of the core platform services listed in points (a) to (g); Text Origin: Council Mandate |
| Article 2, first paragraph, point (3) | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------------------|--|---|---|--|
| 116 | (3) ‘Information society service’ means any service within the meaning of point (b) of Article 1(1) of Directive (EU) 2015/1535; | (3) ‘Information society service’ means any service within the meaning of point (b) of Article 1(1) of Directive (EU) 2015/1535; | (3) ‘Information society service’ means any service within the meaning of point (b) of Article 1(1) of Directive (EU) 2015/1535; | (3) ‘Information society service’ means any service within the meaning of point (b) of Article 1(1) of Directive (EU) 2015/1535; Text Origin: Commission Proposal |
| Article 2, first paragraph, point (4) | | | | |
| 117 | (4) ‘Digital sector’ means the sector of products and services provided by means of or through information society services; | (4) ‘Digital sector’ means the sector of products and services provided by means of or through information society services; | (4) ‘Digital sector’ means the sector of products and services provided by means of or through information society services; | (4) ‘Digital sector’ means the sector of products and services provided by means of or through information society services; Text Origin: Commission Proposal |
| Article 2, first paragraph, point (5) | | | | |
| 118 | (5) ‘Online intermediation services’ means services as defined in point 2 of Article 2 of Regulation (EU) 2019/1150; | (5) ‘Online intermediation services’ means services as defined in point 2 of Article 2 of Regulation (EU) 2019/1150; | (5) ‘Online intermediation services’ means services as defined in point 2 (2) of Article 2 of Regulation (EU) 2019/1150; | (5) ‘Online intermediation services’ means services as defined in point 2 (2) of Article 2 of Regulation (EU) 2019/1150; Text Origin: Council Mandate |
| Article 2, first paragraph, point (6) | | | | |
| 119 | (6) ‘Online search engine’ means a digital service as defined in point 5 of Article 2 of Regulation (EU) 2019/1150; | (6) ‘Online search engine’ means a digital service as defined in point 5 of Article 2 of Regulation (EU) 2019/1150 <u>thus excluding the search functions on other online</u> | (6) ‘Online search engine’ means a digital service as defined in point 5 (5) of Article 2 of Regulation (EU) 2019/1150; | (6) ‘Online search engine’ means a digital service as defined in point 5 (5) of Article 2 of Regulation (EU) 2019/1150; Text Origin: Council Mandate |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------------------|---------------------|---|---|---|
| | | intermediation services ; | | |
| Article 2, first paragraph, point (7) | | | | |
| 6 | 120 | (7) ‘Online social networking service’ means a platform that enables end users to connect, share, discover and communicate with each other across multiple devices and, in particular, via chats, posts, videos and recommendations; | (7) ‘Online social networking service’ means a platform that enables end users to connect, share, discover and communicate with each other across multiple devices and, in particular, via chats, posts, videos and recommendations; | (7) ‘Online social networking service’ means a platform that enables end users to connect, share, discover and communicate with each other across multiple devices and, in particular, via chats, posts, videos and recommendations; Text Origin: Commission Proposal |
| Article 2, first paragraph, point (8) | | | | |
| 6 | 121 | (8) ‘Video-sharing platform service’ means a service as defined in point (aa) of Article 1(1) of Directive (EU) 2010/13 ¹ ; ¹ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1). | (8) ‘Video-sharing platform service’ means a service as defined in point (aa) of Article 1(1) of Directive (EU) 2010/13 ¹ ; ¹ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1). | (8) ‘Video-sharing platform service’ means a service as defined in point (aa) of Article 1(1) of Directive (EU) 2010/13 ¹ ; ¹ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1). Text Origin: Commission Proposal |
| Article 2, first paragraph, point (9) | | | | |
| 6 | 122 | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---|--|--|--|---|
| | (9) ‘Number-independent interpersonal communications service’ means a service as defined in point 7 of Article 2 of Directive (EU) 2018/1972; | (9) ‘Number-independent interpersonal communications service’ means a service as defined in point 7 of Article 2 of Directive (EU) 2018/1972; | (9) ‘Number-independent interpersonal communications service’ means a service as defined in point 7(7) of Article 2 of Directive (EU) 2018/1972; | (9) ‘Number-independent interpersonal communications service’ means a service as defined in point 7(7) of Article 2 of Directive (EU) 2018/1972; Text Origin: Council Mandate |
| Article 2, first paragraph, point (10) | | | | |
| 123 | (10) ‘Operating system’ means a system software which controls the basic functions of the hardware or software and enables software applications to run on it; | (10) ‘Operating system’ means a system software which controls the basic functions of the hardware or software and enables software applications to run on it; | (10) ‘Operating system’ means a system software which controls the basic functions of the hardware or software and enables software applications to run on it; | (10) ‘Operating system’ means a system software which controls the basic functions of the hardware or software and enables software applications to run on it; Text Origin: Commission Proposal |
| Article 2, first paragraph, point (10a) | | | | |
| 123a | | <u>(10a) Web browser’ means software application that enables users to access and interact with web content hosted on servers that are connected to networks such as the Internet, including standalone web browsers as well as web browsers integrated or embedded in software or similar</u> | | <u>(10a) Web browser’ means a software application that enables end users to access and interact with web content hosted on servers that are connected to networks such as the Internet, including standalone web browsers as well as web browsers integrated or embedded in software or similar.</u> Text Origin: Auxiliary |
| Article 2, first paragraph, point (10b) | | | | |
| 123b | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---|---|---|--|---|
| | | <u>(10b) ‘Virtual assistants’ means software that is incorporated or inter-connected with a good, within the meaning of Directive (EU) 2019/771, that can process demands, tasks or questions based on audio, imaging or other cognitive-computing technologies, including augmented reality services, and based on those demands, tasks or questions access their own and third party services or control their own and third party devices.</u> | | <u>(10b) Virtual assistants’ means software that can process demands, tasks or questions including based on audio, visual, written input, gestures or motions, and based on those demands, tasks or questions provides access to other services or controls connected/physical devices.</u> Text Origin: Auxiliary |
| Article 2, first paragraph, point (10c) | | | | |
| 123c | | <u>(10c) "connected TV" means a system software or software application that controls a television set connected to the internet that enables software applications to run on it including for the provision of music and video streaming, or viewing of pictures;</u> | | |
| Article 2, first paragraph, point (11) | | | | |
| 124 | (11) ‘Cloud computing services’ means a digital service as defined in point 19 of Article 4 of Directive (EU) 2016/1148 of the European Parliament and of the Council ¹ ; 1. Directive (EU) 2016/1148 of the European | (11) ‘Cloud computing services’ means a digital service as defined in point 19 of Article 4 of Directive (EU) 2016/1148 of the European Parliament and of the Council ¹ ; 1. Directive (EU) 2016/1148 of the European | (11) ‘Cloud computing services’ means a digital service as defined in point (19) ¹⁹ of Article 4 of Directive (EU) 2016/1148 of the European Parliament and of the Council ¹ ; 1. Directive (EU) 2016/1148 of the European | (11) ‘Cloud computing services’ means a digital service as defined in point (19) ¹⁹ of Article 4 of Directive (EU) 2016/1148 of the European Parliament and of the Council ¹ ; 1. Directive (EU) 2016/1148 of the European |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---|---|--|---|
| | Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union (OJ L 194, 19.7.2016, p. 1). | Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union (OJ L 194, 19.7.2016, p. 1). | Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union (OJ L 194, 19.7.2016, p. 1). | Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union (OJ L 194, 19.7.2016, p. 1). Text Origin: Council Mandate |
| Article 2, first paragraph, point (12) | | | | |
| 6 | 125 (12) ‘Software application stores’ means a type of online intermediation services, which is focused on software applications as the intermediated product or service; | (12) ‘Software application stores’ means a type of online intermediation services, which is focused on software applications as the intermediated product or service; | (12) ‘Software application stores’ means a type of online intermediation services, which is focused on software applications as the intermediated product or service; | (12) ‘Software application stores’ means a type of online intermediation services, which is focused on software applications as the intermediated product or service; Text Origin: Commission Proposal |
| Article 2, first paragraph, point (13) | | | | |
| 6 | 126 (13) ‘Software application’ means any digital product or service that runs on an operating system; | (13) ‘Software application’ means any digital product or service that runs on an operating system; | (13) ‘Software application’ means any digital product or service that runs on an operating system; | (13) ‘Software application’ means any digital product or service that runs on an operating system; Text Origin: Commission Proposal |
| Article 2, first paragraph, point (14) | | | | |
| 6 | 127 (14) ‘Ancillary service’ means services provided in the context of or together with core platform services, including payment services as defined in point 3 of Article 4 and technical services which support the | (14) ‘Ancillary service’ means services provided in the context of or together with core platform services, including payment services as defined in point 3 of Article 4 and , technical services which support the | (14) ‘Ancillary service’ means services provided in the context of or together with core platform services, including payment services as defined in point 3 (3) of Article 4 of <u>Directive (EU) 2015/2366</u> and | (14) ‘Ancillary service’ means services provided in the context of or together with core platform services, including payment services as defined in point 3 of Article 4 and technical services which support the |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---|---|---|--|---|
| | provision of payment services as defined in Article 3(j) of Directive (EU) 2015/2366, fulfilment, identification or advertising services; | provision of payment services as defined in Article 3(j) of Directive (EU) 2015/2366, <u>in-app payment systems</u> , fulfilment, <u>including parcel delivery as defined in Article 2 paragraph 2 of Regulation (EU) 2018/644, freight transport</u> , identification or advertising services; | technical services which support the provision of payment services as defined in Article 3(j) of Directive (EU) 2015/2366, fulfilment, identification or advertising services; | provision of payment services as defined in Article 3(j) of Directive (EU deleted) 2015/2366, fulfilment, identification or advertising services; Text Origin: EP Mandate |
| Article 2, first paragraph, point (14a) | | | | |
| 127a | | | | <u>(14a) 'Payment services' means a service as defined in Article 4(3) of Directive (EU) 2015/2366 ;</u> |
| Article 2, first paragraph, point (14b) | | | | |
| 127b | | | | <u>(14b) "Technical service supporting payment service" means a service as defined in Article 3(j) of Directive (EU) 2015/2366 ;</u> |
| Article 2, first paragraph, point (14a) | | | | |
| 127c | | <u>(14a) In-app payment system' means an application, service or user interface to process the payments from users of an app.</u> | | <u>(14c) Payment systems for in-app purchases" means an application, service or user interface to facilitate purchases of digital content or digital services within an app (including content, subscriptions, features or functionality) and the payments for such purchases.</u> Text Origin: EP Mandate |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|--|--|---|
| Article 2, first paragraph, point (15) | | | | |
| 128 | (15) ‘Identification service’ means a type of ancillary services that enables any type of verification of the identity of end users or business users, regardless of the technology used; | (15) ‘Identification service’ means a type of ancillary services that enables any type of verification of the identity of end users or business users, regardless of the technology used; | (15) ‘Identification service’ means a type of ancillary services that enables any type of verification of the identity of end users or business users, regardless of the technology used; | (15) ‘Identification service’ means a type of ancillary <u>service provided together with or in support of core platform</u> services that enables any type of verification of the identity of end users or business users, regardless of the technology used; Text Origin: Commission Proposal |
| Article 2, first paragraph, point (16) | | | | |
| 129 | (16) ‘End user’ means any natural or legal person using core platform services other than as a business user; | (16) ‘End user’ means any natural or legal person using core platform services other than as a business user; | (16) ‘End user’ means any natural or legal person using core platform services other than as a business user; | (16) ‘End user’ means any natural or legal person using core platform services other than as a business user; Text Origin: Commission Proposal |
| Article 2, first paragraph, point (17) | | | | |
| 130 | (17) ‘Business user’ means any natural or legal person acting in a commercial or professional capacity using core platform services for the purpose of or in the course of providing goods or services to end users; | (17) ‘Business user’ means any natural or legal person acting in a commercial or professional capacity using core platform services for the purpose of or in the course of providing goods or services to end users; | (17) ‘Business user’ means any natural or legal person acting in a commercial or professional capacity using core platform services for the purpose of or in the course of providing goods or services to end users; | (17) ‘Business user’ means any natural or legal person acting in a commercial or professional capacity using core platform services for the purpose of or in the course of providing goods or services to end users; Text Origin: Commission Proposal |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---|--|--|---|--|
| Article 2, first paragraph, point (18) | | | | |
| 131 | (18) ‘Ranking’ means the relative prominence given to goods or services offered through online intermediation services or online social networking services, or the relevance given to search results by online search engines, as presented, organised or communicated by the providers of online intermediation services or of online social networking services or by providers of online search engines, respectively, whatever the technological means used for such presentation, organisation or communication; | (18) ‘Ranking’ means the relative prominence given to goods or services offered through online intermediation services or online social networking <u>core platform</u> services, or the relevance given to search results by online search engines, as presented, organised or communicated by the providers of online intermediation services or of online social networking services or by <u>core platform service</u> providers of online search engines, respectively, whatever, irrespectively of the technological means used for such presentation, organisation or communication; | (18) ‘Ranking’ means the relative prominence given to goods or services offered through online intermediation services or <u>including</u> online social networking <u>services and video-sharing platform</u> services, or the relevance given to search results by online search engines, as presented, organised or communicated by, <u>respectively the undertakings providing the providers of</u> online intermediation services or of online social networking services or by providers of <u>the undertakings providing</u> online search engines, respectively, whatever the technological means used for such presentation, organisation or communication; | (18) ‘Ranking’ means the relative prominence given to goods or services offered through online intermediation services or , online social networking services, <u>video-sharing platform services or virtual assistants</u> , or the relevance given to search results by online search engines, as presented, organised or communicated by the providers of <u>undertakings providing</u> online intermediation services or of , online social networking services, <u>video-sharing platform services, virtual assistant or</u> or by providers of online search engines, respectively, whatever the technological means used for such presentation, organisation or communication; <u>and irrespectively whether only one result is presented or communicated.</u> Text Origin: Auxiliary |
| Article 2, first paragraph, point (18a) | | | | |
| 131a | | <u>(18a) ‘Search results’ means any information in any format, including texts, graphics, voice or other output, returned in response and related to a written or oral</u> | | <u>(18a) ‘Search results’ means any information in any format, including texts, graphics, voice or other output, returned in response and related to a search query,</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|---|---|---|
| | | <u>search query, irrespective of whether the information is an organic result, a paid result, a direct answer or any product, service or information offered in connection with, or displayed along with, or partly or entirely embedded in, the organic results;</u> | | <u>irrespective of whether the information is an unpaid result, a paid result, a direct answer or any product, service or information offered in connection with, or displayed along with, or partly or entirely embedded in, the organic results;</u> Text Origin: EP Mandate |
| Article 2, first paragraph, point (19) | | | | |
| 6 | 132 (19) ‘Data’ means any digital representation of acts, facts or information and any compilation of such acts, facts or information, including in the form of sound, visual or audiovisual recording; | (19) ‘Data’ means any digital representation of acts, facts or information and any compilation of such acts, facts or information, including in the form of sound, visual or audiovisual recording; | (19) ‘Data’ means any digital representation of acts, facts or information and any compilation of such acts, facts or information, including in the form of sound, visual or audiovisual recording; | (19) ‘Data’ means any digital representation of acts, facts or information and any compilation of such acts, facts or information, including in the form of sound, visual or audiovisual recording; Text Origin: Commission Proposal |
| Article 2, first paragraph, point (20) | | | | |
| 6 | 133 (20) ‘Personal data’ means any information as defined in point 1 of Article 4 of Regulation (EU) 2016/679; | (20) ‘Personal data’ means any information as defined in point 1 of Article 4 of Regulation (EU) 2016/679; | (20) ‘Personal data’ means any information as defined in point <u>+(1)</u> of Article 4 of Regulation (EU) 2016/679; | (20) ‘Personal data’ means any information as defined in point <u>+(1)</u> of Article 4 of Regulation (EU) 2016/679; Text Origin: Council Mandate |
| Article 2, first paragraph, point (21) | | | | |
| 6 | 134 (21) ‘Non-personal data’ means | (21) ‘Non-personal data’ means | (21) ‘Non-personal data’ means | (21) ‘Non-personal data’ means |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---|--|--|--|--|
| | data other than personal data as defined in point 1 of Article 4 of Regulation (EU) 2016/679; | data other than personal data as defined in point 1 of Article 4 of Regulation (EU) 2016/679; | data other than personal data as defined in point 1 of Article 4 of Regulation (EU) 2016/679; | data other than personal data as defined in point 1 of Article 4 of Regulation (EU) 2016/679; Text Origin: Council Mandate |
| Article 2, first paragraph, point (22) | | | | |
| 135 | (22) ‘Undertaking’ means all linked enterprises or connected undertakings that form a group through the direct or indirect control of an enterprise or undertaking by another and that are engaged in an economic activity, regardless of their legal status and the way in which they are financed; | (22) ‘Undertaking’ means all linked enterprises or connected undertakings that form a group through the direct or indirect control of an enterprise or undertaking by another and that are engaged in an economic activity, regardless of their legal status and the way in which they are financed; | (22) ‘Undertaking’ means all linked enterprises or connected undertakings that form a group through the direct or indirect control of an enterprise or undertaking by another and that are engaged in an economic activity, regardless of their legal status and the way in which they are financed; | (22) ‘Undertaking’ means all linked enterprises or connected undertakings that form a group through the direct or indirect control of an enterprise or undertaking by another and that are engaged in an economic activity, regardless of their legal status and the way in which they are financed; Text Origin: Commission Proposal |
| Article 2, first paragraph, point (23) | | | | |
| 136 | (23) ‘Control’ means the possibility of exercising decisive influence on an undertaking, as understood in Regulation (EU) No 139/2004. | (23) ‘Control’ means the possibility of exercising decisive influence on an undertaking, as understood in Regulation (EU) No 139/2004. | (23) ‘Control’ means the possibility of exercising decisive influence on an undertaking, as understood in <u>Article 3(2) of</u> Regulation (EU EC) No 139/2004 ; ; | (23) ‘Control’ means the possibility of exercising decisive influence on an undertaking, as understood in <u>Article 3(2) of</u> Regulation (EU EC) No 139/2004 ; ; Text Origin: Council Mandate |
| Article 2, first paragraph, point (23a) | | | | |
| 136a | | <u>(23a) ‘Interoperability’ means the ability to exchange information and</u> | | <u>(23a) ‘Interoperability’ means the ability to exchange information and</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---|---------------------|---|--|--|
| | | <u><i>mutually use the information which has been exchanged so that all elements of hardware or software relevant for a given service and used by its provider effectively work with hardware or software relevant for a given services provided by third party providers different from the elements through which the information concerned is originally provided. This shall include the ability to access such information without having to use an application software or other technologies for conversion.</i></u> | | <u><i>mutually use the information which has been exchanged through interfaces or other solutions, so that all elements of hardware or software work with other hardware and software and with users in all the ways in which they are intended to function.</i></u> |
| Article 2, first paragraph, point (23a) | | | | |
| g | 136b | | <u><i>(23a) 'Turnover' means the amount derived by an undertaking as defined in Article 5(1) of Regulation (EC) No 139/2004;</i></u> | <u><i>(23b) 'Turnover' means the amount derived by an undertaking as defined in Article 5(1) of Regulation (EC) No 139/2004;</i></u> Text Origin: Council Mandate |
| Article 2, first paragraph, point (23b) | | | | |
| g | 136c | | <u><i>(23b) 'Profiling' means profiling as defined in Article 4 point (4) of Regulation (EU) 2016/679;</i></u> | <u><i>(23c) 'Profiling' means profiling as defined in Article 4 point (4) of Regulation (EU) 2016/679;</i></u> Text Origin: Council Mandate |
| Article 2, first paragraph, point (23c) | | | | |
| g | 136d | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---|--|---|---|---|
| | | | <u>(23c) ‘Consent’ means consent as defined in Article 4 point (11) of Regulation (EU) 2016/679;</u> | <u>(23d) ‘Consent’ means consent as defined in Article 4 point (11) of Regulation (EU) 2016/679;</u> Text Origin: Council Mandate |
| Article 2, first paragraph, point (23d) | | | | |
| | | | <u>(23d) ‘National court’ means a court or tribunal of a Member State within the meaning of Article 267 TFEU.</u> | <u>(23e) ‘National court’ means a court or tribunal of a Member State within the meaning of Article 267 TFEU.</u> Text Origin: Council Mandate |
| Chapter II | | | | |
| | Chapter II Gatekeepers | Chapter II Gatekeepers | Chapter II Gatekeepers | Chapter II Gatekeepers Text Origin: Commission Proposal |
| Article 3 | | | | |
| | Article 3 Designation of gatekeepers | Article 3 Designation of gatekeepers | Article 3 Designation of gatekeepers | Article 3 Designation of gatekeepers Text Origin: Commission Proposal |
| Article 3(1), introductory part | | | | |
| | 1. A provider of core platform services shall be designated as | 1. A provider of core platform services <u>An undertaking</u> shall be | 1. A provider of core platform services <u>An undertaking</u> shall be | 1. A provider of core platform services <u>An undertaking</u> shall be |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------------|--|---|--|--|
| | gatekeeper if: | designated as gatekeeper if: | designated as gatekeeper if: | designated as gatekeeper if: Text Origin: Council Mandate |
| Article 3(1), point (a) | | | | |
| 140 | (a) it has a significant impact on the internal market; | (a) it has a significant impact on the internal market; | (a) it has a significant impact on the internal market; | (a) it has a significant impact on the internal market; Text Origin: Commission Proposal |
| Article 3(1), point (b) | | | | |
| 141 | (b) it operates a core platform service which serves as an important gateway for business users to reach end users; and | (b) it operates a core platform service which serves as an important gateway for business users <u>and end users</u> to reach <u>other</u> end users; and | (b) it operates <u>provides</u> a core platform service which serves as an important gateway for business users to reach end users; and | (b) it operates <u>provides</u> a core platform service which serves as is an important gateway for business users to reach end users; and Text Origin: Council Mandate |
| Article 3(1), point (c) | | | | |
| 142 | (c) it enjoys an entrenched and durable position in its operations or it is foreseeable that it will enjoy such a position in the near future. | (c) it enjoys an entrenched and durable position in its operations or it is foreseeable that it will enjoy such a position in the near future. | (c) it enjoys an entrenched and durable position in its operations or it is foreseeable that it will enjoy such a position in the near future. | (c) it enjoys an entrenched and durable position in its operations or it is foreseeable that it will enjoy such a position in the near future. Text Origin: Commission Proposal |
| Article 3(2), introductory part | | | | |
| 143 | 2. A provider of core platform services shall be presumed to satisfy: | 2. A provider of core platform services <u>An undertaking</u> shall be | 2. A provider of core platform services <u>An undertaking</u> shall be | 2. A provider of core platform services <u>An undertaking</u> shall be |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|---|--|---|
| | | presumed to satisfy: | presumed to satisfy: | presumed to satisfy: Text Origin: EP Mandate |
| Article 3(2), point (a) | | | | |
| 144 | (a) the requirement in paragraph 1 point (a) where the undertaking to which it belongs achieves an annual EEA turnover equal to or above EUR 6.5 billion in the last three financial years, or where the average market capitalisation or the equivalent fair market value of the undertaking to which it belongs amounted to at least EUR 65 billion in the last financial year, and it provides a core platform service in at least three Member States; | (a) the requirement in paragraph 1 point (a) where the undertaking to which it belongs <u>it</u> achieves an annual EEA turnover equal to or above EUR 6.5 <u>8</u> billion in the last three financial years, or where the average market capitalisation or the equivalent fair market value of the undertaking to which it belongs amounted to at least EUR 65 <u>80</u> billion in the last financial year, and it provides a core platform service in at least three Member States; | (a) the requirement in paragraph 1 point (a) where the undertaking to which it belongs <u>it</u> achieves an annual EEA turnover equal to or above EUR 6.5 billion in each of the last three financial years, or where the <u>its</u> average market capitalisation or the <u>its</u> equivalent fair market value of the undertaking to which it belongs amounted to at least EUR 65 billion in the last financial year, and it provides a <u>the same</u> core platform service in at least three Member States; | (a) the requirement in paragraph 1 point (a) where the undertaking to which it belongs <u>it</u> achieves an annual EEA <u>Union</u> turnover equal to or above EUR 6.5 <u>7.5</u> billion in each of the last three financial years, or where the <u>its</u> average market capitalisation or the <u>its</u> equivalent fair market value of the undertaking to which it belongs amounted to at least EUR 65 <u>75</u> billion in the last financial year, and it provides a <u>the same</u> core platform service in at least three Member States; |
| Article 3(2), point (b), introductory part | | | | |
| 145 | (b) the requirement in paragraph 1 point (b) where it provides a core platform service that has more than 45 million monthly active end users established or located in the Union and more than 10 000 yearly active business users established in the Union in the last financial year; | (b) the requirement in paragraph 1 point (b) where it provides a <u>one or more</u> core platform service <u>services each of which</u> has more than 45 million monthly active end users established or located in the Union <u>EEA</u> and more than 10 000 yearly active business users established in the Union <u>EEA</u> in the last financial year; | (b) the requirement in paragraph 1 point (b) where it provides a core platform service that has equal to or more than <u>equal to or</u> more than 45 million monthly active end users established or located in the Union and equal to or more than <u>equal to or</u> more than 10 000 yearly active business users established in the Union in the last financial year. <u>Monthly active end users and yearly active business users shall be identified and calculated taking into account the</u> | (b) the requirement in paragraph 1 point (b) where it provides a core platform service that has more than <u>at least</u> 45 million monthly active end users established or located in the Union and more than <u>at least</u> 10 000 yearly active business users established in the Union in the last financial year. <u>Monthly active end users and yearly active business users shall be identified and calculated taking into</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---|--|---|---|
| | | | <u>methodology set out in the Annex to this Regulation</u> ; | <u>account the methodology and indicators set out in the Annex to this Regulation</u> ; Text Origin: Auxiliary |
| Article 3(2), point (b), first paragraph | | | | |
| 146 | for the purpose of the first subparagraph, monthly active end users shall refer to the average number of monthly active end users throughout the largest part of the last financial year; | <i>deleted</i> | for the purpose of the first subparagraph <u>this point</u> , monthly active end users shall refer to the average number of monthly active end users throughout the largest part of the last financial year; | for the purpose of the first subparagraph, monthly active end users shall refer to the average number of monthly active end users throughout the largest part of the last financial year; <u>deleted</u> |
| Article 3(2), point (c) | | | | |
| 147 | (c) the requirement in paragraph 1 point (c) where the thresholds in point (b) were met in each of the last three financial years. | (c) the requirement in paragraph 1 point (c) where the thresholds in point (b) were met in each of the last three <u>two</u> financial years. | (c) the requirement in paragraph 1 point (c) where the thresholds in point (b) were met in each of the last three financial years. | (c) the requirement in paragraph 1 point (c) where the thresholds in point (b) were met in each of the last three financial years. Text Origin: Commission Proposal |
| Article 3(2a) | | | | |
| 147a | | <u>2a. For the purpose of point (b), (i) monthly end users and yearly business users shall be measured taking into account the indicators set out in the Annex to this Regulation; and (ii) monthly end users shall refer to the average number of monthly end</u> | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------------|---|--|--|---|
| | | <u>users during a period of at least six months within the last financial year;</u> | | |
| Article 3(3), introductory part | | | | |
| 148 | <p>3. Where a provider of core platform services meets all the thresholds in paragraph 2, it shall notify the Commission thereof within three months after those thresholds are satisfied and provide it with the relevant information identified in paragraph 2.. That notification shall include the relevant information identified in paragraph 2 for each of the core platform services of the provider that meets the thresholds in paragraph 2 point (b). The notification shall be updated whenever other core platform services individually meet the thresholds in paragraph 2 point (b).</p> | <p>3. -Where <u>a provider of an undertaking providing</u> core platform services meets all the thresholds in paragraph 2, it shall notify the Commission thereof <u>without delay and in any case</u> within threetwo months after those thresholds are satisfied and provide it with the relevant information identified in paragraph 2.- That notification shall include the relevant information identified in paragraph 2 for each of the core platform services of the <u>provider undertaking</u> that meets the thresholds in paragraph 2 point (b). The notification shall be updated whenever other core platform services individually meet the thresholds in paragraph 2 point (b).</p> | <p>3. -Where <u>a provider of an undertaking providing</u> core platform services meets all the thresholds in paragraph 2, it shall notify the Commission thereof within threetwo months after those thresholds are satisfied and provide it with the relevant information <u>relating to the quantitative thresholds</u> identified in paragraph 2.- That notification shall include the relevant information <u>relating to the quantitative thresholds</u> identified in paragraph 2 for each of the core platform services of the <u>provider undertaking</u> that meets the thresholds in paragraph 2 point (b). The notification shall be updated whenever other core platform services individually meet the thresholds in paragraph 2 point (b).</p> | <p>3. -Where <u>a provider of an undertaking providing</u> core platform servicesservice meets all the thresholds in paragraph 2, it shall notify the Commission thereof <u>without delay and in any case</u> within threetwo months after those thresholds are satisfied and provide it with the relevant information identified in paragraph 2.- That notification shall include the relevant information identified in paragraph 2 for each of the core platform services of the <u>provider undertaking</u> that meets the thresholds in paragraph 2 point (b). <u>Whenever a further core platform service provided by the undertaking that has previously been designated as a gatekeeper meets</u>The notification shall be updated whenever other core platform services individually meet the thresholds in paragraph 2 point (b) <u>and (c), such undertaking shall notify the Commission thereof within two months after those thresholds are satisfied.</u></p> <p>Text Origin: EP Mandate</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------------|---|--|---|---|
| Article 3(3), first paragraph | | | | |
| 149 | <p>A failure by a relevant provider of core platform services to notify the required information pursuant to this paragraph shall not prevent the Commission from designating these providers as gatekeepers pursuant to paragraph 4 at any time.</p> | <p>A failure by a relevant provider <u>of undertaking providing</u> core platform services <u>service</u> to notify the required information pursuant to this paragraph shall not prevent the Commission from designating these providers <u>undertakings</u> as gatekeepers pursuant to paragraph 4 at any time.</p> | <p>A failure by a relevant provider <u>Should the Commission consider that an undertaking providing</u> core platform services <u>meets all the thresholds provided in paragraph 2, but has failed</u> to notify the required information pursuant to <u>the first subparagraph of</u> this paragraph, <u>the Commission shall require that undertaking pursuant to Article 19 to provide the relevant information relating to the quantitative thresholds identified in paragraph 2 within 10 working days. The failure by the undertaking providing core platform services to comply with the Commission's request pursuant to Article 19</u> shall not prevent the Commission from designating these providers as gatekeepers pursuant to paragraph 4 at any time <u>that undertaking as a gatekeeper based on any other information available to the Commission. Where the undertaking providing core platform services complies with the request, the Commission shall apply the procedure set out in paragraph 4.</u></p> | <p>A failure by a relevant provider of core platform services to notify the required <u>Where the undertaking providing the core platform service fails to notify the Commission pursuant to the first subparagraph of this paragraph and fails to provide within the deadline set by the Commission in the request for information pursuant to this paragraph shall not prevent Article 19 all the relevant information that is required for</u> the Commission from designating these providers as gatekeepers <u>to designate an undertaking concerned as gatekeeper</u> pursuant to paragraph 4, <u>the Commission shall be entitled to designate that undertaking as a gatekeeper based on information available to the Commission.</u></p> <p><u>Where the undertaking providing core platform services complies with the request pursuant to second subparagraph of this paragraph or after the expiry of the deadline referred to in the second subparagraph of this paragraph, the Commission shall apply the procedure set out in paragraph 4</u> at any time.</p> |
| Article 3(4), introductory part | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------------------------|---|--|--|--|
| 150 | <p>4. The Commission shall, without undue delay and at the latest 60 days after receiving the complete information referred to in paragraph 3, designate the provider of core platform services that meets all the thresholds of paragraph 2 as a gatekeeper, unless that provider, with its notification, presents sufficiently substantiated arguments to demonstrate that, in the circumstances in which the relevant core platform service operates, and taking into account the elements listed in paragraph 6, the provider does not satisfy the requirements of paragraph 1.</p> | <p>4. -The Commission shall, without undue delay and at the latest 60 days after receiving the complete information referred to in paragraph 3, designate the provider <u>of undertaking providing</u> core platform services that meets all the thresholds of paragraph 2 as a gatekeeper, unless that provider, <u>The undertaking may present</u>, with its notification, presents sufficiently substantiated <u>compelling</u> arguments to demonstrate that, in the circumstances in which the relevant core platform service operates, and taking into account the elements listed in paragraph 6, the provider <u>the undertaking</u> does not satisfy the requirements of paragraph 1.</p> | <p>4. -The Commission shall, without undue delay and at the latest 60 <u>45</u> <u>working</u> days after receiving the complete information referred to in paragraph 3, designate the provider <u>of undertaking providing</u> core platform services that meets all the thresholds of paragraph 2 as a gatekeeper, unless that provider <u>undertaking</u>, with its notification, presents sufficiently substantiated arguments to demonstrate that, in the circumstances in which the relevant core platform service operates, and taking into account the elements listed in paragraph 6, the provider <u>does not satisfy the requirements of the undertaking exceptionally</u> <u>does not satisfy the requirements of paragraph 1 although it meets all the thresholds in</u> paragraph 1 <u>2</u>.</p> | <p>4. -The Commission shall, without undue delay and at the latest 60 <u>45</u> <u>working</u> days after receiving the complete information referred to in paragraph 3, designate the provider <u>of undertaking providing</u> core platform services that meets all the thresholds of paragraph 2 as a gatekeeper, unless that provider, with its notification, presents sufficiently substantiated arguments to demonstrate that, in the circumstances in which the relevant core platform service operates, and taking into account the elements listed in paragraph 6, the provider <u>does not satisfy the requirements of paragraph 1.</u></p> <p>Text Origin: Auxiliary</p> |
| Article 3(4), first paragraph | | | | |
| 151 | <p>Where the gatekeeper presents such sufficiently substantiated arguments to demonstrate that it does not satisfy the requirements of paragraph 1, the Commission shall apply paragraph 6 to assess whether the criteria in paragraph 1 are met.</p> | <p><i>deleted</i></p> | <p>Where the gatekeeper <u>undertaking</u> presents such sufficiently substantiated arguments to demonstrate that it <u>exceptionally</u> does not satisfy the requirements of paragraph 1 <u>although it meets all the thresholds in paragraph 2</u>, the Commission shall apply paragraph 6 to assess whether the criteria in paragraph 1 are met <u>designate the</u></p> | <p>Where the gatekeeper presents such <u>The undertaking may present, with its notification,</u> sufficiently substantiated arguments to demonstrate that, <u>in the circumstances in which the relevant core platform service operates, the undertaking exceptionally does not satisfy the requirements of</u> it does not satisfy the requirements of</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------------|---------------------|------------|--|--|
| | | | <p><u>undertaking as a gatekeeper, in accordance with the procedure laid down in Article 15(3), if it concludes that the undertaking was not able to demonstrate that the relevant core platform service it provides does not satisfy the requirements of paragraph 1.</u></p> | <p>paragraph 1, the Commission shall apply paragraph 6 to assess whether the criteria 1 although it meets all the thresholds in paragraph 1 are met.<u>2.</u></p> |
| Article 3(4), first paragraph a | | | | |
| 151a | | | <p><u>Where the undertaking providing a core platform service, which satisfies the quantitative thresholds of paragraph 2 but has presented, according to this paragraph, sufficiently substantiated arguments that it does not meet the criteria in paragraph 1, fails to comply with the investigative measures ordered by the Commission for the purpose of assessing the undertaking's arguments, in a significant manner and the failure persists after the undertaking has been invited to comply within a reasonable time-limit and to submit observations, the Commission shall be entitled to designate that undertaking as a gatekeeper.</u></p> | <p><u>4bis</u> <u>Where the Commission considers that the arguments submitted by the undertaking providing core platform services are not sufficiently substantiated because they do not manifestly put into question the presumption in Article 3(2), it may reject those arguments within the time limit referred to in paragraph 4 without applying the procedure laid down in Article 15(3).</u></p> <p><u>Where the undertaking presents such sufficiently substantiated arguments, manifestly putting into question the presumption in Article 3(2), the Commission may, notwithstanding paragraph 4, within the time limit referred to in paragraph 4, open the procedure laid down in Article 15(3).</u></p> <p><u>If the Commission concludes that</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|---------------------|---|--|--|
| | | | | <u><i>the undertaking was not able to demonstrate that the relevant core platform services it provides does not satisfy the requirements of paragraph 1, it shall designate the undertaking as gatekeeper in accordance with the procedure of Article 15(3).</i></u> |
| Article 3(4a) | | | | |
| 6 | 151b | <u><i>4a. Where the undertaking providing the core platform service fails to notify the Commission, to provide the information required in paragraph 3 or to provide within the deadline set by the Commission all the relevant information that is required to assess its designation as gatekeeper pursuant to paragraphs (2) and (6), the Commission shall be entitled to designate that undertaking as a gatekeeper at any time based on information available to the Commission pursuant to paragraph 4.</i></u> | | |
| Article 3(5) | | | | |
| 6 | 152 | 5. The Commission is empowered to adopt delegated acts in accordance with Article 37 to specify the methodology for determining whether the quantitative thresholds laid down in paragraph 2 | 5. The Commission is empowered to adopt delegated acts in accordance with Article 37 to specify the methodology for determining whether the quantitative thresholds laid down in paragraph 2 | 5. The Commission is empowered to adopt delegated acts in accordance with Article 37 to specify <u>supplement this Regulation by further specifying</u> the methodology for determining |
| | | | | 5. The Commission is empowered to adopt delegated acts in accordance with Article 37 to specify <u>supplement this Regulation by specifying</u> the methodology for determining whether the quantitative |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|--|--|--|--|
| | <p>are met, and to regularly adjust it to market and technological developments where necessary, in particular as regards the threshold in paragraph 2, point (a).</p> | <p><u>of this Article</u> are met, and to regularly adjust #the methodology to market and technological developments where necessary, in particular as regards the threshold in paragraph 2, point (a). <u>The Commission is empowered to adopt delegated acts in accordance with Article 37 to update the list of indicators set out in the Annex to this Regulation.</u></p> | <p>whether the quantitative thresholds laid down in paragraph 2 are met; and to regularly adjust #this methodology to market and technological developments where necessary, in particular as regards the threshold in paragraph 2, point (a).</p> | <p>thresholds laid down in paragraph 2 <u>of this Article</u> are met, and to regularly adjust #the methodology to market and technological developments where necessary, in particular as regards the threshold in paragraph 2, point (a).</p> <p>Text Origin: EP Mandate</p> |
| Article 3(5a) | | | | |
| 152a | | | | <p><u>5a. The Commission is empowered to adopt delegated acts in accordance with Article 37 to amend this Regulation by updating the methodology and the list of indicators set out in the Annex to this Regulation.</u></p> |
| Article 3(5a) | | | | |
| 152b | | | <p><u>5a. The Commission is empowered to adopt delegated acts in accordance with Article 37 to regularly adjust the methodology for measuring the number of monthly active end users and yearly active business users laid down in the Annex of this Regulation in view of the technological and other developments of the core platform services.</u></p> | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|--|---|--|
| Article 3(6), introductory part | | | | |
| 153 | 6. The Commission may identify as a gatekeeper, in accordance with the procedure laid down in Article 15, any provider of core platform services that meets each of the requirements of paragraph 1, but does not satisfy each of the thresholds of paragraph 2, or has presented sufficiently substantiated arguments in accordance with paragraph 4. | 6. -The Commission may <u>shall</u> identify as a gatekeeper, in accordance with the procedure laid down in Article 15, any provider of undertaking providing core platform services, <u>excluding Medium-sized, Small or Micro enterprises as defined in the Commission Recommendation 2003/361/EC</u> , that meets each of the requirements of paragraph 1 <u>of this Article</u> , but does not satisfy each of the thresholds of paragraph 2, or has presented sufficiently substantiated arguments in accordance with paragraph 4 of this Article. | 6. -The Commission may identify <u>designate</u> as a gatekeeper, in accordance with the procedure laid down in Article 15, any provider of undertaking providing core platform services that meets each of the requirements of paragraph 1, but does not satisfy each of the thresholds of paragraph 2, or has presented sufficiently substantiated arguments in accordance with paragraph 4. | 6. -The Commission may identify <u>shall designate</u> as a gatekeeper, in accordance with the procedure laid down in Article 15, any provider of undertaking providing core platform services that meets each of the requirements of paragraph 1 <u>of this Article</u> , but does not satisfy each of the thresholds of paragraph 2, or has presented sufficiently substantiated arguments in accordance with paragraph 4 of this Article. Text Origin: EP Mandate |
| Article 3(6), first paragraph, introductory part | | | | |
| 154 | For that purpose, the Commission shall take into account the following elements: | For that purpose, the Commission shall take into account the following elements: | -For that purpose, the Commission shall take into account <u>some or all of</u> the following elements, <u>insofar as relevant for the undertaking under consideration</u> : | -For that purpose, the Commission shall take into account <u>some or all of</u> the following elements, <u>insofar as relevant for the undertaking under consideration</u> : Text Origin: Council Mandate |
| Article 3(6), first paragraph, point (a) | | | | |
| 155 | (a) the size, including turnover and market capitalisation, operations and | (a) the size, including turnover and market capitalisation, operations and | (a) the size, including turnover and market capitalisation, operations and | (a) the size, including turnover and market capitalisation, operations and |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---|--|---|---|
| | position of the provider of core platform services; | position of the provider <u>of undertaking providing</u> core platform services; | position of the provider <u>of undertaking providing</u> core platform services; | position of the provider <u>of undertaking providing</u> core platform services; Text Origin: EP Mandate |
| Article 3(6), first paragraph, point (b) | | | | |
| 156 | (b) the number of business users depending on the core platform service to reach end users and the number of end users; | (b) the number of business users depending on the core platform service to reach end users and the number of end users; | (b) the number of business users depending on <u>using</u> the core platform service to reach end users and the number of end users; | (b) the number of business users depending on <u>using</u> the core platform service to reach end users and the number of end users; Text Origin: Council Mandate |
| Article 3(6), first paragraph, point (c) | | | | |
| 157 | (c) entry barriers derived from network effects and data driven advantages, in particular in relation to the provider's access to and collection of personal and non-personal data or analytics capabilities; | (c) entry barriers derived from network effects and data driven advantages, in particular in relation to the provider <u>undertaking</u> 's access to and collection of personal and non-personal data or analytics capabilities; | (c) entry barriers derived from network effects and data driven advantages, in particular in relation to the provider <u>undertaking</u> 's access to and collection of personal and non-personal data or analytics capabilities; | (c) entry barriers derived from network effects and data driven advantages, in particular in relation to the provider <u>undertaking</u> 's access to and collection of personal and non-personal data or analytics capabilities; Text Origin: Council Mandate |
| Article 3(6), first paragraph, point (d) | | | | |
| 158 | (d) scale and scope effects the provider benefits from, including with regard to data; | (d) scale and scope effects the provider <u>undertaking</u> benefits from, including with regard to data; | (d) scale and scope effects the provider <u>undertaking</u> benefits from, including with regard to data; | (d) scale and scope effects the provider <u>undertaking</u> benefits from, including with regard to data <u>and including, where relevant, with regard to its activities outside the Union</u> ; |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---|--|--|---|---|
| | | | | Text Origin: EP Mandate |
| Article 3(6), first paragraph, point (e) | | | | |
| 159 | (e) business user or end user lock-in; | (e) business user or end user lock-in; | (e) business user or end user lock-in, <u>including switching costs and behavioural bias reducing the ability of business users and end users to switch or multi-home</u> ; | (e) business user or end user lock-in, <u>including switching costs and behavioural bias reducing the ability of business users and end users to switch or multi-home</u> ; Text Origin: Council Mandate |
| Article 3(6), first paragraph, point (ea) | | | | |
| 159a | | <u>(ea) the degree of multi-homing among business</u> ; | | See compromise in row 159 |
| Article 3(6), first paragraph, point (ea) | | | | |
| 159b | | | <u>(ea) a conglomerate corporate structure or vertical integration of the undertaking providing core platform services, for instance allowing cross subsidisation or combination of data from different sources</u> ; | Text Origin: Council Mandate |
| Article 3(6), first paragraph, point (eb) | | | | |
| 159c | | <u>(eb) the ability of the undertaking to implement conglomerate strategies, in particular through its vertical integration or its significant</u> | | <u>(ec) a conglomerate corporate structure or vertical integration of the undertaking providing core platform services, for instance</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---|---|--|--|
| | | <u>leverage in related markets;</u> | | <u>providing these undertakings with the ability to cross subsidise, combine data from different sources or leverage their position;</u> See compromise in row 159 b |
| Article 3(6), first paragraph, point (f) | | | | |
| 6 | 160 (f) other structural market characteristics. | (f) other structural market characteristics. | (f) other structural market <u>business or services</u> characteristics. | (f) other structural market <u>business or services</u> characteristics. Text Origin: Council Mandate |
| Article 3(6), second paragraph | | | | |
| 6 | 161 In conducting its assessment, the Commission shall take into account foreseeable developments of these elements. | In conducting its assessment, the Commission shall take into account foreseeable developments of these elements <u>including any planned concentrations involving another provider of core platform services or of any other services provided in the digital sector.</u> | In conducting its assessment, the Commission shall take into account foreseeable developments of these elements. | In conducting its assessment, the Commission shall take into account foreseeable developments of these elements <u>including any planned concentrations involving another provider of core platform services or of any other services provided in the digital sector.</u> Text Origin: EP Mandate |
| Article 3(6), third paragraph | | | | |
| 6 | 162 Where the provider of a core platform service that satisfies the quantitative thresholds of paragraph 2 fails to comply with the investigative measures ordered by the Commission in a significant | <i>deleted</i> | <i>deleted</i> | Where the provider of a core platform service that satisfies the quantitative thresholds of paragraph 2 fails to comply with the investigative measures ordered by the Commission in a significant |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--------------------------------|--|---|--|--|
| | manner and the failure persists after the provider has been invited to comply within a reasonable time-limit and to submit observations, the Commission shall be entitled to designate that provider as a gatekeeper. | | | manner and the failure persists after the provider has been invited to comply within a reasonable time-limit and to submit observations, the Commission shall be entitled to designate that provider as a gatekeeper. <u>deleted</u> |
| Article 3(6), fourth paragraph | | | | |
| 163 | Where the provider of a core platform service that does not satisfy the quantitative thresholds of paragraph 2 fails to comply with the investigative measures ordered by the Commission in a significant manner and the failure persists after the provider has been invited to comply within a reasonable time-limit and to submit observations, the Commission shall be entitled to designate that provider as a gatekeeper based on facts available. | deleted | Where the provider of <u>undertaking providing</u> a core platform service that does not satisfy the quantitative thresholds of paragraph 2 fails to comply with the investigative measures ordered by the Commission in a significant manner and the failure persists after the provider <u>undertaking</u> has been invited to comply within a reasonable time-limit and to submit observations, the Commission shall be entitled to designate that provider <u>undertaking</u> as a gatekeeper based on facts available. | Where the provider of <u>undertaking providing</u> a core platform service that does not satisfy the quantitative thresholds of paragraph 2 fails to comply with the investigative measures ordered by the Commission in a significant manner and the failure persists after the provider <u>undertaking</u> has been invited to comply within a reasonable time-limit and to submit observations, the Commission shall be entitled to designate that provider <u>undertaking</u> as a gatekeeper based on facts available. Text Origin: Council Mandate |
| Article 3(7) | | | | |
| 164 | 7. For each gatekeeper identified pursuant to paragraph 4 or paragraph 6, the Commission shall identify the relevant undertaking to which it belongs and list the relevant core | 7. For each <u>undertaking designated as</u> gatekeeper identified pursuant to paragraph 4 or paragraph 6, the Commission shall identify the relevant undertaking to which it | 7. For each gatekeeper identified <u>undertaking designated as gatekeeper</u> pursuant to paragraph 4 or paragraph 6, the Commission shall identify the relevant | 7. For each gatekeeper identified <u>undertaking designated as gatekeeper</u> pursuant to paragraph 4 or paragraph 6, the Commission shall identify the relevant |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------------|--|--|--|--|
| | platform services that are provided within that same undertaking and which individually serve as an important gateway for business users to reach end users as referred to in paragraph 1(b). | belongs and list <u>within the deadline set under paragraph 4</u> the relevant core platform services that are provided within that same undertaking and which individually serve as an important gateway for business users to reach end users as referred to in paragraph 1(b). | undertaking to which it belongs and list <u>list in the designation decision</u> the relevant core platform services that are provided within that same undertaking and which individually serve as an important gateway for business users to reach end users as referred to in paragraph 1(b) <u>1 point (b)</u> . | undertaking to which it belongs and list <u>list in the designation decision</u> the relevant core platform services that are provided within that same undertaking and which individually serve as an important gateway for business users to reach end users as referred to in paragraph 1(b) <u>1 point (b)</u> . Text Origin: Council Mandate |
| Article 3(8) | | | | |
| 165 | 8. The gatekeeper shall comply with the obligations laid down in Articles 5 and 6 within six months after a core platform service has been included in the list pursuant to paragraph 7 of this Article. | 8. The gatekeeper shall comply with the obligations laid down in Articles 5 and 6 within six <u>as soon as possible, and in any case no later than four</u> months after a core platform service has been included in the list pursuant to paragraph 7 of this Article. | 8. The gatekeeper shall comply with the obligations laid down in Articles 5 and 6 within six months after a core platform service has been included in the list <u>designation decision</u> pursuant to paragraph 7 of this Article. | 8. The gatekeeper shall comply with the obligations laid down in Articles 5, <u>6 and 6a</u> and 6 within six months after a core platform service has been included in the list <u>designation decision</u> pursuant to paragraph 7 of this Article. Text Origin: Council Mandate |
| Article 4 | | | | |
| 166 | Article 4 Review of the status of gatekeepers | Article 4 Review of the status of gatekeepers | Article 4 Review of the status of gatekeepers | Article 4 Review of the status of gatekeepers Text Origin: Commission Proposal |
| Article 4(1), introductory part | | | | |
| 167 | 1. The Commission may upon | 1. The Commission may upon | 1. The Commission may, upon | 1. The Commission may, upon |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------------|---|---|---|---|
| | request or its own initiative reconsider, amend or repeal at any moment a decision adopted pursuant to Article 3 for one of the following reasons: | request or its own initiative reconsider, amend or repeal at any moment a decision adopted pursuant to Article 3 for one of the following reasons: | request or <u>on</u> its own initiative reconsider, amend or repeal at any moment a decision adopted pursuant to Article 3 for one of the following reasons: | request or <u>on</u> its own initiative reconsider, amend or repeal at any moment a decision adopted pursuant to Article 3 for one of the following reasons: Text Origin: Council Mandate |
| Article 4(1), point (a) | | | | |
| 168 | (a) there has been a substantial change in any of the facts on which the decision was based; | (a) there has been a substantial change in any of the facts on which the decision was based; | (a) there has been a substantial change in any of the facts on which the decision was based; | (a) there has been a substantial change in any of the facts on which the decision was based; Text Origin: Commission Proposal |
| Article 4(1), point (b) | | | | |
| 169 | (b) the decision was based on incomplete, incorrect or misleading information provided by the undertakings. | (b) the decision was based on incomplete, incorrect or misleading information provided by the undertakings. | (b) the decision was based on incomplete, incorrect or misleading information provided by the undertakings. | (b) the decision was based on incomplete, incorrect or misleading information provided by the undertakings. Text Origin: Council Mandate |
| Article 4(2), introductory part | | | | |
| 170 | 2. The Commission shall regularly, and at least every 2 years, review whether the designated gatekeepers continue to satisfy the requirements laid down in Article 3(1), or whether new providers of core platform services satisfy those requirements. | 2. -The Commission shall regularly, and at least every 2 <u>three</u> years, review whether the designated gatekeepers continue to satisfy the requirements laid down in Article 3(1), and at least every year whether new providers of core | 2. -The Commission shall regularly, and at least every 2 <u>4</u> years, review whether the designated gatekeepers continue to satisfy the requirements laid down in Article 3(1), or whether new providers of <u>undertakings providing</u> core platform services | 2. -The Commission shall regularly, and at least every 2 <u>three</u> years, review whether the designated gatekeepers continue to satisfy the requirements laid down in Article 3(1), and at least every year whether new providers |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------------------------|---|--|---|--|
| | The regular review shall also examine whether the list of affected core platform services of the gatekeeper needs to be adjusted. | platform services satisfy those requirements. The regular review shall also examine whether the list of affected core platform services of the gatekeeper needs to be adjusted. <u>The review shall have no suspending effect on the gatekeeper's obligations.</u> | satisfy those requirements. The regular review shall also examine whether the list of affected core platform services of the gatekeeper, <u>which individually serve as an important gateway for business users to reach end users as referred to in Article 3(1) point (b),</u> needs to be adjusted. | of undertakings providing core platform services satisfy those requirements. The regular review shall also examine whether the list of affected core platform services of the gatekeeper, <u>which individually serve as an important gateway as referred to in Article 3(1) point (b)</u> needs to be adjusted. <u>The review shall have no suspending effect on the gatekeeper's obligations.</u> Text Origin: EP Mandate |
| Article 4(2), first paragraph | | | | |
| 171 | Where the Commission, on the basis of that review pursuant to the first subparagraph, finds that the facts on which the designation of the providers of core platform services as gatekeepers was based, have changed, it shall adopt a corresponding decision. | Where the Commission, on the basis of that review pursuant to the first subparagraph, finds that the facts on which the designation of the providers of <u>undertakings providing</u> core platform services as gatekeepers was based, have changed, it shall adopt a corresponding decision. | Where the Commission, on the basis of that <u>the</u> review pursuant to the first subparagraph, finds that the facts on which the designation of the providers of <u>undertakings providing</u> core platform services as gatekeepers was based, have changed, it shall adopt a corresponding <u>decision, in accordance with the advisory procedure referred to in Article 37a(2), confirming, amending or repealing its previous designating the undertaking providing core platforms services as a gatekeeper.</u> | Where the Commission, on the basis of that <u>the</u> review pursuant to the first subparagraph, finds that the facts on which the designation of the providers of <u>undertakings providing</u> core platform services as gatekeepers was based, have changed, it shall adopt a corresponding <u>decision, confirming, amending or repealing its previous designating the undertaking providing core platforms services as a gatekeeper.</u> Text Origin: Council Mandate |
| Article 4(3) | | | | |
| 172 | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---|--|---|---|--|
| | 3. The Commission shall publish and update the list of gatekeepers and the list of the core platform services for which they need to comply with the obligations laid down in Articles 5 and 6 on an on-going basis. | 3. The Commission shall publish and update the list of <u>undertakings designated as</u> gatekeepers and the list of the core platform services for which they need to comply with the obligations laid down in Articles 5 and 6 on an on-going basis. <u>The Commission shall publish an annual report setting out the findings of its monitoring activities including the impact on business-users especially small and medium-sized enterprises and end-users and present it to the European Parliament and the Council.</u> | 3. The Commission shall publish and update the list of gatekeepers and the list of the core platform services for which they need to comply with the obligations laid down in Articles 5 and 6 on an on-going basis. | 3. The Commission shall publish and update the list of <u>undertakings designated as</u> gatekeepers and the list of the core platform services for which they need to comply with the obligations laid down in Articles 5 and 6 <u>Chapter III</u> on an on-going basis. Text Origin: EP Mandate |
| Chapter III | | | | |
| 173 | Chapter III Practices of gatekeepers that limit contestability or are unfair | Chapter III Practices of gatekeepers that limit contestability or are unfair | Chapter III Practices of gatekeepers that limit contestability or are unfair | Chapter III Practices of gatekeepers that limit contestability or are unfair Text Origin: Commission Proposal |
| Article 5 | | | | |
| 174 | Article 5 Obligations for gatekeepers | Article 5 Obligations for gatekeepers | Article 5 Obligations for gatekeepers | Article 5 Obligations for gatekeepers Text Origin: Commission Proposal |
| Article 5, first paragraph, introductory part | | | | |
| 175 | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------------------|--|--|---|--|
| | In respect of each of its core platform services identified pursuant to Article 3(7), a gatekeeper shall: | In respect of each of its core platform services identified pursuant to Article 3(7), a gatekeeper shall: | -In respect of each of its core platform services identified <u>in the designation decision</u> pursuant to Article 3(7), a gatekeeper shall: | -In respect of each of its core platform services identified <u>in the designation decision</u> pursuant to Article 3(7), a gatekeeper shall: Text Origin: Council Mandate |
| Article 5, first paragraph, point (a) | | | | |
| 176 | (a) refrain from combining personal data sourced from these core platform services with personal data from any other services offered by the gatekeeper or with personal data from third-party services, and from signing in end users to other services of the gatekeeper in order to combine personal data, unless the end user has been presented with the specific choice and provided consent in the sense of Regulation (EU) 2016/679. ; | (a) refrain from combining <u>and cross-using</u> personal data sourced from these core platform services with personal data from any other services offered by the gatekeeper or with personal data from third-party services, and from signing in end users to other services of the gatekeeper in order to combine personal data, unless the end user has been presented with the specific choice <u>in a explicit and clear manner, and has</u> and provided consent in the sense of Regulation (EU) 2016/679-; | (a) refrain from combining <u>not combine</u> personal data sourced from <u>any of</u> these core platform services with personal data from any other <u>further core platform service or further</u> services offered by the gatekeeper or with personal data from third-party services, and from signing <u>not sign</u> in end users to other services of the gatekeeper in order to combine personal data, unless the end user has been presented with the specific choice and provided consent in the sense of <u>Article 6(1) point (a) of</u> Regulation (EU) 2016/679. <u>The gatekeeper may also rely on the legal basis included under Article 6(1) points (c), (d) and (e) of Regulation (EU) 2016/679, where applicable;</u> | (a) refrain from combining <u>not (i) process for the purpose of providing advertising services personal data from end users using services of third-parties that make use of core platform services of the gatekeeper,</u> (ii) <u>combine</u> personal data sourced from these <u>from the relevant</u> core platform services <u>service</u> with personal data from any <u>further core platform services or</u> other services offered by the gatekeeper or with personal data from third-party services, (iii) <u>cross-use personal data from the relevant core platform service in other services offered separately by the gatekeeper, including other core platform services, and vice-versa</u> and (iv) <u>sign</u> and from signing in end users to other services of the gatekeeper in order to combine personal data, unless the end user has been presented with the specific choice and provided consent- in the sense <u>of Article 4(11) and Article 7</u> of Regulation (EU) 2016/679. |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------------------|---|--|---|--|
| | | | | <u>Where that consent has been refused or withdrawn by the end user, the gatekeeper shall not repeat its request for consent for the same purpose more than once within a period of one year. This is without prejudice to the possibility of the gatekeeper to rely on Article 6(1) points (c), (d) and (e) of Regulation (EU) 2016/679, where applicable.</u> |
| Article 5, first paragraph, point (b) | | | | |
| 177 | (b) allow business users to offer the same products or services to end users through third party online intermediation services at prices or conditions that are different from those offered through the online intermediation services of the gatekeeper; | (b) allow <u>refrain from applying contractual obligations that prevent</u> business users to offer <u>from offering</u> the same products or services to end users through third party online intermediation services <u>or through their own direct online sales channel</u> at prices or conditions that are different from those offered through the online intermediation services of the gatekeeper; | (b) allow business users to offer the same products or services to end users through third party online intermediation services at prices or conditions that are different, <u>in particular more favourable than</u> from those offered through the online intermediation services of the gatekeeper; | (b) allow <u>refrain from applying obligations that prevent</u> business users to offer <u>from offering</u> the same products or services to end users through third party online intermediation services <u>or through their own direct online sales channel</u> at prices or conditions that are different from those offered through the online intermediation services of the gatekeeper; Text Origin: Auxiliary |
| Article 5, first paragraph, point (c) | | | | |
| 178 | (c) allow business users to promote offers to end users acquired via the core platform service, and to conclude contracts with these end users regardless of whether for that purpose they use the core platform | (c) allow business users to <u>communicate and</u> promote offers <u>including under different purchasing conditions</u> to end users acquired via the core platform service <u>or through other channels</u> , | (c) allow business users to <u>communicate and</u> promote offers <u>including under different conditions</u> to end users acquired via the core platform service <u>or through other channels</u> , and to conclude | (c) allow business users <u>free of charge to communicate and</u> to promote offers <u>including under different conditions</u> to end users acquired via the core platform service <u>or through other channels</u> , |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|---|---|--|
| | <p>services of the gatekeeper or not, and allow end users to access and use, through the core platform services of the gatekeeper, content, subscriptions, features or other items by using the software application of a business user, where these items have been acquired by the end users from the relevant business user without using the core platform services of the gatekeeper;</p> | <p>and to conclude contracts with these end users regardless of whether for that purpose they use the core platform services of the gatekeeper or not, and allow end users to access and use, through the core platform <u>receive payments for</u> services of the gatekeeper, content, subscriptions, features or other items by using the software application of a business user, where these items have been acquired by the end users from the relevant business user without using <u>provided regardless of whether they use for that purpose</u> the core platform services of the gatekeeper;</p> | <p>contracts with these end users regardless of whether for that purpose they use the core platform services of the gatekeeper or not, and allow end users to access and use, through the core platform services of the gatekeeper, content, subscriptions, features or other items by using the software application of a business user, where these items have been acquired by the end users from the relevant business user without using the core platform services of the gatekeeper;;</p> | <p>and to conclude contracts with these end users regardless of whether for that purpose they use the core platform services of the gatekeeper or not, and allow end users to access and use, through the core platform services of the gatekeeper, content, subscriptions, features or other items by using the software application of a business user, where these items have been acquired by the end users from the relevant business user without using the core platform services of the gatekeeper;</p> <p>Text Origin: Auxiliary</p> |
| Article 5, first paragraph, point (ca) | | | | |
| 178a | | <p><u>(ca) allow end users to access and use, through the core platform services of the gatekeeper, content, subscriptions, features or other items by using the software application of a business user, including where these items have been acquired by the end users from the relevant business user without using the core platform services of the gatekeeper, unless the gatekeeper can demonstrate that such access undermines end users data protection or cybersecurity;</u></p> | | <p><u>(ca) allow end users to access and use, through the core platform services of the gatekeeper, content, subscriptions, features or other items by using the software application of a business user, including where these items have been acquired by the end users from the relevant business user without using the core platform services of the gatekeeper;</u></p> <p>Text Origin: Auxiliary</p> |
| Article 5, first paragraph, point (ca) | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------------------|---|---|--|---|
| 178b | | | <i>(ca) allow end users to access and use, through the core platform services of the gatekeeper, content, subscriptions, features or other items by using the software application of a business user, where these items have been acquired by the end users from the relevant business user without using the core platform services of the gatekeeper;</i> | |
| Article 5, first paragraph, point (d) | | | | |
| 179 | (d) refrain from preventing or restricting business users from raising issues with any relevant public authority relating to any practice of gatekeepers; | (d) refrain from <i>directly or indirectly</i> preventing or restricting business users <i>or end users</i> from raising issues with any relevant public authority, <i>including national courts</i> , relating to any practice of gatekeepers; | (d) refrain from preventing or restricting business users <i>and end users</i> from raising issues <i>any issue of non-compliance with the relevant Union or national law by the gatekeeper</i> with any relevant public authority, <i>including national courts</i> , relating to any practice of gatekeepers. <i>This is without prejudice to the right of business users and gatekeepers to lay down in their agreements the terms of use of lawful complaint-handling mechanisms;</i> | (d) refrain from <i>directly or indirectly</i> preventing or restricting business users <i>or end users</i> from raising issues <i>any issue of non-compliance with the relevant Union or national law by the gatekeeper</i> with any relevant public authority, <i>including national courts</i> , relating to any practice of gatekeepers. <i>This is without prejudice to the right of business users and gatekeepers to lay down in their agreements the terms of use of lawful complaint-handling mechanisms;</i> Text Origin: Auxiliary |
| Article 5, first paragraph, point (e) | | | | |
| 180 | (e) refrain from requiring business | (e) refrain from requiring business | (e) refrain from requiring business | (e) refrain from requiring business |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------------------|--|---|---|---|
| | users to use, offer or interoperate with an identification service of the gatekeeper in the context of services offered by the business users using the core platform services of that gatekeeper; | users to use, offer or interoperate with an identification service <u>or any other ancillary service</u> of the gatekeeper in the context of services offered by the business users using the core platform services of that gatekeeper; | users <u>or end users</u> to use, <u>and in the case of business users, also to</u> offer or interoperate with, an identification <u>or payment</u> service of the gatekeeper in the context of services offered by the business users using the core platform services of that gatekeeper; | users <u>or end users</u> to use, <u>and in the case of business users also to</u> offer, or interoperate with, an identification service, <u>web browser engine, payment services or technical services which support the provision of payment services such as payment systems for in-app purchases</u> , of the gatekeeper in the context of services offered by the business users using the core platform services of that gatekeeper; Text Origin: Auxiliary |
| Article 5, first paragraph, point (f) | | | | |
| 181 | (f) refrain from requiring business users or end users to subscribe to or register with any other core platform services identified pursuant to Article 3 or which meets the thresholds in Article 3(2)(b) as a condition to access, sign up or register to any of their core platform services identified pursuant to that Article; | (f) refrain from requiring <u>not require</u> business users or end users to subscribe to or register with any other core platform services identified pursuant to Article 3 or which meets the thresholds in Article 3(2)(b) as a condition to us a <u>condition for being able to use, for or registering with</u> or register to any of their core platform services identified pursuant to that Article; | (f) refrain from requiring business users or end users to subscribe to or register with any other <u>further</u> core platform services identified pursuant to Article 3 or which meets the thresholds in Article 3(2)(b) <u>3(2) point (b)</u> as a condition to access, sign up or register to any of their core platform services identified pursuant to that Article; | (f) refrain from requiring business users or end users to subscribe to or register with any other <u>further</u> core platform services <u>identified pursuant to Article 3(7) or which meets the thresholds in Article 3(2) point (b)</u> identified pursuant to Article 3 or which meets the thresholds in Article 3(2)(b) as a condition <u>for being able to use,</u> to access, sign up <u>for or registering with</u> or register to any of their core platform services identified pursuant to that Article; Text Origin: Auxiliary |
| Article 5, first paragraph, point (g) | | | | |
| 182 | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|--|---|--|--|
| | <p>(g) provide advertisers and publishers to which it supplies advertising services, upon their request, with information concerning the price paid by the advertiser and publisher, as well as the amount or remuneration paid to the publisher, for the publishing of a given ad and for each of the relevant advertising services provided by the gatekeeper.</p> | <p>(g) provide advertisers and publishers to which it supplies advertising services, upon their request, with information concerning the price paid by the advertiser and publisher, as well as the amount or remuneration paid to the publisher, for the publishing of a given ad and for each of the relevant advertising services provided by the gatekeeper. <u>or third parties authorised by the advertisers or publishers, to which it supplies digital advertising services, with free of charge, high-quality, effective, continuous and real-time access to full information on the visibility and availability of advertisement portfolio, including:</u></p> | <p>(g) provide advertisers and publishers to which it supplies advertising services, upon their request, <u>free of charge and within one month following the request,</u> with information concerning the price paid by the advertiser and publisher, as well as the amount or remuneration paid to the publisher, for the publishing of a given ad and for each of the relevant advertising services provided by the gatekeeper.</p> | <p>(g) Provide advertisers and publishers <u>each advertiser</u> to which it supplies <u>digital</u> advertising services, <u>or third parties authorised by advertisers, upon the advertiser's</u> upon their request, with <u>free of charge</u> information <u>on a daily basis,</u> concerning <u>each advertisement placed by the advertiser, regarding (i) the price and fees paid by the</u> that advertiser, <u>including any deductions and surcharges, for each of the relevant advertising services provided by the gatekeeper, (ii) the</u> and publisher, as well as the amount or remuneration paid to <u>received by</u> the publisher, <u>including any deductions and surcharges, with the publisher's consent; and (iii) the measure on which each of the prices and remunerations are calculated. In case some publishers do not provide their consent to the sharing of information, provide each advertiser with free of charge information concerning the daily average remuneration received by those publishers, including any deductions and surcharges,</u> for the publishing of a given ad and <u>relevant advertisements.</u></p> <p><u>Provide each publisher to which it supplies digital advertising services, or third parties authorised by publishers, upon the publisher's</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---|---|--|-----------------|--|
| | | | | <p><u>request, with free of charge information on a daily basis, concerning each advertisement displayed on the publisher's inventory, regarding (i) the remuneration received and fees paid by that publisher, including any deductions and surcharges,</u> for each of the relevant advertising services provided by the gatekeeper, <u>(ii) the price paid by the advertiser, including any deductions and surcharges, with the advertiser's consent; and (iii) the measure on which each of the prices and remunerations are calculated. In case some advertisers do not provide their consent to the sharing of information, provide each publisher with free of charge information concerning the daily average price paid by those advertisers, including any deductions and surcharges, for the relevant advertisements.</u></p> <p>Text Origin: Auxiliary</p> |
| g | Article 5, first paragraph, point (g)(i) | | | |
| g | 182a | <p><u>i the pricing conditions concerning the bids placed by advertisers and advertising intermediaries;</u></p> | | |
| | Article 5, first paragraph, point (g)(ii) | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---------------------|---|-----------------|-----------------|
| g | 182b | <u>ii the price-setting mechanisms and schemes for the calculation of the fees including the non-price criteria in the auction process;</u> | | |
| Article 5, first paragraph, point (g)(iii) | | | | |
| g | 182c | <u>iii the price and fees paid by the advertiser and publisher, including any deductions and surcharges;</u> | | |
| Article 5, first paragraph, point (g)(iv) | | | | |
| g | 182d | <u>iv the amount and remuneration paid to the publisher, for the publishing of a given advertisement; and</u> | | |
| Article 5, first paragraph, point (g)(v) | | | | |
| g | 182e | <u>v the amount and remuneration paid to the publisher for each of the relevant advertising services provided by the gatekeeper.</u> | | |
| Article 5, first paragraph, point (ga) | | | | |
| g | 182f | <u>(ga) refrain from using, in competition with business users, any data not publicly available, which is generated through or in the context of the use of the</u> | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---------------------|---|-----------------|-----------------|
| | | <p><u>relevant core platform services or ancillary services by those business users including by the end users of these business users of its core platform services or ancillary services or provided by those business users of its core platform services or ancillary services or by the end users of these business users;</u></p> | | |
| Article 5, first paragraph, point (gb) | | | | |
| 182g | | <p><u>(gb) from the moment of end users' first use of any pre-installed core platform service on an operating system, prompt end-users to change the default settings for that core platform service to another option from among a list of the main third-party services available, and allow and technically enable end users to un-install pre-installed software applications on a core platform service at any stage without prejudice to the possibility for a gatekeeper to restrict such un-installation in relation to software applications that are essential for the functioning of the operating system or of the device and which cannot technically be offered on a standalone basis by third-parties;</u></p> | | |
| Article 6 | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------------|--|--|---|--|
| 183 | Article 6 Obligations for gatekeepers susceptible of being further specified | Article 6 Obligations for gatekeepers susceptible of being further specified | Article 6 Obligations for gatekeepers susceptible of being further specified <u>under Article 7</u> | Article 6 Obligations for gatekeepers susceptible of being further specified <u>under Article 7</u> Text Origin: Council Mandate |
| Article 6(1), introductory part | | | | |
| 184 | 1. In respect of each of its core platform services identified pursuant to Article 3(7), a gatekeeper shall: | 1. In respect of each of its core platform services identified pursuant to Article 3(7), a gatekeeper shall: | 1. In respect of each of its core platform services identified <u>in the designation decision</u> pursuant to Article 3(7), a gatekeeper shall: | 1. In respect of each of its core platform services identified <u>in the designation decision</u> pursuant to Article 3(7), a gatekeeper shall: Text Origin: Council Mandate |
| Article 6(1), point (a) | | | | |
| 185 | (a) refrain from using, in competition with business users, any data not publicly available, which is generated through activities by those business users, including by the end users of these business users, of its core platform services or provided by those business users of its core platform services or by the end users of these business users; | <i>deleted</i> | (a) refrain from using, in competition with business users, any data not publicly available, which is generated through activities <u>in the context of the use of the relevant core platform services or ancillary services</u> by those business users, including by the end users of these business users, of its core platform services or <u>ancillary services or</u> provided by those business users of its core platform <u>services or ancillary</u> services or by the end users of these business users; | (a) refrain from using, in competition with business users, any data not publicly available, which is generated through activities <u>or provided</u> by those business users; including by the end users of these business users, of its <u>in the context of their use of the relevant</u> core platform services or provided by those business users of its <u>of the services offered together with or in support of the relevant</u> core platform services, <u>including data generated or provided by the end users of those business users.</u> or by the end users of these business users; |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--------------------------|--|--|---|---|
| | | | | Text Origin: Auxiliary |
| Article 6(1), point (aa) | | | | |
| 185a | | <u>(aa) for its own commercial purposes, and the placement of third-party advertising in its own services, refrain from combining personal data for the purpose of delivering targeted or micro-targeted advertising, except if a clear, explicit, renewed, informed consent has been given to the gatekeeper in line with the procedure laid down in the Regulation (EU) 2016/679 by an end-user that is not a minor.</u> | | |
| Article 6(1), point (b) | | | | |
| 186 | (b) allow end users to un-install any pre-installed software applications on its core platform service without prejudice to the possibility for a gatekeeper to restrict such un-installation in relation to software applications that are essential for the functioning of the operating system or of the device and which cannot technically be offered on a standalone basis by third-parties; | <i>deleted</i> | (b) allow <u>and technically enable</u> end users to un-install any pre-installed <u>software applications on an operating system the gatekeeper provides or effectively controls as easily as any</u> software applications on its core platform service <u>application installed by the end user at any stage, and to change default settings on an operating system that direct or steer end users to products or services offered by the gatekeeper,</u> without prejudice to the possibility for a | (b) allow <u>and technically enable</u> end users to <u>easily</u> un-install any pre-installed software applications on its core platform service <u>the operating system of the gatekeeper,</u> without prejudice to the possibility for a gatekeeper to restrict such un-installation in relation to software applications that are essential for the functioning of the operating system or of the device and which cannot technically be offered on a standalone basis by third-parties; |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------------------|---|--|---|---|
| | | | <p>gatekeeper to restrict such un-installation in relation to software applications that are essential for the functioning of the operating system or of the device and which cannot technically be offered on a standalone basis by third-parties;</p> | <p><u><i>allow and technically enable end users to easily change default settings on the operating system, virtual assistant and web browser of the gatekeeper that direct or steer end users to products or services provided by the gatekeeper, including prompting end users, at the moment of the end users' first use of an online search engine, virtual assistant or web browser of the gatekeeper identified pursuant to Article 3(7), to choose, from a list of the main available service providers, the online search engine, virtual assistant or web browser to which the operating system of the gatekeeper directs or steers users by default, and the online search engine to which the virtual assistant and the web browser of the gatekeeper directs or steers users by default.</i></u></p> <p>Text Origin: Auxiliary</p> |
| Article 6(1), point (c) | | | | |
| 187 | (c) allow the installation and effective use of third party software applications or software application stores using, or interoperating with, operating systems of that gatekeeper and allow these software applications or software application stores to be accessed by means other | (c) allow <u><i>and technically enable</i></u> the installation and effective use of third party software applications or software application stores using, or interoperating with, operating systems of that gatekeeper and allow these software applications or software application stores to be | (c) allow <u><i>and technically enable</i></u> the installation and effective use <u><i>and interoperability</i></u> of third party software applications or software application stores using, or interoperating with, operating systems of that gatekeeper and allow these software applications or | (c) allow <u><i>and technically enable</i></u> the installation and effective use of third party software applications or software application stores using, or interoperating with, <i>the</i> <u><i>operating systems of that system of the</i></u> gatekeeper and allow these software applications or software application |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---|--|--|--|
| | <p>than the core platform services of that gatekeeper. The gatekeeper shall not be prevented from taking proportionate measures to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper;</p> | <p>accessed by means other than the <u>relevant</u> core platform services of that gatekeeper. The gatekeeper shall, <u>where relevant, ask the end users to decide whether they want to make the downloaded application or application store their default setting. The gatekeeper shall</u> not be prevented from taking <u>measures that are both necessary and</u> proportionate measures to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided <u>by the gatekeeper or undermine end-user data protection or cyber security provided that such necessary and proportionate measures are duly justified</u> by the gatekeeper;</p> | <p>software application stores to be accessed by means other than the <u>relevant</u> core platform services of that gatekeeper. The gatekeeper shall not be prevented from taking <u>to the extent strictly necessary and</u> proportionate measures to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper, <u>provided that such proportionate measures are duly justified by the gatekeeper. The gatekeeper shall furthermore not be prevented from taking to the extent strictly necessary and proportionate measures enabling end users to protect security in relation to third party software applications or software application stores;</u></p> | <p>stores to be accessed by means other than the <u>relevant</u> core platform services of that gatekeeper. The gatekeeper shall, <u>where applicable, not prevent the downloaded third party software applications or software application stores from prompting end users to decide whether they want to set that downloaded software application or software application store as their default and technically enable that change to be carried out easily. The gatekeeper shall</u> not be prevented from taking <u>to the extent strictly necessary and</u> proportionate measures to ensure that third party software applications or software application stores do not endanger the integrity of the hardware or operating system provided by the gatekeeper, <u>provided that such measures are duly justified by the gatekeeper.</u></p> <p><u>The gatekeeper shall furthermore not be prevented from applying to the extent strictly necessary and proportionate measures and settings other than default settings enabling end users to effectively protect security in relation to third party software applications or software application stores, provided that such measures are duly justified by the gatekeeper.</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--------------------------|---|---|---|---|
| Article 6(1), point (d) | | | | |
| 188 | (d) refrain from treating more favourably in ranking services and products offered by the gatekeeper itself or by any third party belonging to the same undertaking compared to similar services or products of third party and apply fair and non-discriminatory conditions to such ranking; | (d) refrain from treating <u>not treat</u> more favourably in ranking <u>or other settings</u> , services and products offered by the gatekeeper itself or by any third party belonging to the same undertaking compared to similar services or products of third party and apply <u>transparent</u> , fair and non-discriminatory conditions to such ranking <u>third party services or products</u> ; | (d) refrain from treating more favourably in ranking services and products offered by the gatekeeper itself or by any third party belonging to the same undertaking compared to similar services or products of third party and apply fair and non-discriminatory conditions to such ranking; | (d) refrain from treating more favourably in ranking, <u>and related indexing and crawling</u> , services and products offered by the gatekeeper itself or by any third party belonging to the same undertaking compared to similar services or products of third party and apply <u>transparent</u> , fair and non-discriminatory conditions to such ranking; |
| Article 6(1), point (e) | | | | |
| 189 | (e) refrain from technically restricting the ability of end users to switch between and subscribe to different software applications and services to be accessed using the operating system of the gatekeeper, including as regards the choice of Internet access provider for end users; | (e) refrain from <u>not restrict</u> technically restricting <u>or otherwise</u> the ability of end users to switch between and subscribe to different software applications and services to be accessed using the operating system of the gatekeeper , including as regards the choice of Internet access provider for end users; | (e) refrain from technically <u>or otherwise</u> restricting the ability of end users to switch between and subscribe to different software applications and services to be accessed using the operating system of the gatekeeper, including as regards the choice of Internet access provider <u>service</u> for end users; | (e) refrain from technically <u>or otherwise</u> restricting the ability of end users to switch between and subscribe to different software applications and services to be accessed using the operating system <u>core platform services</u> of the gatekeeper, including as regards the choice of Internet access provider <u>services</u> for end users; |
| Article 6(1), point (ea) | | | | |
| 189a | | <u>(ea) refrain from practices that obstruct the possibility for the end-user to unsubscribe from a core platform service;</u> | | |
| Article 6(1), point (f) | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-----|---|--|--|--|
| 190 | <p>(f) allow business users and providers of ancillary services access to and interoperability with the same operating system, hardware or software features that are available or used in the provision by the gatekeeper of any ancillary services;</p> | <p>(f) allow business users, <u>providers of services</u> and providers of <u>hardware free of charge access to and interoperability with the same hardware and software features accessed or controlled via an operating system, provided that the operating system is identified pursuant to Article 3(7), that are available to services or hardware provided by the gatekeeper.</u> Providers of ancillary services <u>shall further be allowed</u> access to and interoperability with the same operating system, hardware or <u>software features, regardless of whether those software features are part of an operating system,</u> that are available or used in the provision to ancillary services provided by a gatekeeper. <u>The gatekeeper shall not be prevented from taking indispensable measures to ensure that interoperability does not compromise the integrity of the operating system, hardware or software features provided</u> by the gatekeeper of any ancillary services; or undermine end-user data protection or cyber security provided that such indispensable measures are duly justified by the gatekeeper.</p> | <p>(f) allow business users and providers of <u>undertakings providing</u> ancillary services access to and interoperability with the same operating system, hardware or software features that are available or used in the provision by the gatekeeper of any ancillary services. <u>In these cases, access and interoperability conditions shall be fair, reasonable and non-discriminatory. The gatekeeper shall not degrade the conditions or quality of access and interoperability provided to business users or undertakings providing ancillary services. The gatekeeper shall not be prevented from taking to the extent strictly necessary and proportionate ancillary services do not endanger the integrity of the operating system, hardware or software features provided by the gatekeeper, provided that such proportionate measures are duly justified by the gatekeeper;</u></p> | <p>(f) <u>allow providers of services and providers of hardware, free of charge, effective interoperability with, and access for the purposes of interoperability to, the same hardware and software features accessed or controlled via the operating system or virtual assistant of the gatekeeper identified pursuant to Article 3(7), that are available to services or hardware provided by the gatekeeper.</u> Furthermore allow business users and <u>alternative</u> providers of ancillary <u>services offered together with or in support of core platform services</u> access to and free of charge, effective interoperability with, and access for the purposes of interoperability with to, the same operating system, hardware or software features <u>regardless of whether those features are part of the operating system,</u> that are available <u>to</u> or used in the provision <u>by the gatekeeper when providing such services. The gatekeeper shall not be prevented from taking strictly necessary and proportionate measures to ensure that interoperability does not compromise the integrity of the operating system, virtual assistant, hardware or software features provided</u> by the gatekeeper of any ancillary services; provided that</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--------------------------|---------------------|--|-----------------|---|
| | | | | <u>such strictly necessary and proportionate measures are duly justified by the gatekeeper.</u> |
| Article 6(1), point (fa) | | | | |
| 190a | | <u>(fa) allow any providers of number independent interpersonal communication services upon their request and free of charge to interconnect with the gatekeepers number independent interpersonal communication services identified pursuant to Article 3(7). Interconnection shall be provided under objectively the same conditions and quality that are available or used by the gatekeeper, its subsidiaries or its partners, thus allowing for a functional interaction with these services, while guaranteeing a high level of security and personal data protection;</u> | | |
| Article 6(1), point (fb) | | | | |
| 190b | | <u>(fb) allow any providers of social network services upon their request and free of charge to interconnect with the gatekeepers social network services identified pursuant to Article 3(7). Interconnection shall be provided under objectively the same conditions and quality that</u> | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------------------|--|--|--|--|
| | | <p><u>are available or used by the gatekeeper, its subsidiaries or its partners, thus allowing for a functional interaction with these services, while guaranteeing a high level of security and personal data protection. The implementation of this obligation is subjected to the Commission's specification under Article 10(2a);</u></p> | | |
| Article 6(1), point (g) | | | | |
| 191 | <p>(g) provide advertisers and publishers, upon their request and free of charge, with access to the performance measuring tools of the gatekeeper and the information necessary for advertisers and publishers to carry out their own independent verification of the ad inventory;</p> | <p>(g) provide advertisers and publishers, <u>and third parties authorised by advertisers and publishers</u> upon their request and free of charge, with access to the performance measuring tools of the gatekeeper and the information necessary for advertisers and publishers to carry out their own independent verification of the ad inventory <u>including aggregated and non-aggregated data and performance data in a manner that would allow advertisers and publishers to run their own verification and measurement tools to assess performance of the core services provided for by the gatekeepers;</u></p> | <p>(g) provide advertisers and publishers, <u>or third parties authorised by advertisers and publishers,</u> upon their request and free of charge, with access to the performance measuring tools of the gatekeeper and the information necessary for advertisers and publishers to carry out their own independent verification of the ad inventory, <u>including aggregated data;</u></p> | <p>(g) provide advertisers and publishers, <u>and third parties authorised by advertisers and publishers,</u> upon their request and free of charge, with access to the performance measuring tools of the gatekeeper and the information <u>data</u> necessary for advertisers and publishers to carry out their own independent verification of the ad inventory <u>including aggregated and non-aggregated data. This data shall be provided in a manner that would allow advertisers and publishers to run their own verification and measurement tools to assess performance of the core services provided for by the gatekeepers;</u></p> |
| Article 6(1), point (h) | | | | |
| 192 | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------------------|--|---|---|---|
| | <p>(h) provide effective portability of data generated through the activity of a business user or end user and shall, in particular, provide tools for end users to facilitate the exercise of data portability, in line with Regulation EU 2016/679, including by the provision of continuous and real-time access ;</p> | <p>(h) provide <u>end users or third parties authorised by an end user, upon their request and free of charge, with</u> effective portability of data <u>provided by the end user or generated through their activity in the context of the use on the relevant core platform service including by providing free of charge tools</u>the activity of a business user or end user and shall, in particular, provide tools for end users to facilitate the <u>effective</u> exercise of <u>such</u> data portability, in line with Regulation <u>(EU) 2016/679, and EU 2016/679,</u> including by the provision of continuous and real-time access-;</p> | <p>(h) provide <u>end users, or third parties authorised by an end user, upon their request and free of charge, with</u> effective portability of data generated through the<u>their activity in the context of the use of the relevant core platform services,</u>of a business user or end user and shall, in particular, provide <u>tools for end users free of charge tools</u> to facilitate the <u>effective</u> exercise of <u>such</u> data portability, in line with Regulation <u>(EU) EU</u> 2016/679, including by the provision of continuous and real-time access-;</p> | <p>(h) provide <u>end users and third parties authorised by an end user, upon their request and free of charge, with</u> effective portability of data <u>provided by the end user or generated through the activity of a business user or end user and shall, in particular, provide tools for end users</u>the end user in the context of the use of the relevant core platform service including by providing free of charge tools to facilitate the <u>effective</u> exercise of <u>such</u> data portability, in line with Regulation EU 2016/679,<u>and</u> including by the provision of continuous and real-time access-;</p> |
| Article 6(1), point (i) | | | | |
| 193 | <p>(i) provide business users, or third parties authorised by a business user, free of charge, with effective, high-quality, continuous and real-time access and use of aggregated or non-aggregated data, that is provided for or generated in the context of the use of the relevant core platform services by those business users and the end users engaging with the products or services provided by those business users; for personal data, provide access and use only where directly connected with the use effectuated by the end user in</p> | <p>(i) provide business users, or third parties authorised by a business user, <u>upon their request,</u> free of charge, with effective, high-quality, continuous and real-time access and use of aggregated or and non-aggregated data, that is provided for or generated in the context of the use of the relevant core platform services <u>or ancillary services offered by the gatekeeper</u> by those business users and the end users engaging with the products or services provided by those business users; <u>this shall include, at the</u></p> | <p>(i) provide business users, or third parties authorised by a business user, <u>upon their request,</u> free of charge, with effective, high-quality, continuous and real-time access and use of aggregated or non-aggregated <u>data, including personal</u> data, that is provided for or generated in the context of the use of the relevant core platform services <u>or ancillary services</u> by those business users and the end users engaging with the products or services provided by those business users; for personal data, provide access and use only</p> | <p>(i) provide business users, or and third parties authorised by a business user, <u>upon their request,</u> free of charge, with effective, high-quality, continuous and real-time access and use of aggregated or and non-aggregated data, <u>including personal data,</u> that is provided for or generated in the context of the use of the relevant core platform services <u>or services offered together with or in support of the relevant core platform services</u> by those business users and the end users engaging with the products or services</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------------------|---|---|--|---|
| | respect of the products or services offered by the relevant business user through the relevant core platform service, and when the end user opts in to such sharing with a consent in the sense of the Regulation (EU) 2016/679; ; | <u>request of the business user, the possibility and necessary tools to access and analyse data "in-situ" without a transfer from the gatekeeper; for for personal data, provide access and use only where directly connected with the use effectuated by the end user in respect of the products or services offered by the relevant business user through the relevant core platform service, and when the end user opts in to such sharing with a consent in the sense of the Regulation (EU) 2016/679; ;</u> | where <u>the data are</u> directly connected with the use effectuated by the end user in respect of the products or services offered by the relevant business user through the relevant core platform service, and when the end user opts in to such sharing with a consent in the sense of the Regulation (EU) 2016/679; by <u>giving their consent</u> ; | provided by those business users; for personal data, provide access and use only where <u>the data are</u> directly connected with the use effectuated by the end user in respect of the products or services offered by the relevant business user through the relevant core platform service, and when the end user opts in to such sharing with a consent in the sense of the Regulation (EU) 2016/679; by <u>giving their consent</u> ; |
| Article 6(1), point (j) | | | | |
| 194 | (j) provide to any third party providers of online search engines, upon their request, with access on fair, reasonable and non-discriminatory terms to ranking, query, click and view data in relation to free and paid search generated by end users on online search engines of the gatekeeper, subject to anonymisation for the query, click and view data that constitutes personal data; | (j) provide to any third party providers of online search engines, upon their request, with access on fair, reasonable and non-discriminatory terms to ranking, query, click and view data in relation to free and paid search generated by end users on online search engines of the gatekeeper, subject to anonymisation for the query, click and view data that constitutes personal data; | (j) provide to any third party providers of <u>undertaking providing</u> online search engines, upon their request, with access on fair, reasonable and non-discriminatory terms to ranking, query, click and view data in relation to free and paid search generated by end users on online search engines of the gatekeeper, subject to anonymisation for the query, click and view data that constitutes personal data;. | (j) provide to any third party providers of <u>undertaking providing</u> online search engines, upon their request, with access on fair, reasonable and non-discriminatory terms to ranking, query, click and view data in relation to free and paid search generated by end users on online search engines of the gatekeeper, subject to anonymisation for the query, click and view data that constitutes personal data;. <u>Text Origin: Council Mandate</u> |
| Article 6(1), point (k) | | | | |
| 195 | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--------------------------|--|---|---|---|
| | (k) apply fair and non-discriminatory general conditions of access for business users to its software application store designated pursuant to Article 3 of this Regulation. | (k) apply <u>transparent, fair, reasonable</u> fair and non-discriminatory general conditions of access <u>and conditions that are not less favourable than the conditions applied to its own service</u> for business users to its software application store <u>core platform services</u> designated pursuant to Article 3 of this Regulation. | (k) apply fair, <u>reasonable</u> and non-discriminatory general conditions of access for business users to its software application store designated pursuant to Article 3 of this Regulation. | (k) apply fair, <u>reasonable</u> , and non-discriminatory general conditions of access for business users to its software application store, <u>online search engines and online social networking services identified in the designation decision</u> designated pursuant to Article 3 <u>3(7)</u> of this Regulation. <u>For that purpose the gatekeeper shall publish general conditions of access including an alternative dispute settlement mechanism.</u> <u>The Commission shall assess whether the published general conditions of access comply with this paragraph.</u> |
| Article 6(1), point (ka) | | | | |
| 195a | | | <u>(ka) refrain from making conditions of termination from a core platform service disproportionate and ensure that such conditions of termination can be exercised without undue difficulty.</u> | <u>(ka) refrain from making general conditions of termination from a core platform service disproportionate and ensure that such conditions of termination can be exercised without undue difficulty.</u> |
| Article 6(2) | | | | |
| 196 | 2. For the purposes of point (a) of paragraph 1 data that is not publicly available shall include any | 2. <u>Article 5 – paragraph 2</u> <u>2.</u> For the purposes of point (a) <u>(g a)</u> of paragraph 1 data that is | 2. For the purposes of point (a) of paragraph 1 data that is not publicly available shall include any | 2. For the purposes of point (a) of paragraph 1 data that is not publicly available shall include any |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|--|--|--|--|
| | aggregated and non-aggregated data generated by business users that can be inferred from, or collected through, the commercial activities of business users or their customers on the core platform service of the gatekeeper. | not publicly available shall include any aggregated and non-aggregated data generated by business users that can be inferred from, or collected through, the commercial activities of business users or their customers on the core platform service <u>or ancillary services</u> of the gatekeeper. | aggregated and non-aggregated data generated by business users that can be inferred from, or collected through, the commercial activities of business users or their customers on the core platform service of the gatekeeper. | aggregated and non-aggregated data generated by business users that can be inferred from, or collected through, the commercial activities of business users or their customers, <u>including click, search, view and voice data</u> , on the <u>relevant core platform service or on services offered together with or in support of the relevant</u> core platform service of the gatekeeper. Text Origin: Commission Proposal |
| Article 6(2a) | | | | |
| 196a | | | <u>2a. Where appropriate, the Commission may adopt a delegated act pursuant to Article 10 to extend one or more of the obligations listed in paragraph 1 to other core platform services listed in Article 2 point (2).</u> | |
| Article 6a | | | | |
| 196b | | | | <u>Article 6a</u> <u>Obligation for gatekeepers on interoperability of number-independent interpersonal communications services</u> |
| Article 6a(1) | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|---------------------|------------|-----------------|---|
| 196c | | | | <p><u>1. A gatekeeper providing number-independent interpersonal communications services identified in the designation decision pursuant to Article 3(7) shall make basic functionalities of its number-independent interpersonal communications services interoperable with the number-independent interpersonal communications services of another provider offering or intending to offer such services in the Union, by providing the necessary technical interfaces or similar solutions that facilitate interoperability, upon request, and free of charge.</u></p> |
| Article 6a(2) | | | | |
| 196d | | | | <p><u>2. The basic functionalities pursuant to paragraph 1 shall comprise at least the following elements where the gatekeeper itself provides such functionalities to its own end users:</u></p> <p><u>(a) following the designation decision pursuant to Article 3(7):</u></p> <p><u>1) end-to-end text messaging between two individual end users;</u></p> <p><u>2) sharing of images, voice messages, videos and other attached files in end-to-end communication between two individual end users;</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|---------------------|------------|-----------------|--|
| | | | | <p><u><i>(b) within two year of the designation:</i></u> <u><i>1) end-to-end text messaging within groups of individual end users;</i></u> <u><i>2) sharing of images, voice messages, videos and other attached files in end-to-end communication between a group chat and an individual end users;</i></u></p> <p><u><i>(c) within four years of the designation:</i></u> <u><i>1) end-to-end voice calls between two individual end users;</i></u> <u><i>2) end-to-end video calls between two individual end users;</i></u> <u><i>3) end-to-end voice calls between a group chat and an individual end user;</i></u> <u><i>4) end-to-end video calls between a group chat and individual end user.</i></u></p> |
| Article 6a(3) | | | | |
| 196e | | | | <p><u><i>3. The level of security, including end-to-end encryption where applicable, that the gatekeeper provides to its own end users shall be preserved across the interoperable services</i></u></p> |
| Article 6a(4) | | | | |
| 196f | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|---------------------|------------|-----------------|--|
| | | | | <p><u>4. The gatekeeper shall publish a reference offer laying down the technical details and general terms and conditions of interoperability with its number-independent interpersonal communications services, including the necessary details on the level of security and end-to-end encryption. The gatekeeper shall publish such reference offer within the period laid down in Article 3(8) and update it where necessary.</u></p> |
| Article 6a(5) | | | | |
| 196g | | | | <p><u>5. Following the publication of the reference offer pursuant paragraph 3, any provider of number-independent interpersonal communications services offering or intending to offer such services in the Union may request interoperability with the number-independent interpersonal communications services provided by the gatekeeper. The gatekeeper shall implement any reasonable request for interoperability at the latest three months after receiving such request by rendering the requested basic functionalities operational. A request of the third party provider may cover some or all of the basic functionalities listed in paragraph 2.</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------|---------------------|------------|-----------------|--|
| | Article 6a(6) | | | |
| 196h | | | | <u>6. The Commission may exceptionally, upon a reasoned request by the gatekeeper, prolong the periods of implementation pursuant to paragraph 2 or 5 where the gatekeeper demonstrates that this is necessary and proportionate to ensure effective interoperability and to preserve the necessary level of security, including end-to-end encryption where applicable.</u> |
| | Article 6a(7) | | | |
| 196i | | | | <u>7. The end users of number-independent interpersonal communications services of the gatekeeper and requesting provider shall remain free to decide whether to make use of the interoperable basic functionalities that may be provided by the gatekeeper pursuant to paragraph 1.</u> |
| | Article 6a(8) | | | |
| 196j | | | | <u>8. The gatekeeper shall collect and exchange with the provider of number-independent interpersonal communications services that requests interoperability only the</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|--|--|--|--|
| | | | | <u><i>personal data of the end users that is strictly necessary to provide effective interoperability and in full compliance with the Regulation (EU) 2016/679 and Directive 2002/58/EC.</i></u> |
| Article 6a(9) | | | | |
| 196k | | | | <u><i>9. The gatekeeper shall not be prevented from taking to the extent strictly necessary and proportionate measures to ensure that third party providers of number-independent interpersonal communications services requesting interoperability do not endanger the integrity, security and privacy of its services, provided that such measures are duly justified by the gatekeeper.</i></u> |
| Article 6a(10) | | | | |
| 196l | | | | |
| Article 7 | | | | |
| 197 | Article 7 Compliance with obligations for gatekeepers | Article 7 Compliance with obligations for gatekeepers | Article 7 Compliance with obligations for gatekeepers | Article 7 Compliance with obligations for gatekeepers Text Origin: Commission Proposal |
| Article 7(1) | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|--|---|--|---|
| 198 | <p>1. The measures implemented by the gatekeeper to ensure compliance with the obligations laid down in Articles 5 and 6 shall be effective in achieving the objective of the relevant obligation. The gatekeeper shall ensure that these measures are implemented in compliance with Regulation (EU) 2016/679 and Directive 2002/58/EC, and with legislation on cyber security, consumer protection and product safety.</p> | <p>1. The measures implemented by the gatekeeper <u>gatekeeper shall implement effective measures</u> to ensure <i>its</i> compliance with the obligations laid down in Articles 5 and 6, and shall be effective in achieving the objective of the relevant obligation <u>demonstrate that compliance, when called upon to do so</u>. The gatekeeper shall ensure that these <u>the</u> measures are implemented in compliance <u>that it implements comply</u> with Regulation (EU) 2016/679, and and Directive 2002/58/EC, and with legislation on cyber security, consumer protection and product safety <u>as well as with accessibility requirements for the persons with disabilities in accordance with Directive (EU) 2019/882</u>.</p> | <p>1. <u>The gatekeeper shall ensure and demonstrate compliance with the obligations laid down in Articles 5 and 6</u>. The measures implemented by the gatekeeper to ensure compliance with the obligations laid down in Articles 5 and 6 shall be effective in achieving the objective of the relevant obligation. The gatekeeper shall ensure that these measures are implemented in compliance with <u>applicable law, in particular</u> Regulation (EU) 2016/679 and Directive 2002/58/EC, and with legislation on cyber security, consumer protection and product safety.</p> | <p>1. <u>The gatekeeper shall ensure and demonstrate compliance with the obligations laid down in Articles 5, 6 and 6a</u>. The measures implemented by the gatekeeper to ensure compliance with the obligations laid down in Articles 5, <u>6 and 6a</u> and 6 shall be effective in achieving the objective of <u>objectives of this Regulation and</u> the relevant obligation. The gatekeeper shall ensure that these measures are implemented in compliance with <u>applicable law, in particular</u> Regulation (EU) 2016/679 and Directive 2002/58/EC, and with legislation on cyber security, consumer protection and, product safety <u>as well as with accessibility requirements</u>.</p> |
| Article 7(1a) | | | | |
| 198a | | <p><u>1a. Within six months after its designation and in application of paragraph 8 of Article 3, the gatekeeper shall provide the Commission with a report describing in a detailed and transparent manner the measures implemented to ensure compliance with the obligations laid down in Articles 5 and 6. This report shall be updated at least annually.</u></p> | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|---------------------|---|-----------------|-----------------|
| Article 7(1b) | | | | |
| 198b | | <p><u><i>1b. Along with the report mentioned in paragraph 1a and within the same timeframe, the gatekeeper shall provide the Commission with a non-confidential summary of its report that will be published by the Commission without delay. The non-confidential summary shall be updated at least annually according to the detailed report.</i></u></p> <p><u><i>In order to comply with the obligations laid down in Article 6 and where the gatekeeper holds reasonable doubt as to the appropriate method or methods of compliance, the gatekeeper may request that the Commission engage in a process to receive and address requests for clarification and thereafter further specify relevant measures that the gatekeeper shall adopt in order to comply in an effective and proportionate manner with those obligations. Further specification of obligations laid down in Article 6 shall be limited to issues relating to ensuring effective and proportionate compliance with the obligations. When doing so, the Commission may decide to consult</i></u></p> | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--------------|--|--|---|---|
| | | <p><u>third parties whose views it considers necessary in relation to the measures that the gatekeeper is expected to implement. The duration of the process shall not extend beyond the period set out in Article 3(8), with the possibility for an extension of two months, at the discretion of the Commission, should the dialogue process have not been concluded prior to the expiry of the said period.</u></p> <p><u>The Commission shall retain discretion in deciding whether to engage in such a process, with due regard to principles of equal treatment, proportionality and due process. Where the Commission decides not to engage in such a process, it shall provide a written justification to the relevant gatekeeper. At the end of this process, the Commission may also by decision specify the measures that the gatekeeper concerned is to implement arising from the conclusion of this process set out in paragraph 1b.</u></p> | | |
| Article 7(2) | | | | |
| 199 | 2. Where the Commission finds that the measures that the gatekeeper intends to implement pursuant to paragraph 1, or has implemented, do | 2. Where the Commission finds that the measures that the gatekeeper intends to implement pursuant to paragraph 1, or has implemented, do | 2. Where The Commission finds that the measures that the <u>may on its own initiative or upon request by a</u> gatekeeper intends to | 2. Where The Commission finds that the measures that the <u>may, on its own initiative</u> implement <u>intends to</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------------------------|--|---|--|---|
| | <p>not ensure effective compliance with the relevant obligations laid down in Article 6, it may by decision specify the measures that the gatekeeper concerned shall implement. The Commission shall adopt such a decision within six months from the opening of proceedings pursuant to Article 18.</p> | <p>not ensure effective compliance with the relevant obligations laid down in Article 6, it may by decision specify the measures that the gatekeeper concerned shall<u>is to</u> implement. The Commission shall adopt such a decision within six<u>as soon as possible and in any event no later than four</u> months from<u>after</u> the opening of proceedings pursuant to Article 18.</p> | <p>implement<u>pursuant to paragraph 2a open proceedings</u> pursuant to paragraph 1, or has implemented, do not ensure effective compliance<u>Article 18 and by a decision adopted in accordance with the relevant obligations laid down</u> advisory procedure referred to in Article 6, it may by decision<u>37a(2)</u> specify the measures that the gatekeeper concerned shall implement <u>in order to effectively comply with the obligations laid down in Article 6 and in a case of circumvention pursuant to Article 11(4) for the obligations laid down in Articles 5 and 6.</u> The Commission shall adopt such a decision <u>pursuant to this paragraph</u> within six months from the opening of proceedings pursuant to Article 18.</p> | <p><u>or upon request by a gatekeeper</u> pursuant to paragraph 1, or has implemented, do not ensure effective compliance<u>2a, open proceedings pursuant to Article 18 and by a decision adopted in accordance with the relevant</u> advisory procedure referred to in Article [...] <u>specify the measures that the gatekeeper concerned shall implement in order to effectively comply with the obligations laid down in Article 6, it may by.</u> . <u>When opening proceedings on its own initiative in a case of circumvention pursuant to Article 11 such</u> decision specify the measures that the gatekeeper concerned shall implement<u>may concern the obligations laid down in Articles 5, 6 and Article 6a.</u> The Commission shall adopt such a decision <u>pursuant to this paragraph</u> within six months from the opening of proceedings pursuant to Article 18.</p> |
| Article 7(2a), introductory part | | | | |
| 199a | | | <p><u>2a. The gatekeeper may request the Commission to engage in a dialogue to determine whether the measures that the gatekeeper intends to implement or has implemented to ensure compliance with Article 6 are effective in achieving the objective of the</u></p> | <p><u>2a. A gatekeeper may request the Commission to engage in a process to determine whether the measures that the gatekeeper intends to implement or has implemented to ensure compliance with Article 6 and Article 6a are effective in achieving the objective of the</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------------|---------------------|------------|--|---|
| | | | <u>relevant obligation in the specific circumstances of the gatekeeper.</u> | <u>relevant obligation in the specific circumstances of the gatekeeper. The Commission shall have discretion in deciding whether to engage in such a process respecting the principles of equal treatment, proportionality and good administration. In its request, the gatekeeper shall provide a reasoned submission to explain the measures that it intends to implement or has implemented. The gatekeeper shall furthermore provide a non-confidential version of its reasoned submission that may be shared with third parties pursuant to paragraph 4a.</u> See row 198 b |
| Article 7(2a), first paragraph | | | | |
| g | 199b | | <u>The Commission shall have discretion in deciding whether to engage in such a dialogue respecting equal treatment, proportionality and the principle of good administration.</u> | See row 198 b |
| Article 7(2a), second paragraph | | | | |
| g | 199c | | <u>A gatekeeper shall, with its request, provide a reasoned submission to explain in particular why the measures that it intends to</u> | See row 198 b |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|--|--|--|---|
| | | | <u>implement or has implemented are effective in achieving the objective of the relevant obligation in the specific circumstances.</u> | |
| Article 7(2b) | | | | |
| 199d | | | <u>2b. In proceedings under paragraph 2, the Commission may decide to invite interested third parties to submit their observations in relation to the measures that the gatekeeper shall implement.</u> | |
| Article 7(3) | | | | |
| 200 | 3. Paragraph 2 of this Article is without prejudice to the powers of the Commission under Articles 25, 26 and 27. | 3. Paragraph 2 of this Article is without prejudice to the powers of the Commission under Articles 25, 26 and 27. | 3. Paragraph 2 <u>Paragraphs 2 and 2a</u> of this Article is <u>are</u> without prejudice to the powers of the Commission under Articles 25, 26 and 27. | 3. Paragraph 2 <u>Paragraphs 2 and 2a</u> of this Article is <u>are</u> without prejudice to the powers of the Commission under Articles 25, 26 and 27. |
| Article 7(4) | | | | |
| 201 | 4. In view of adopting the decision under paragraph 2, the Commission shall communicate its preliminary findings within three months from the opening of the proceedings. In the preliminary findings, the Commission shall explain the measures it considers to take or it considers that the provider of core platform services concerned should | 4. In view of <u>With a view to</u> adopting the decision under paragraph 2, the Commission shall communicate its preliminary findings within three and <u>publish a concise summary as soon as possible and, in any event no later than two</u> months from the opening of the proceedings. In the preliminary findings, the Commission shall explain the | 4. In view of adopting the decision under paragraph 2, the Commission shall communicate its preliminary findings within three months from the opening of the proceedings. In the preliminary findings, the Commission shall explain the measures it considers to take or it considers that the provider of core platform services <u>gatekeeper</u> | 4. In <u>With a</u> view of adopting the decision under paragraph 2, the Commission shall communicate its preliminary findings <u>to the gatekeeper</u> within three months from the opening of the proceedings. In the preliminary findings, the Commission shall explain the measures <u>that it is considering taking or that it considers to take or</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|--|--|---|--|
| | take in order to effectively address the preliminary findings. | measures <u>that it is considering taking or that it considers to take or</u> it considers that the provider of core platform services concerned should take in order to effectively address the preliminary findings. <u>The Commission may decide to invite interested third parties to submit their observations within a time limit, which is fixed by the Commission in its publication. When publishing, due regard shall be given by the Commission to the legitimate interest of undertakings in the protection of their business secrets.</u> | concerned should take in order to effectively address the preliminary findings. <u>Interested third parties may be invited to provide comments on the main elements of the preliminary findings within a timeframe which is determined by the Commission.</u> | it considers that the provider of core platform services <u>the gatekeeper</u> concerned should take in order to effectively address the preliminary findings. |
| Article 7(4a) | | | | |
| 201a | | | | <u>4a. In order to effectively enable interested third parties to provide comments, the Commission shall at the same time as communicating its preliminary findings to the gatekeeper pursuant to paragraph 4 or as soon as possible thereafter publish a non-confidential summary of the case and measures that it is considering taking or that it considers the gatekeeper concerned should take. The Commission shall specify a reasonable timeframe within which such comments can be provided.</u> |
| Article 7(5) | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|---|---|---|---|
| 202 | 5. In specifying the measures under paragraph 2, the Commission shall ensure that the measures are effective in achieving the objectives of the relevant obligation and proportionate in the specific circumstances of the gatekeeper and the relevant service. | 5. In specifying the measures under paragraph 2, the Commission shall ensure that the measures are effective in achieving the objectives of the relevant obligation and proportionate in the specific circumstances of the gatekeeper and the relevant service. | 5. In specifying the measures under paragraph 2, the Commission shall ensure that the measures are effective in achieving the objectives of the relevant obligation and proportionate in the specific circumstances of the gatekeeper and the relevant service. | 5. In specifying the measures under paragraph 2, the Commission shall ensure that the measures are effective in achieving the objectives of <i>this Regulation and</i> the relevant obligation and proportionate in the specific circumstances of the gatekeeper and the relevant service. Text Origin: Commission Proposal |
| Article 7(6) | | | | |
| 203 | 6. For the purposes of specifying the obligations under Article 6(1) points (j) and (k), the Commission shall also assess whether the intended or implemented measures ensure that there is no remaining imbalance of rights and obligations on business users and that the measures do not themselves confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users. | 6. For the purposes of specifying the obligations under Article 6(1) points (j) and (k), the Commission shall also assess whether the intended or implemented measures ensure that there is no remaining imbalance of rights and obligations on business users and that the measures do not themselves confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users. | 6. For the purposes of specifying the obligations under Article 6(1) points (j) and (k), the Commission shall also assess whether the intended or implemented measures ensure that there is no remaining imbalance of rights and obligations on business users and that the measures do not themselves confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users. | 6. For the purposes of specifying the obligations under Article 6(1) points (j) and (k), the Commission shall also assess whether the intended or implemented measures ensure that there is no remaining imbalance of rights and obligations on business users and that the measures do not themselves confer an advantage on the gatekeeper which is disproportionate to the service provided by the gatekeeper to business users. Text Origin: Commission Proposal |
| Article 7(6a) | | | | |
| 203a | | | | <i>6a. The Commission may, upon request or on its own initiative,</i> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--------------|---|--|-----------------|--|
| | | | | <p><u>reopen proceedings carried out pursuant to paragraph 2 where:</u> <u>(a) there has been a material change in any of the facts on which the decision was based; or</u> <u>(b) the decision was based on incomplete, incorrect or misleading information; or</u> <u>(c) the measures as specified in the decision are not effective.</u></p> |
| Article 7(7) | | | | |
| 204 | <p>7. A gatekeeper may request the opening of proceedings pursuant to Article 18 for the Commission to determine whether the measures that the gatekeeper intends to implement or has implemented under Article 6 are effective in achieving the objective of the relevant obligation in the specific circumstances. A gatekeeper may, with its request, provide a reasoned submission to explain in particular why the measures that it intends to implement or has implemented are effective in achieving the objective of the relevant obligation in the specific circumstances.</p> | <p>7. A gatekeeper may request <u>within the implementation deadline of Article 3 (8)</u> the opening of proceedings pursuant to Article 18 for the Commission to determine whether the measures that the gatekeeper intends to implement or has implemented under Article 6 are effective in achieving the objective of the relevant obligation in the specific circumstances. A gatekeeper may, with its request, <u>In its request, the gatekeeper shall</u> provide a reasoned submission to explain in particular why the measures that it intends to implement or has implemented are effective in achieving the objective of the relevant obligation in the specific circumstances. <u>The Commission shall adopt its decision within six months from the opening of proceedings pursuant to Article 18.</u></p> | deleted | <p>7. A gatekeeper may request the opening of proceedings pursuant to Article 18 for the Commission to determine whether the measures that the gatekeeper intends to implement or has implemented under Article 6 are effective in achieving the objective of the relevant obligation in the specific circumstances. A gatekeeper may, with its request, provide a reasoned submission to explain in particular why the measures that it intends to implement or has implemented are effective in achieving the objective of the relevant obligation in the specific circumstances. (deleted)</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--------------|--|--|---|---|
| Article 8 | | | | |
| 205 | Article 8 Suspension | Article 8 Suspension | Article 8 Suspension | Article 8 Suspension Text Origin: Commission Proposal |
| Article 8(1) | | | | |
| 206 | <p>1. The Commission may, on a reasoned request by the gatekeeper, exceptionally suspend, in whole or in part, a specific obligation laid down in Articles 5 and 6 for a core platform service by decision adopted in accordance with the advisory procedure referred to in Article 32(4), where the gatekeeper demonstrates that compliance with that specific obligation would endanger, due to exceptional circumstances beyond the control of the gatekeeper, the economic viability of the operation of the gatekeeper in the Union, and only to the extent necessary to address such threat to its viability. The Commission shall aim to adopt the suspension decision without delay and at the latest 3 months following receipt of a complete reasoned request.</p> | <p>1. The Commission may, on a reasoned request by the gatekeeper, exceptionally suspend, <u>on an exceptional basis</u>, in whole or in part, a specific obligation laid down in Articles 5 and 6 for a core platform service by <u>service by</u> decision adopted in accordance with the advisory procedure referred to in Article 32(4), where the gatekeeper demonstrates that compliance with that specific obligation would endanger, due to exceptional circumstances beyond the control of the gatekeeper, the economic viability of the operation of the gatekeeper in the Union, and only to the extent necessary to address such threat to its viability. The Commission shall aim to adopt the suspension decision without delay and at the latest 3 <u>within three</u> months following <u>after</u> receipt of a complete reasoned request. <u>The</u></p> | <p>1. The Commission may, <u>acting</u> on a reasoned request by the gatekeeper, exceptionally suspend, in whole or in part, a specific obligation laid down in Articles 5 and 6 for a core platform service <u>identified pursuant to Article 3(7)</u> by decision adopted in accordance with the advisory procedure referred to in Article 32(4) <u>37a(2)</u>, where the gatekeeper demonstrates that compliance with that specific obligation would endanger, due to exceptional circumstances beyond the control of the gatekeeper, the economic viability of the operation of the gatekeeper in the Union, and only to the extent <u>and duration</u> necessary to address such threat to its viability. <u>In its suspension decision the Commission can specify intervals of less than one year at which the decision shall be reviewed in accordance with</u></p> | <p>1. The Commission may, <u>acting</u> on a reasoned request by the gatekeeper, exceptionally suspend, in whole or in part, a specific obligation laid down in Articles 5, <u>6 and 6a</u> and 6 for a core platform service <u>identified in the designation decision pursuant to Article 3(7) by substantiated</u> by decision adopted in accordance with the advisory procedure referred to in Article 32(4) <u>[...]</u>, where the gatekeeper demonstrates that compliance with that specific obligation would endanger, due to exceptional circumstances beyond the control of the gatekeeper, the economic viability of the operation of the gatekeeper in the Union, and only to the extent <u>and duration</u> necessary to address such threat to its viability. <u>In its suspension decision, the Commission shall identify the exceptional circumstances</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------------|--|---|---|---|
| | | <u>suspension decision shall be accompanied by a reasoned statement explaining the grounds for the suspension.</u> | <u>paragraph 2.</u> The Commission shall aim to adopt the suspension decision without delay and at the latest 3 months following receipt of a complete reasoned request. | <u>justifying the suspension.</u> The Commission shall aim to adopt the suspension decision without delay and at the latest 3 months following receipt of a complete reasoned request. Text Origin: Council Mandate |
| Article 8(2) | | | | |
| 207 | 2. Where the suspension is granted pursuant to paragraph 1, the Commission shall review its suspension decision every year. Following such a review the Commission shall either lift the suspension or decide that the conditions of paragraph 1 continue to be met. | 2. Where the suspension is granted pursuant to paragraph 1, the Commission shall review its suspension decision every year. Following such a review the Commission shall either <u>wholly or partly</u> lift the suspension or decide that the conditions of paragraph 1 continue to be met. | 2. Where the suspension is granted pursuant to paragraph 1, the Commission shall review its suspension decision <u>at least</u> every year. Following such a review the Commission shall either <u>wholly or partially</u> lift the suspension or decide that the conditions of paragraph 1 continue to be met. | 2. Where the suspension is granted pursuant to paragraph 1, the Commission shall review its suspension decision every year <u>unless a shorter interval is specified in the decision</u> . Following such a review the Commission shall either <u>wholly or partly</u> lift the suspension or decide that the conditions of paragraph 1 continue to be met. Text Origin: EP Mandate |
| Article 8(3), introductory part | | | | |
| 208 | 3. The Commission may, acting on a reasoned request by a gatekeeper, provisionally suspend the application of the relevant obligation to one or more individual core platform services already prior to the decision pursuant to paragraph 1. | 3. <u>In cases of urgency</u> , the Commission may, acting on a reasoned request by a gatekeeper, provisionally suspend the application of the relevant obligation to one or more individual core platform services already prior to the decision pursuant to paragraph 1. | 3. <u>In cases of urgency</u> , the Commission may, acting on a reasoned request by a gatekeeper, provisionally suspend the application of the relevant obligation to one or more individual core platform services already prior to the decision pursuant to paragraph 1. | 3. <u>In cases of urgency</u> , the Commission may, acting on a reasoned request by a gatekeeper, provisionally suspend the application of the relevant obligation to one or more individual core platform services already prior to the decision pursuant to paragraph 1. Text Origin: EP Mandate |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------------------------|--|--|--|---|
| Article 8(3), first paragraph | | | | |
| 209 | In assessing the request, the Commission shall take into account, in particular, the impact of the compliance with the specific obligation on the economic viability of the operation of the gatekeeper in the Union as well as on third parties. The suspension may be made subject to conditions and obligations to be defined by the Commission in order to ensure a fair balance between these interests and the objectives of this Regulation. Such a request may be made and granted at any time pending the assessment of the Commission pursuant to paragraph 1. | In assessing the request, the Commission shall take into account, in particular, the impact of the compliance with the specific obligation on the economic viability of the operation of the gatekeeper in the Union as well as on third parties, <u>in particular smaller business users and consumers</u> . The suspension may be made subject to conditions and obligations to be defined by the Commission in order to ensure a fair balance between these interests and the objectives of this Regulation. Such a request may be made and granted at any time pending the assessment of the Commission pursuant to paragraph 1. | In assessing the request, the Commission shall take into account, in particular, the impact of the compliance with the specific obligation on the economic viability of the operation of the gatekeeper in the Union as well as on third parties. The suspension may be made subject to conditions and obligations to be defined by the Commission in order to ensure a fair balance between these interests and the objectives of this Regulation. Such a request may be made and granted at any time pending the assessment of the Commission pursuant to paragraph 1. | In assessing the request, the Commission shall take into account, in particular, the impact of the compliance with the specific obligation on the economic viability of the operation of the gatekeeper in the Union as well as on third parties, <u>in particular SMEs and consumers</u> . The suspension may be made subject to conditions and obligations to be defined by the Commission in order to ensure a fair balance between these interests and the objectives of this Regulation. Such a request may be made and granted at any time pending the assessment of the Commission pursuant to paragraph 1. Text Origin: EP Mandate |
| Article 9 | | | | |
| 210 | Article 9 Exemption for overriding reasons of public interest | Article 9 Exemption for overriding reasons <u>of on grounds of public morality, public health or public interest security</u> | Article 9 Exemption for overriding reasons on <u>grounds</u> of public interest <u>health and public security</u> | Article 9 Exemption for overriding reasons of public interest Text Origin: Commission Proposal |
| Article 9(1) | | | | |
| 211 | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|--|--|--|--|
| | <p>1. The Commission may, acting on a reasoned request by a gatekeeper or on its own initiative, by decision adopted in accordance with the advisory procedure referred to in Article 32(4), exempt it, in whole or in part, from a specific obligation laid down in Articles 5 and 6 in relation to an individual core platform service identified pursuant to Article 3(7), where such exemption is justified on the grounds set out in paragraph 2 of this Article. The Commission shall adopt the exemption decision at the latest 3 months after receiving a complete reasoned request.</p> | <p>1. The Commission may, acting on a reasoned request by a gatekeeper or on its own initiative, by decision adopted in accordance with the advisory procedure referred to in Article 32(4), exempt it, in whole or in part, from a specific obligation laid down in Articles 5 and 6 in relation to an individual core platform service identified pursuant to Article 3(7), where such exemption is justified on the grounds set out in paragraph 2 of this Article. The Commission shall adopt the exemption decision at the latest 3three months after receiving a complete reasoned request. <u>Such decision shall be accompanied by a reasoned statement explaining the grounds for the exemption.</u></p> | <p>1. The Commission may, acting on a reasoned request by a gatekeeper or on its own initiative, by decision adopted in accordance with the advisory procedure referred to in Article 32(4)37a(2), exempt it, in whole or in part, from a specific obligation laid down in Articles 5 and 6 in relation to an individual core platform service identified pursuant to Article 3(7), where such exemption is justified on the grounds set out in paragraph 2 of this Article. The Commission shall adopt the exemption decision <u>without delay and</u> at the latest 3 months after receiving a complete reasoned request.</p> | <p>1. The Commission may, acting on a reasoned request by a gatekeeper or on its own initiative, by decision adopted in accordance with the advisory procedure referred to in Article 32(4)[...], exempt it, in whole or in part, from a specific obligation laid down in Articles 5, <u>6 and 6a and 6</u> in relation to an individual core platform service identified pursuant to Article 3(7), where such exemption is justified on the grounds set out in paragraph 2 of this Article. The Commission shall adopt the exemption decision at the latest 3three months after receiving a complete reasoned request. <u>Such decision shall be accompanied by a reasoned statement explaining the grounds for the exemption.</u></p> <p>Text Origin: EP Mandate</p> |
| Article 9(1a) | | | | |
| 211a | | <p><u>1a. Where the exemption is granted pursuant to paragraph 1, the Commission shall review its exemption decision every year. Following such a review the Commission shall either wholly or partially lift the exemption or decide that the conditions of paragraph 1 continue to be met.</u></p> | | <p>See compromise in row 211 b</p> |
| Article 9(1a) | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------------|--|--|--|--|
| 211b | | | <u><i>1a. Where an exemption is granted pursuant to paragraph 1, the Commission shall review its exemption decision if the ground for the exemption no longer exists or at least every year. Following such a review the Commission shall either wholly or partially lift the exemption or decide that the conditions of paragraph 1 continue to be met.</i></u> | <u><i>1b. Where an exemption is granted pursuant to paragraph 1, the Commission shall review its exemption decision if the ground for the exemption no longer exists or at least every year. Following such a review the Commission shall either wholly or partially lift the exemption or decide that the conditions of paragraph 1 continue to be met.</i></u> Text Origin: Council Mandate |
| Article 9(2), introductory part | | | | |
| 212 | 2. An exemption pursuant to paragraph 1 may only be granted on grounds of: | 2. An exemption pursuant to paragraph 1 may only be granted on grounds of: | 2. An exemption pursuant to paragraph 1 may only be granted on grounds of: | 2. An exemption pursuant to paragraph 1 may only be granted on grounds of: Text Origin: Council Mandate |
| Article 9(2), point (a) | | | | |
| 213 | (a) public morality; | (a) public morality; | <i>deleted</i> | (a) public morality; <u>(deleted)</u> |
| Article 9(2), point (b) | | | | |
| 214 | (b) public health; | (b) public health; | (b) public health; | (b) public health; Text Origin: Commission Proposal |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------------|--|--|--|--|
| Article 9(2), point (c) | | | | |
| 215 | (c) public security. | (c) public security. | (c) public security. | (c) public security. Text Origin: Commission Proposal |
| Article 9(3), introductory part | | | | |
| 216 | 3. The Commission may, acting on a reasoned request by a gatekeeper or on its own initiative, provisionally suspend the application of the relevant obligation to one or more individual core platform services already prior to the decision pursuant to paragraph 1. | 3. <i>In cases of urgency</i> , the Commission may, acting on a reasoned request by a gatekeeper or on its own initiative, provisionally suspend the application of the relevant obligation to one or more individual core platform services already prior to the decision pursuant to paragraph 1. | 3. <i>In cases of urgency</i> , the Commission may, acting on a reasoned request by a gatekeeper or on its own initiative, provisionally suspend the application of the relevant obligation to one or more individual core platform services already prior to the decision pursuant to paragraph 1. | 3. <i>In cases of urgency</i> , the Commission may, acting on a reasoned request by a gatekeeper or on its own initiative, provisionally suspend the application of the relevant obligation to one or more individual core platform services already prior to the decision pursuant to paragraph 1. Text Origin: EP Mandate |
| Article 9(3), first paragraph | | | | |
| 217 | In assessing the request, the Commission shall take into account, in particular, the impact of the compliance with the specific obligation on the grounds in paragraph 2 as well as the effects on the gatekeeper concerned and on third parties. The suspension may be made subject to conditions and obligations to be defined by the Commission in order to ensure a fair balance between the goals pursued by the grounds in paragraph 2 and | In assessing the request, the Commission shall take into account, in particular, the impact of the compliance with the specific obligation on the grounds in paragraph 2 as well as the effects on the gatekeeper concerned and on third parties. The suspension may be made subject to conditions and obligations to be defined by the Commission in order to ensure a fair balance between the goals pursued by the grounds in paragraph 2 and | In assessing the request, the Commission shall take into account, in particular, the impact of the compliance with the specific obligation on the grounds in paragraph 2 as well as the effects on the gatekeeper concerned and on third parties. The suspension may be made subject to conditions and obligations to be defined by the Commission in order to ensure a fair balance between the goals pursued by the grounds in paragraph 2 and | In assessing the request, the Commission shall take into account, in particular, the impact of the compliance with the specific obligation on the grounds in paragraph 2 as well as the effects on the gatekeeper concerned and on third parties. The suspension may be made subject to conditions and obligations to be defined by the Commission in order to ensure a fair balance between the goals pursued by the grounds in paragraph 2 and |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|---|---|--|--|
| | the objectives of this Regulation. Such a request may be made and granted at any time pending the assessment of the Commission pursuant to paragraph 1. | the objectives of this Regulation. Such a request may be made and granted at any time pending the assessment of the Commission pursuant to paragraph 1. | the objectives of this Regulation. Such a request may be made and granted at any time pending the assessment of the Commission pursuant to paragraph 1. | the objectives of this Regulation. Such a request may be made and granted at any time pending the assessment of the Commission pursuant to paragraph 1. Text Origin: Commission Proposal |
| Article 9a | | | | |
| 217a | | | <u>Article 9a Reporting</u> | <u>Article 9a Reporting</u> Text Origin: Council Mandate |
| Article 9a(1) | | | | |
| 217b | | | <u>1. Within six months after its designation pursuant to Article 3, and in application of Article 3(8), the gatekeeper shall provide the Commission with a report describing in a detailed and transparent manner the measures it has implemented, to ensure compliance with the obligations laid down in Articles 5 and 6. This report shall be updated at least annually.</u> | <u>1. Within six months after its designation pursuant to Article 3, and in application of Article 3(8), the gatekeeper shall provide the Commission with a report describing in a detailed and transparent manner the measures it has implemented, to ensure compliance with the obligations laid down in Articles 5, 6 and 6a.</u> See rows 198 a and b |
| Article 9a(2) | | | | |
| 217c | | | <u>2. Within six months after its designation pursuant to Article 3,</u> | <u>2. Within six months after its designation pursuant to Article 3,</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------------------------|--|--|---|--|
| | | | <i>the gatekeeper shall publish and provide the Commission with a non-confidential summary of the report referred to in paragraph 1 of this Article. The Commission shall publish without delay the non-confidential summary of the report. This non-confidential summary shall be updated once the report referred to in paragraph 1 of this Article is updated.</i> | <i>the gatekeeper shall also publish and provide the Commission along with the report pursuant to paragraph 1 with a non-confidential summary of this report. The report referred to in paragraph 1 of this Article and the non-confidential summary shall be updated together at least annually. The Commission shall make a link to the non-confidential summary of the report available on its website.</i> See rows 198 a and b |
| Article 10 | | | | |
| 218 | Article 10 Updating obligations for gatekeepers | Article 10 Updating obligations for gatekeepers | Article 10 Updating obligations for gatekeepers | Article 10 Updating obligations for gatekeepers Text Origin: Commission Proposal |
| Article 10(1), introductory part | | | | |
| 219 | 1. The Commission is empowered to adopt delegated acts in accordance with Article 34 to update the obligations laid down in Articles 5 and 6 where, based on a market investigation pursuant to Article 17, it has identified the need for new obligations addressing practices that limit the contestability of core platform services or are unfair in the same way as the practices addressed | 1. The Commission is empowered to adopt delegated acts in accordance with Article 34 to update the obligations laid down in 37 <u>amending</u> Articles 5 and 6 <u>by adding obligations</u> where, based on a market investigation pursuant to Article 17, it has identified the need for new obligations addressing <u>that this is needed in order to address</u> practices that limit the contestability | 1. The Commission is empowered to adopt delegated acts in accordance with Article 34 to update the 37 <u>to supplement the existing</u> obligations laid down in Articles 5 and 6. <u>This supplementing of the existing obligations shall be</u> where, based on a market investigation pursuant to Article 17, it <u>which</u> has identified the need for new <u>to update those</u> obligations addressing <u>to</u> | 1. The Commission is empowered to adopt delegated acts in accordance with Article 34 to update 37 <u>to supplement</u> the obligations laid down in Articles 5 and 6. <u>This supplementing of the obligations shall be</u> where, based on a market investigation pursuant to Article 17, it <u>which</u> has identified the need for new <u>to keep those</u> obligations addressing <u>up to date to</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-----------------------------------|---|---|---|---|
| | by the obligations laid down in Articles 5 and 6. | of core platform services or are unfair in the same way as the practices addressed by the obligations laid down in Articles 5 and 6. <u>Those delegated acts may only add new obligations to those listed under Articles 5 and 6.</u> | <u>address</u> practices that limit the contestability of core platform services or <u>that</u> are unfair in the same way as the practices addressed by the obligations laid down in Articles 5 and 6. | <u>address</u> practices that limit the contestability of core platform services or <u>that</u> are unfair in the same way as the practices addressed by the obligations laid down in Articles 5 and 6. Text Origin: Council Mandate |
| Article 10(1a) | | | | |
| 219a | | <u>1a. The Commission is empowered to adopt delegated acts in accordance with Article 37 supplementing this Regulation in respect of the obligations laid down in Article 5 and 6. Those delegated acts shall provide for only the following:</u> <u>(a) the extent to which an obligation applies to certain core platform services;</u> <u>(b) the extent to which an obligation applies only to a subset of business users or end users; or</u> <u>(c) how the obligations shall be performed in order to ensure the effectiveness of those obligations</u> | | |
| Article 10(1a), introductory part | | | | |
| 219b | | | <u>1a. The scope of a delegated act adopted in accordance with the first subparagraph shall be limited to:</u> | <u>1a. The scope of a delegated act adopted in accordance with the first subparagraph shall be limited to:</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------|---------------------|------------|---|---|
| | | | | Text Origin: Council Mandate |
| Article 10(1a), point (a) | | | | |
| 6 | 219c | | <u>(a) extending an obligation that applies only in relation to certain core platform services, to other core platform services listed in Article 2 point (2);</u> | <u>(a) extending an obligation that applies only in relation to certain core platform services, to other core platform services listed in Article 2 point (2);</u> Text Origin: Council Mandate |
| Article 10(1a), point (b) | | | | |
| 6 | 219d | | <u>(b) extending an obligation that benefits a certain subset of business users or end users so that it benefits other subsets of business users or end users;</u> | <u>(b) extending an obligation that benefits a certain subset of business users or end users so that it benefits other subsets of business users or end users;</u> Text Origin: Council Mandate |
| Article 10(1a), point (c) | | | | |
| 6 | 219e | | <u>(c) specifying the manner in which the obligations of gatekeepers under Articles 5 and 6 are to be performed in order to ensure effective compliance with those obligations;</u> | <u>(c) specifying the manner in which the obligations of gatekeepers under Articles 5 and 6 are to be performed in order to ensure effective compliance with those obligations;</u> Text Origin: Council Mandate |
| Article 10(1a), point (d) | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------|---------------------|------------|--|---|
| g | 219f | | <u>(d) extending an obligation that applies only in relation to certain ancillary services to apply in relation to other ancillary services;</u> | <u>(d) extending an obligation that applies only in relation to certain services provided together with or in support of core platform services to other services provided together with or in support of core platform services;</u> Text Origin: Council Mandate |
| Article 10(1a), point (e) | | | | |
| g | 219g | | <u>(e) extending an obligation that applies only in relation to certain types of data to apply in relation to other types of data;</u> | <u>(e) extending an obligation that applies only in relation to certain types of data to apply in relation to other types of data;</u> Text Origin: Council Mandate |
| Article 10(1a), point (f) | | | | |
| g | 219h | | <u>(f) adding further conditions where an obligation imposes certain conditions on the behaviour of a gatekeeper; or</u> | <u>(f) adding further conditions where an obligation imposes certain conditions on the behaviour of a gatekeeper; or</u> Text Origin: Council Mandate |
| Article 10(1a), point (g) | | | | |
| g | 219i | | <u>(g) applying an obligation that governs the relation between several core platform services of the gatekeeper to the relation between a</u> | <u>(g) applying an obligation that governs the relation between several core platform services of the gatekeeper to the relation between a</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-----------------------------------|---------------------|------------|--|---|
| | | | <u>core platform service and other services of the gatekeeper.</u> | <u>core platform service and other services of the gatekeeper.</u> Text Origin: Council Mandate |
| Article 10(1b), point (h) | | | | |
| 219j | | | | <u>1b. The Commission is empowered to adopt delegated acts in accordance with Article 37 to amend, the list of basic functionalities identified in paragraphs (2), (3) and (4) of Article 6a by adding or removing functionalities of number-independent interpersonal communication services. This amending shall be based on a market investigation pursuant to Article 17, which has identified the need to keep those obligations up to date to address practices that limit the contestability of core platform services or that are unfair.</u> |
| Article 10(1c), introductory part | | | | |
| 219k | | | | <u>1c. The Commission is also empowered to adopt delegated acts to supplement the obligations in Article 6a by specifying the manner in which those obligations are to be performed in order to ensure effective compliance with those obligations.</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---|---------------------------|------------|-----------------|---|
| | | | | <u><i>This supplementing shall be based on a market investigation pursuant to Article 17, which has identified the need to specify the manner in which those obligations are to be performed to keep them up to date to address practices that limit the contestability of core platform services or that are unfair.</i></u> |
| | Article 10(1c), point (a) | | | |
| G | 219l | | | G |
| | Article 10(1c), point (b) | | | |
| G | 219m | | | G |
| | Article 10(1c), point (c) | | | |
| G | 219n | | | G |
| | Article 10(1c), point (d) | | | |
| G | 219o | | | G |
| | Article 10(1c), point (e) | | | |
| G | 219p | | | G |
| | Article 10(1c), point (f) | | | |
| G | 219q | | | G |
| | Article 10(1c), point (g) | | | |
| G | 219r | | | G |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---|--|---|---|--|
| | Article 10(1c), point (h) | | | |
| G | 219s | | | G |
| | Article 10(1d), introductory part | | | |
| G | 219t | | | G |
| | Article 10(1d), point (a) | | | |
| G | 219u | | | G |
| | Article 10(1d), point (b), introductory part | | | |
| G | 219v | | | G |
| | Article 10(1d), point (b)(1) | | | |
| G | 219w | | | G |
| | Article 10(1d), point (b)(2) | | | |
| G | 219x | | | G |
| | Article 10(2), introductory part | | | |
| G | 220 | 2. A practice within the meaning of paragraph 1 shall be considered to be unfair or limit the contestability of core platform services where: | 2. A practice within the meaning of <i>of</i> <u>as referred to in</u> paragraph 1 shall be considered to be unfair or <u>to</u> limit the contestability of core platform services where: | 2. A practice within the meaning of <i>of</i> <u>as referred to in</u> paragraph 1, <u>1b</u> <u>and 1c</u> shall be considered to be unfair or <u>to</u> limit the contestability of core platform services where: Text Origin: Council Mandate |
| | Article 10(2), point (a) | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-----------------------------|---|--|--|--|
| 221 | (a) there is an imbalance of rights and obligations on business users and the gatekeeper is obtaining an advantage from business users that is disproportionate to the service provided by the gatekeeper to business users; or | (a) there is an imbalance of rights and obligations on business users and the gatekeeper is obtaining an advantage from business users that is disproportionate to the service provided by the gatekeeper to business users <u>or end users</u> ; or | (a) there is an imbalance of <u>between</u> the rights and obligations on <u>of</u> business users and the gatekeeper is obtaining <u>obtains</u> an advantage from business users that is disproportionate to the service provided by the <u>that</u> gatekeeper to those business users; or | (a) there is an imbalance of <u>between</u> the rights and obligations on <u>of</u> business users and the gatekeeper is obtaining <u>obtains</u> an advantage from business users that is disproportionate to the service provided by the <u>that</u> gatekeeper to those business users; or Text Origin: Council Mandate |
| Article 10(2), point (b) | | | | |
| 222 | (b) the contestability of markets is weakened as a consequence of such a practice engaged in by gatekeepers. | (b) the contestability of markets is weakened as a consequence of such a practice engaged in by gatekeepers. | (b) the contestability of markets is weakened as a consequence of such a practice engaged in by gatekeepers <u>it is engaged in by gatekeepers and is capable of impeding innovation and limiting choice for business users and end users because it:</u> | (b) the contestability of markets is weakened as a consequence of such a practice engaged in by gatekeepers <u>it is engaged in by gatekeepers and is capable of impeding innovation and limiting choice for business users and end users because it:</u> Text Origin: Council Mandate |
| Article 10(2), point (b)(1) | | | | |
| 222a | | | <u>(1) affects or risks affecting the contestability of a core platform service or other services in the digital sector on a lasting basis due to the creation or strengthening of barriers for other undertakings to enter or expand as suppliers of a core platform service or other services in the digital sector; or</u> | <u>(1) affects or risks affecting the contestability of a core platform service or other services in the digital sector on a lasting basis due to the creation or strengthening of barriers for other undertakings to enter or expand as suppliers of a core platform service or other services in the digital sector; or</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-----------------------------|---------------------|---|---|---|
| | | | | Text Origin: Council Mandate |
| Article 10(2), point (b)(2) | | | | |
| 222b | | | <u>(2) prevents other operators from having the same access to a key input as the gatekeeper.</u> | <u>(2) prevents other operators from having the same access to a key input as the gatekeeper.</u> Text Origin: Council Mandate |
| Article 10(2a) | | | | |
| 222c | | <u>2a. In relation to the obligation laid down in article 6(1) fb, the Commission shall adopt by ... [18 months after the entry into force of this Regulation] a delegated act in accordance with Article 37 supplementing this Regulation by defining the appropriate scope and features for the interconnection of the gatekeepers online social networking services as well as standards or technical specifications of such interconnection. Such standards or technical specifications shall ensure high level of security and protection of personal data. When developing standards or technical specifications the Commission may consult standardisation bodies or other relevant stakeholders as foreseen in the in Regulation (EU) No 1025/2012.</u> | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-----------------|----------------------------------|---|---|---|
| Article 11 | | | | |
| 223 | Article 11 Anti-circumvention | Article 11 <u>Article 6a</u> Anti-circumvention | Article 11 Anti-circumvention | Article 11 <u>Article 7a</u> Anti-circumvention Text Origin: EP Mandate |
| Article 11(-1) | | | | |
| 223a | | | <u>-1. An undertaking providing core platform services shall not in any way segment, divide, subdivide, fragment or split these services through contractual, commercial, technical or any other means to circumvent the quantitative thresholds laid down in Article 3(2).</u> | <u>-1 An undertaking providing core platform services shall not in any way segment, divide, subdivide, fragment or split these services through contractual, commercial, technical or any other means to circumvent the quantitative thresholds laid down in Article 3(2). Any of such practice of the gatekeeper shall not prevent the Commission from designating an undertaking pursuant to Article 3 (4).</u> Text Origin: Council Mandate |
| Article 11(-1a) | | | | |
| 223b | | | <u>-1a. The Commission may, when suspecting that undertaking providing core platform services engaged in practice laid down in paragraph 1, require such undertaking for any information</u> | <u>-1a. The Commission may, when suspecting that an undertaking providing core platform services engaged in a practice laid down in paragraph -1, require from the undertaking any information that it</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|--|---|---|---|
| | | | <u>that it deems necessary to determine whether the undertaking concerned engaged in fragmentation of core platform services as referred to in paragraph -1.</u> | <u>deems necessary to determine whether the undertaking concerned engaged in such a practice.</u> |
| Article 11(1) | | | | |
| 224 | 1. A gatekeeper shall ensure that the obligations of Articles 5 and 6 are fully and effectively complied with. While the obligations of Articles 5 and 6 apply in respect of core platform services designated pursuant to Article 3, their implementation shall not be undermined by any behaviour of the undertaking to which the gatekeeper belongs, regardless of whether this behaviour is of a contractual, commercial, technical or any other nature. | 1. A gatekeeper shall ensure that the obligations of Articles 5 and 6 are fully and effectively complied with. While the obligations of Articles 5 and 6 apply in respect of core platform services designated pursuant to Article 3, their implementation shall not be undermined by any behaviour of the undertaking to which the gatekeeper belongs, regardless of whether this behaviour is of a contractual, commercial, technical or any other nature. | 1. A gatekeeper shall ensure that the obligations of Articles 5 and 6 are fully and effectively complied with. While the obligations of Articles 5 and 6 apply in respect of core platform services designated <u>listed</u> pursuant to Article 3 <u>3(7)</u> , their implementation shall not be undermined by any behaviour of the undertaking to which the gatekeeper belongs <u>gatekeeper, including the use of behavioural techniques or interface design that would undermine the effectiveness of Articles 5 and 6</u> , regardless of whether this behaviour is of a contractual, commercial, technical or any other nature. | 1. A gatekeeper shall ensure that the obligations of Articles 5, <u>6 and 6a</u> and 6 are fully and effectively complied with. While the obligations of Articles 5 and 6 apply in respect of core platform services designated pursuant to Article 3, their implementation shall not be undermined by any behaviour of the undertaking to which the gatekeeper belongs, regardless of whether this behaviour is of a contractual, commercial, technical or any other nature. |
| Article 11(1a) | | | | |
| 224a | | <u>1a. While the obligations of Articles 5 and 6 apply in respect of core platform services designated pursuant to Article 3, a gatekeeper, including any undertaking to which the gatekeeper belongs, shall not</u> | | <u>1a. While the obligations of Articles 5, 6 and 6a apply in respect of core platform services listed pursuant to Article 3(7), their effective implementation shall not be undermined by any behaviour by</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---|--|---|---|
| | | <u>engage in any behaviour regardless of whether is of a contractual, commercial, technical or any other nature, that, while formally, conceptually or technically distinct to a behaviour prohibited pursuant to Articles 5 and 6, is capable in practice of having an equivalent object or effect.</u> | | <u>the gatekeeper regardless of whether this behaviour is of a contractual, commercial, technical or any other nature, including the use of behavioural techniques or interface design.</u> |
| Article 11(1b) | | | | |
| 224b | | <u>1b. The gatekeeper shall not engage in any behaviour discouraging interoperability by using technical protection measures, discriminatory terms of service, subjecting application programming interfaces to copyright or providing misleading information.</u> | | |
| Article 11(2) | | | | |
| 225 | 2. Where consent for collecting and processing of personal data is required to ensure compliance with this Regulation, a gatekeeper shall take the necessary steps to either enable business users to directly obtain the required consent to their processing, where required under Regulation (EU) 2016/679 and Directive 2002/58/EC, or to comply with Union data protection and | 2. Where consent for collecting, <u>processing and sharing</u> and processing of personal data is required to ensure compliance with this Regulation, a gatekeeper shall take the necessary steps <u>either</u> to either enable business users to directly obtain the required consent to their processing, where required <u>to do so</u> under Regulation (EU) 2016/679 and Directive 2002/58/EC, | 2. Where consent for collecting and processing of personal data is required to ensure compliance with this Regulation, a gatekeeper shall take the necessary steps to either enable business users to directly obtain the required consent to their processing, where required under Regulation (EU) 2016/679 and Directive 2002/58/EC, or to comply with Union data protection and | 2. Where consent for collecting, <u>processing, cross-using and sharing</u> and processing of personal data is required to ensure compliance with this Regulation, a gatekeeper shall take the necessary steps <u>either</u> to either enable business users to directly obtain the required consent to their processing, where required <u>to do so</u> under Regulation (EU) 2016/679 and Directive 2002/58/EC, |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---|---|---|---|
| | privacy rules and principles in other ways including by providing business users with duly anonymised data where appropriate. The gatekeeper shall not make the obtaining of this consent by the business user more burdensome than for its own services. | or to comply with Union data protection and privacy rules and principles in other ways including by providing business users with duly anonymised data where appropriate. <i>The gatekeeper shall not make the obtaining of this consent by the business user more burdensome than for its own services.</i> | privacy rules and principles in other ways including by providing business users with duly anonymised data where appropriate. The gatekeeper shall not make the obtaining of this consent by the business user more burdensome than for its own services. | or to comply with Union data protection and privacy rules and principles in other ways including by providing business users with duly anonymised data where appropriate. The gatekeeper shall not make the obtaining of this consent by the business user more burdensome than for its own services. |
| Article 11(3) | | | | |
| 226 | 3. A gatekeeper shall not degrade the conditions or quality of any of the core platform services provided to business users or end users who avail themselves of the rights or choices laid down in Articles 5 and 6, or make the exercise of those rights or choices unduly difficult. | 3. A gatekeeper shall not degrade the conditions or quality of any of the core platform services provided to business users or end users who avail themselves of the rights or choices laid down in Articles 5 and 6, or make the exercise of those rights or choices unduly difficult <u>including by offering choices to the end-user in a non-neutral manner, or by subverting user's autonomy, decision-making, or choice via the structure, design, function or manner of operation of a user interface or a part thereof.</u> | 3. A gatekeeper shall not degrade the conditions or quality of any of the core platform services provided to business users or end users who avail themselves of the rights or choices laid down in Articles 5 and 6, or make the exercise of those rights or choices unduly difficult. | 3. A gatekeeper shall not degrade the conditions or quality of any of the core platform services provided to business users or end users who avail themselves of the rights or choices laid down in Articles 5, <u>6 and 6a</u> and 6 , or make the exercise of those rights or choices unduly difficult, <u>including by offering choices to the end-user in a non-neutral manner, or by subverting end users and business user's autonomy, decision-making, or free choice via the structure, design, function or manner of operation of a user interface or a part thereof.</u> |
| Article 11(3a) | | | | |
| 226a | | | <u>3a. Where a gatekeeper circumvents or attempts to circumvent any of the obligations in Article 5 or 6 in a manner described</u> | <u>3a. Where a gatekeeper circumvents or attempts to circumvent any of the obligations in Article 5, 6 or 6a in a manner</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------------------------|---|---|--|--|
| | | | <u>in paragraphs 1 to 3 above, the Commission may open proceedings pursuant to Article 18 and adopt a decision pursuant to Article 7 specifying the measures that the gatekeeper concerned shall implement.</u> | <u>described in paragraphs 1 to 3 above, the Commission may open proceedings pursuant to Article 18 and adopt a decision pursuant to Article 7 specifying the measures that the gatekeeper concerned shall implement.</u> |
| Article 11(3b) | | | | |
| 226b | | | <u>3b. Paragraph 3a is without prejudice to the powers of the Commission under Articles 25, 26 and 27.</u> | <u>3b. Paragraph 3a is without prejudice to the powers of the Commission under Articles 25, 26 and 27.</u> |
| Article 12 | | | | |
| 227 | Article 12 Obligation to inform about concentrations | Article 12 Obligation to inform about concentrations | Article 12 Obligation to inform about concentrations | Article 12 Obligation to inform about concentrations Text Origin: Commission Proposal |
| Article 12(1), introductory part | | | | |
| 228 | 1. A gatekeeper shall inform the Commission of any intended concentration within the meaning of Article 3 of Regulation (EC) No 139/2004 involving another provider of core platform services or of any other services provided in the digital sector irrespective of whether it is | 1. -A gatekeeper shall inform the Commission of any intended concentration within the meaning of Article 3 of Regulation (EC) No 139/2004 involving another provider of core platform services or of any other services provided in the digital sector irrespective of whether it is | 1. -A gatekeeper shall inform the Commission of any intended concentration within the meaning of Article 3 of Regulation (EC) No 139/2004 involving another provider of <u>gatekeeper, undertaking providing</u> core platform services or of any other services provided in the | 1. -A gatekeeper shall inform the Commission of any intended concentration within the meaning of Article 3 of Regulation (EC) No 139/2004, <u>where the merging entities or the target of concentration provide</u> involving another provider of core platform |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------------------------|---|---|--|---|
| | notifiable to a Union competition authority under Regulation (EC) No 139/2004 or to a competent national competition authority under national merger rules. | notifiable to a Union competition authority under Regulation (EC) No 139/2004 or to a competent national competition authority under national merger rules. | digital sector irrespective of whether it is notifiable to a Union competition authority under Regulation (EC) No 139/2004 or to a competent national competition authority under national merger rules. | services or of any other services provided in the digital sector <u>or enable the collection of data</u> , irrespective of whether it is notifiable to a Union competition authority under Regulation (EC) No 139/2004 or to a competent national competition authority under national merger rules. |
| Article 12(1), first paragraph | | | | |
| 229 | A gatekeeper shall inform the Commission of such a concentration prior to its implementation and following the conclusion of the agreement, the announcement of the public bid, or the acquisition of a controlling interest. | A gatekeeper shall inform the Commission of such a concentration prior to its implementation and following the conclusion of the agreement, the announcement of the public bid, or the acquisition of a controlling interest. | A gatekeeper shall inform the Commission of such a concentration <u>at least two months</u> prior to its implementation and following the conclusion of the agreement, the announcement of the public bid, or the acquisition of a controlling interest. | A gatekeeper shall inform the Commission of such a concentration prior to its implementation and following the conclusion of the agreement, the announcement of the public bid, or the acquisition of a controlling interest. |
| Article 12(1a) | | | | |
| 229a | | <u>1a. The Commission shall inform competent national authorities of such notifications.</u> | | See rows 231 b and c |
| Article 12(2), introductory part | | | | |
| 230 | 2. The notification pursuant to paragraph 1 shall at least describe for the acquisition targets their EEA and worldwide annual turnover, for any relevant core platform services | 2. The notification pursuant to paragraph 1 shall at least describe for the acquisition targets their EEA and worldwide annual turnover, for any relevant core platform services | 2. The notification <u>information provided by the gatekeeper</u> pursuant to paragraph 1 shall at least describe for the acquisition targets <u>the undertakings concerned by the</u> | 2. The notification <u>information provided by the gatekeeper</u> pursuant to paragraph 1 shall at least describe for the acquisition targets <u>the undertakings concerned by the</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--------------------------------|--|--|---|---|
| | their respective EEA annual turnover, their number of yearly active business users and the number of monthly active end users, as well as the rationale of the intended concentration. | their respective EEA annual turnover, their number of yearly active business users and the number of monthly active end users, as well as the rationale of the intended concentration. | <u>concentration</u> , their EEA and worldwide annual turnover, for any relevant core platform services their respective EEA annual turnover, their number of yearly active business users and the number of monthly active end users <u>their field of activity, including activities directly related to the concentration, the transaction value or an estimation thereof, a summary of the concentration, including its nature and rationale,</u> as well as the rationale <u>a list of the intended concentration</u> <u>Member States concerned by the operation.</u> | <u>concentration</u> , their EEA <u>Union</u> and worldwide annual turnover, for any relevant core platform services their respective EEA annual turnover, their number of yearly active business users and the number of monthly active end users <u>their field of activity, including activities directly related to the concentration, the transaction value or an estimation thereof, a summary of the concentration, including its nature and rationale,</u> as well as the rationale <u>a list of the intended concentration.</u> <u>Member States concerned by the operation</u> |
| Article 12(2), first paragraph | | | | |
| 230a | | | <u>The information provided by the gatekeeper shall also describe, for any relevant core platform services, their respective EEA annual turnover, their number of yearly active business users and the number of monthly active end users.</u> | <u>The information provided by the gatekeeper shall also describe, for any relevant core platform services, their respective Union annual turnover, their number of yearly active business users and the number of monthly active end users.</u> Text Origin: Council Mandate |
| Article 12(3) | | | | |
| 231 | 3. If, following any concentration as provided in paragraph 1, additional core platform services individually | 3. If, following any concentration as provided in paragraph 1, <u>it is demonstrated that</u> additional core | 3. If, following any concentration as provided in paragraph 1, additional core platform services individually | 3. If, following any concentration as provided in paragraph 1, additional core platform services individually |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---|--|---|--|
| | satisfy the thresholds in point (b) of Article 3(2), the gatekeeper concerned shall inform the Commission thereof within three months from the implementation of the concentration and provide the Commission with the information referred to in Article 3(2). | platform services individually satisfy the thresholds in point (b) of Article 3(2), the gatekeeper concerned shall inform the Commission thereof within three months from the implementation of the concentration and provide the Commission with the information referred to in Article 3(2). | satisfy the thresholds in point (b) of Article 3(2), the gatekeeper concerned shall inform the Commission thereof within three months from the implementation of the concentration and provide the Commission with the information referred to in Article 3(2). | satisfy the thresholds in point (b) of Article 3(2), the gatekeeper concerned shall inform the Commission thereof within three ^{two} months from the implementation of the concentration and provide the Commission with the information referred to in Article 3(2). Text Origin: Commission Proposal |
| Article 12(3a) | | | | |
| 231a | | <u>3a. The competent national authorities may use the information received under paragraph 1 to request the Commission to examine the concentration pursuant to Article 22 of Regulation (EC) No 139/2004.</u> | | <u>3a. The Commission shall inform the competent authorities of the Member States of any information received pursuant to paragraph 1 and publish annually the list of acquisitions of which it has been informed by gatekeepers pursuant to paragraph 1.</u> <u>The Commission shall take account of the legitimate interest of undertakings in the protection of their business secrets.</u> Text Origin: EP Mandate |
| Article 12(3a) | | | | |
| 231b | | | <u>3a. The Commission shall inform the Member States of any information received pursuant to paragraph 1 and publish a summary of the concentration,</u> | <u>3b. The competent authorities of the Member States may use the information received under paragraph 1 to request the Commission to examine the</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-----------------------------|--|--|--|--|
| | | | <u>specifying the parties to the concentration, their field of activity, the nature of the concentration and the list of the Member States concerned by the operation. The Commission shall take account of the legitimate interest of undertakings in the protection of their business secrets.</u> | <u>concentration pursuant to Article 22 of Regulation (EC) No 139/2004.</u> See rows 229 a and 231c |
| Article 12(3b) | | | | |
| 231c | | <u>3b. The Commission shall publish annually the list of acquisitions of which it has been informed by gatekeepers.</u> | | See rows 229 a and 231b |
| Article 13 | | | | |
| 232 | Article 13 Obligation of an audit | Article 13 Obligation of an audit | Article 13 Obligation of an audit | Article 13 Obligation of an audit Text Origin: Commission Proposal |
| Article 13, first paragraph | | | | |
| 233 | Within six months after its designation pursuant to Article 3, a gatekeeper shall submit to the Commission an independently audited description of any techniques for profiling of consumers that the gatekeeper | Within six months after its designation pursuant to Article 3, a gatekeeper shall submit to the Commission <u>and the High Level Group of Digital Regulators</u> an independently audited description of any techniques for profiling of | Within six months after its designation pursuant to Article 3, a gatekeeper shall submit to the Commission an independently audited description of any techniques for profiling of consumers <u>end users</u> that the | Within six months after its designation pursuant to Article 3, a gatekeeper shall submit to the Commission an independently audited description of any techniques for profiling of consumers that the gatekeeper |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------------------------|--|--|--|---|
| | applies to or across its core platform services identified pursuant to Article 3. This description shall be updated at least annually. | consumers that the gatekeeper applies to or across its core platform services identified pursuant to Article 3. This description shall be updated at least annually. <u>The Commission shall develop, in consultation with the EU Data Protection Supervisor, the European Data Protection Board, civil society and experts, the standards and procedure of the audit.</u> | gatekeeper applies to or across its core platform services identified pursuant to Article 3. This description shall be updated at least annually. | applies to or across its core platform services identified pursuant to Article 3. This <u>The Commission shall transmit the audited description to the European Data Protection Board.</u> <u>The Commission</u> shall be updated at least annually <u>empowered to adopt implementing acts in accordance to Article 36 (1) to develop the methodology and procedure of the audit.</u> |
| Article 13, first paragraph a | | | | |
| 233a | | <u>The gatekeeper shall make publicly available an overview of the audited description referred to in the first paragraph, taking into account the need to respect business secrecy.</u> | | <u>The gatekeeper shall make publicly available an overview of the audited description referred to in the first paragraph, taking into account the need to respect business secrets. The description and its publicly available overview shall be updated at least annually.</u> Text Origin: EP Mandate |
| Article 13, first paragraph a | | | | |
| 233b | | | <u>The gatekeeper makes publicly available an overview of the audited description taking into account possible limitations involving business secrets. The description and its publicly available overview</u> | See row 233a |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|--|--|--|---|
| | | | <u>shall be updated at least annually.</u> | |
| Chapter IV | | | | |
| 234 | Chapter IV Market investigation | Chapter IV Market investigation | Chapter IV Market investigation | Chapter IV Market investigation Text Origin: Commission Proposal |
| Article 14 | | | | |
| 235 | Article 14 Opening of a market investigation | Article 14 Opening of a market investigation | Article 14 Opening of a market investigation | Article 14 Opening of a market investigation Text Origin: Commission Proposal |
| Article 14(1) | | | | |
| 236 | 1. When the Commission intends to carry out a market investigation in view of the possible adoption of decisions pursuant to Articles 15, 16 and 17, it shall adopt a decision opening a market investigation. | 1. When the Commission intends to carry out a market investigation in view of the possible adoption of decisions pursuant to Articles 15, 16 and 17, it shall adopt a decision opening a market investigation. | 1. When the Commission intends to carry out a market investigation in view of the possible adoption of decisions pursuant to Articles 15, 16 and 17, it shall adopt a decision opening a market investigation. | 1. When the Commission intends to carry out a market investigation in view of the possible adoption of decisions pursuant to Articles 15, 16 and 17, it shall adopt a decision opening a market investigation. Text Origin: Commission Proposal |
| Article 14(1a) | | | | |
| 236a | | | <u>1a. The Commission may exercise its powers of investigation pursuant to this Regulation before opening a</u> | <u>1a. The Commission may exercise its powers of investigation pursuant to this Regulation before opening a</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------------------------|---|---|---|---|
| | | | <u>market investigation pursuant to paragraph 1.</u> | <u>market investigation pursuant to paragraph 1.</u> Text Origin: Council Mandate |
| Article 14(2), introductory part | | | | |
| 237 | 2. The opening decision shall specify: | 2. The opening decision shall specify: | 2. The opening decision shall specify: | 2. The opening decision shall specify: Text Origin: Commission Proposal |
| Article 14(2), point (a) | | | | |
| 238 | (a) the date of opening of the investigation; | (a) the date of opening of the investigation; | (a) the date of opening of the investigation; | (a) the date of opening of the investigation; Text Origin: Commission Proposal |
| Article 14(2), point (b) | | | | |
| 239 | (b) the description of the issue to which the investigation relates to; | (b) the description of the issue to which the investigation relates to; | (b) the description of the issue to which the investigation relates to; | (b) the description of the issue to which the investigation relates to; Text Origin: Commission Proposal |
| Article 14(2), point (c) | | | | |
| 240 | (c) the purpose of the investigation. | (c) the purpose of the investigation. | (c) the purpose of the investigation. | (c) the purpose of the investigation. Text Origin: Commission Proposal |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------------------------|---|---|--|--|
| Article 14(3), introductory part | | | | |
| 241 | 3. The Commission may reopen a market investigation that it has closed where: | 3. The Commission may reopen a market investigation that it has closed where: | 3. The Commission may reopen a market investigation that it has closed where: | 3. The Commission may reopen a market investigation that it has closed where: Text Origin: Commission Proposal |
| Article 14(3), point (a) | | | | |
| 242 | (a) there has been a material change in any of the facts on which the decision was based; | (a) there has been a material change in any of the facts on which the decision was based; <u>or</u> | (a) there has been a material change in any of the facts on which the decision was based; | (a) there has been a material change in any of the facts on which the decision was based; <u>or</u> Text Origin: EP Mandate |
| Article 14(3), point (b) | | | | |
| 243 | (b) the decision was based on incomplete, incorrect or misleading information provided by the undertakings concerned. | (b) the decision was based on incomplete, incorrect or misleading information provided by the undertakings concerned. | (b) the decision was based on incomplete, incorrect or misleading information provided by the undertakings concerned. | (b) the decision was based on incomplete, incorrect or misleading information provided by the undertakings concerned. Text Origin: Council Mandate |
| Article 14(3a) | | | | |
| 243a | | <u>3a. The Commission may also ask one or more competent national authorities to support its market investigation.</u> | | <u>3a. The Commission may also ask one or more competent national authorities to support its market investigation.</u> Text Origin: EP Mandate |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|---|---|--|--|
| Article 15 | | | | |
| 244 | Article 15 Market investigation for designating gatekeepers | Article 15 Market investigation for designating gatekeepers | Article 15 Market investigation for designating gatekeepers | Article 15 Market investigation for designating gatekeepers Text Origin: Commission Proposal |
| Article 15(1) | | | | |
| 245 | 1. The Commission may conduct a market investigation for the purpose of examining whether a provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6), or in order to identify core platform services for a gatekeeper pursuant to Article 3(7). It shall endeavour to conclude its investigation by adopting a decision in accordance with the advisory procedure referred to in Article 32(4) within twelve months from the opening of the market investigation. | 1. The Commission may conduct a market investigation for the purpose of examining whether a provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6), or in order to identify core platform services for a gatekeeper pursuant to Article 3(7). It shall endeavour to <u>The Commission shall</u> conclude its investigation by adopting a decision in accordance with the advisory procedure referred to in Article 32(4) within twelve months from the opening of the market investigation. | 1. The Commission may <u>on its own initiative</u> conduct a market investigation for the purpose of examining whether a provider of core platform services <u>an undertaking</u> should be designated as a gatekeeper pursuant to Article 3(6), or in order to identify core platform services for a gatekeeper pursuant to Article 3(7). It shall endeavour to conclude its investigation by adopting a decision <u>within twelve months from the opening of the market investigation</u> in accordance with the advisory procedure referred to in Article 32(4) within twelve months from the opening of the market investigation <u>37a(2)</u> . | 1. The Commission may conduct a market investigation for the purpose of examining whether a provider of core platform services <u>an undertaking</u> should be designated as a gatekeeper pursuant to Article 3(6), or in order to identify core platform services for a gatekeeper pursuant to Article 3(7). The Commission It shall endeavour to conclude its investigation by adopting a decision in accordance with the advisory procedure referred to in Article 32(4) within twelve months from the opening of the market investigation <u>in accordance with the advisory procedure referred to in Article [...]</u> . |
| Article 15(2) | | | | |
| 246 | 2. In the course of a market investigation pursuant to paragraph | 2. In the course of a market investigation pursuant to paragraph | 2. In the course of a market investigation pursuant to paragraph | 2. In the course of a market investigation pursuant to paragraph |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|---|--|---|---|
| | 1, the Commission shall endeavour to communicate its preliminary findings to the provider of core platform services concerned within six months from the opening of the investigation. In the preliminary findings, the Commission shall explain whether it considers, on a provisional basis, that the provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6). | 1, the Commission shall endeavour to communicate its preliminary findings to the provider of core platform services concerned <u>within as soon as possible and in any case no later than</u> six months from the opening of the investigation. In the preliminary findings, the Commission shall explain whether it considers, on a provisional basis, that the provider of core platform services should be designated as a gatekeeper pursuant to Article 3(6). | 1, the Commission shall endeavour to communicate its preliminary findings to the provider of core platform services <u>undertaking</u> concerned within six months from the opening of the investigation. In the preliminary findings, the Commission shall explain whether it considers, on a provisional basis, that the provider of core platform services <u>undertaking</u> should be designated as a gatekeeper pursuant to Article 3(6) <u>and list, on a provisional basis, the relevant core platform services pursuant to article 3(7).</u> | 1, the Commission shall endeavour to communicate its preliminary findings to the provider of core platform services <u>undertaking</u> concerned within six months from the opening of the investigation. In the preliminary findings, the Commission shall explain whether it considers, on a provisional basis, that the provider of core platform services <u>undertaking</u> should be designated as a gatekeeper pursuant to Article 3(6) <u>and list, on a provisional basis, the relevant core platform services pursuant to article 3(7).</u> Text Origin: Council Mandate |
| Article 15(3) | | | | |
| 247 | 3. Where the provider of core platform services satisfies the thresholds set out in Article 3(2), but has presented significantly substantiated arguments in accordance with Article 3(4), the Commission shall endeavour to conclude the market investigation within five months from the opening of the market investigation by a decision pursuant to paragraph 1. In that case the Commission shall endeavour to communicate its preliminary findings pursuant to paragraph 2 to the provider of core | <i>deleted</i> | 3. Where the provider of core platform services <u>undertaking</u> satisfies the thresholds set out in Article 3(2), but has presented significantly <u>sufficiently</u> substantiated arguments in accordance with Article 3(4), the Commission shall endeavour to conclude the market investigation within five months from the opening of the market investigation by a decision pursuant to paragraph 1. In that case, the Commission shall endeavour to communicate its preliminary findings pursuant to | 3. Where the provider of core platform services <u>undertaking</u> satisfies the thresholds set out in Article 3(2), but has presented significantly <u>sufficiently</u> substantiated arguments in accordance with Article 3(4) <u>3(4bis)</u> <u>that manifestly put into question the presumption in Article 3(2)</u> , the Commission shall endeavour to conclude the market investigation within five months from the opening of the market investigation by a decision pursuant to paragraph 1 . In that case, the Commission shall |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|--|---|---|---|
| | platform services within three months from the opening of the investigation. | | paragraph 2 to the provider of core platform services <u>undertaking</u> within three months from the opening of the investigation. | endeavour to communicate its preliminary findings pursuant to paragraph 2 to the provider of core platform services <u>undertaking</u> within three months from the opening of the investigation. |
| Article 15(4) | | | | |
| 248 | 4. When the Commission pursuant to Article 3(6) designates as a gatekeeper a provider of core platform services that does not yet enjoy an entrenched and durable position in its operations, but it is foreseeable that it will enjoy such a position in the near future, it shall declare applicable to that gatekeeper only obligations laid down in Article 5(b) and Article 6(1) points (e), (f), (h) and (i) as specified in the designation decision. The Commission shall only declare applicable those obligations that are appropriate and necessary to prevent that the gatekeeper concerned achieves by unfair means an entrenched and durable position in its operations. The Commission shall review such a designation in accordance with the procedure laid down in Article 4. | 4. When the Commission pursuant to Article 3(6) designates as a gatekeeper a provider of core platform services that does not yet enjoy an entrenched and durable position in its operations, but it is foreseeable that it will enjoy such a position in the near future, it shall declare applicable to that gatekeeper only the obligations laid down in Article 5(b)5 and Article 6(1) points (e), (f), (h) and (i) as specified in the designation decision. The Commission shall only declare applicable those obligations that are appropriate and necessary to prevent that the gatekeeper concerned achieves by unfair means an entrenched and durable position in its operations 6. The Commission shall review such a designation in accordance with the procedure laid down in Article 4. | 4. When the Commission pursuant to Article 3(6) designates as a gatekeeper a provider of core platform services <u>an undertaking</u> that does not yet enjoy an entrenched and durable position in its operations, but it is foreseeable that it will enjoy such a position in the near future, it shall declare applicable to that gatekeeper only the obligations laid down in Article 5(b)5 points (b) and (d) and Article 6(1) points (e), (f), (h) and (i) as specified in the designation decision. The Commission shall only declare applicable those obligations that are appropriate and necessary to prevent that the gatekeeper concerned achieves by unfair means an entrenched and durable position in its operations. The Commission shall review such a designation in accordance with the procedure laid down in Article 4. | 4. When the Commission pursuant to Article 3(6) designates as a gatekeeper a provider of an <u>undertaking providing</u> core platform services that does not yet enjoy an entrenched and durable position in its operations, but it is foreseeable that it will enjoy such a position in the near future, it shall <u>may</u> declare applicable to that gatekeeper only the obligations laid down in Article 5(b)5 points (b) (c), (ca) and (d) and Article 6(1) points (e), (f), (h), (i) and (ka) and (i) as specified in the designation decision. The Commission shall only declare applicable those obligations that are appropriate and necessary to prevent that the gatekeeper concerned achieves by unfair means an entrenched and durable position in its operations. The Commission shall review such a designation in accordance with the procedure laid down in Article 4. <small>Text Origin: Council Mandate</small> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|---|--|---|---|
| Article 16 | | | | |
| 249 | Article 16 Market investigation into systematic non-compliance | Article 16 Market investigation into systematic non-compliance | Article 16 Market investigation into systematic non-compliance | Article 16 Market investigation into systematic non-compliance Text Origin: Commission Proposal |
| Article 16(1) | | | | |
| 250 | <p>1. Where the market investigation shows that a gatekeeper has systematically infringed the obligations laid down in Articles 5 and 6 and has further strengthened or extended its gatekeeper position in relation to the characteristics under Article 3(1), the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) impose on such gatekeeper any behavioural or structural remedies which are proportionate to the infringement committed and necessary to ensure compliance with this Regulation. The Commission shall conclude its investigation by adopting a decision within twelve months from the opening of the market investigation.</p> | <p>1. Where the market investigation shows that a gatekeeper has systematically infringed the obligations laid down in Articles 5 and 6 and has further strengthened or extended its gatekeeper position in relation to the characteristics under Article 3(1), the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) <u>The Commission may conduct a market investigation for the purpose of examining whether a gatekeeper has engaged in systematic non-compliance. Where the market investigation shows that a gatekeeper has systematically infringed the obligations laid down in Articles 5 and 6, the Commission may</u> impose on such <u>that</u> gatekeeper any <u>such</u> behavioural or structural remedies which are proportionate to</p> | <p>1. <u>The Commission may conduct a market investigation for the purpose of examining whether a gatekeeper has engaged in systematic non-compliance.</u> Where the market investigation shows that a gatekeeper has systematically infringed <u>one or several of</u> the obligations laid down in Articles 5 and <u>or</u> 6 and has further <u>maintained</u>, strengthened or extended its gatekeeper position in relation to the characteristics under Article 3(1), the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) <u>37a(2)</u> impose on such gatekeeper any behavioural or structural remedies which are proportionate to the infringement committed and necessary to ensure compliance with this Regulation. The Commission shall conclude its</p> | <p>1. <u>The Commission may conduct a market investigation for the purpose of examining whether a gatekeeper has engaged in systematic non-compliance.</u> Where the market investigation shows that a gatekeeper has systematically infringed <u>one or several of</u> the obligations laid down in Articles 5, 6 or 6a <u>and 6</u> and has further <u>maintained</u>, strengthened or extended its gatekeeper position in relation to the characteristics <u>requirements</u> under Article 3(1), the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) <u>[...]</u> impose on such gatekeeper any behavioural or structural remedies which are proportionate to the infringement committed and necessary to ensure <u>effective</u> compliance with this</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|---|--|---|
| | | <p>the infringement committed<u>effective</u> and necessary to ensure compliance with this Regulation. The Commission shall, <u>where appropriate, be entitled to require the remedies to be tested to optimise their effectiveness. The Commission shall</u> conclude its investigation by adopting a decision within<u>as soon as possible and in any event no later than</u> twelve months from the opening of the market investigation.</p> | <p>investigation by adopting a decision within twelve months from the opening of the market investigation.</p> | <p>Regulation. The Commission shall conclude its investigation by adopting a decision within twelve months from the opening of the market investigation.</p> |
| Article 16(1a) | | | | |
| 250a | | <p><u>1a. Pursuant to paragraph 1, the Commission may for a limited period restrict gatekeepers from making acquisitions in areas relevant to this Regulation provided that such restrictions are proportionate, and necessary in order to remedy the damage caused by repeated infringements or to prevent further damage to the contestability and fairness of the internal market.</u></p> | | <p><u>1a. For those purposes, the remedy imposed by the Commission may include, to the extent that such remedy is proportionate and necessary in order to maintain or restore fairness and contestability as affected by the systematic non-compliance, to prohibit, during a limited time-period, for the gatekeeper to enter into a concentration within the meaning of Article 3 of Regulation (EC) No 139/2004 regarding those core platform services or the other services provided in the digital sector or enabling the collection of data that are affected by the systematic non-compliance.</u></p> |
| Article 16(2) | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|--|--|--|--|
| 251 | 2. The Commission may only impose structural remedies pursuant to paragraph 1 either where there is no equally effective behavioural remedy or where any equally effective behavioural remedy would be more burdensome for the gatekeeper concerned than the structural remedy. | <i>deleted</i> | 2. The Commission may only impose structural remedies pursuant to paragraph 1 either where there is no equally effective behavioural remedy or where any equally effective behavioural remedy would be more burdensome for the gatekeeper concerned than the structural remedy. | 2. The Commission may only impose structural remedies pursuant to paragraph 1 either where there is no equally effective behavioural remedy or where any equally effective behavioural remedy would be more burdensome for the gatekeeper concerned than the structural remedy. <u>(deleted)</u> |
| Article 16(3) | | | | |
| 252 | 3. A gatekeeper shall be deemed to have engaged in a systematic non-compliance with the obligations laid down in Articles 5 and 6, where the Commission has issued at least three non-compliance or fining decisions pursuant to Articles 25 and 26 respectively against a gatekeeper in relation to any of its core platform services within a period of five years prior to the adoption of the decision opening a market investigation in view of the possible adoption of a decision pursuant to this Article. | 3. A gatekeeper shall be deemed to have engaged in a systematic non-compliance with the obligations laid down in Articles 5 and 6, where the Commission has issued at least three <u>two</u> non-compliance or fining decisions pursuant to Articles 25 and 26 respectively against a gatekeeper in relation to any of its core platform services within a period of five <u>ten</u> years prior to the adoption of the decision opening a market investigation in view of the possible adoption of a decision pursuant to this Article. | 3. A gatekeeper shall be deemed to have engaged in a systematic non-compliance with the obligations laid down in Articles 5 and 6, where the Commission has issued at least three non-compliance or fining decisions pursuant to Articles 25 and 26 <u>respectively Article 25</u> against a gatekeeper in relation to any of its core platform services within a period of five years prior to the adoption of the decision opening a market investigation in view of the possible adoption of a decision pursuant to this Article. | 3. A gatekeeper shall be deemed to have engaged in a systematic non-compliance with the obligations laid down in Articles 5 and 6, where the Commission has issued at least three non-compliance or fining decisions pursuant to Articles 25 and 26 <u>respectively</u> against a gatekeeper in relation to any of its core platform services within a period of five <u>eight</u> years prior to the adoption of the decision opening a market investigation in view of the possible adoption of a decision pursuant to this Article. Text Origin: EP Mandate |
| Article 16(4) | | | | |
| 253 | 4. A gatekeeper shall be deemed to have further strengthened or | <i>deleted</i> | 4. A gatekeeper shall be deemed to have further strengthened or | 4. A gatekeeper shall be deemed to have further strengthened or |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|--|---|--|--|
| | extended its gatekeeper position in relation to the characteristics under Article 3(1), where its impact on the internal market has further increased, its importance as a gateway for business users to reach end users has further increased or the gatekeeper enjoys a further entrenched and durable position in its operations. | | extended its gatekeeper position in relation to the characteristics under Article 3(1), where its impact on the internal market has further increased, its importance as a gateway for business users to reach end users has further increased or the gatekeeper enjoys a further entrenched and durable position in its operations. | extended its gatekeeper position in relation to the characteristics under Article 3(1), where its impact on the internal market has further increased, its importance as a gateway for business users to reach end users has further increased or the gatekeeper enjoys a further entrenched and durable position in its operations. <u>(deleted)</u> |
| Article 16(5) | | | | |
| 254 | 5. The Commission shall communicate its objections to the gatekeeper concerned within six months from the opening of the investigation. In its objections, the Commission shall explain whether it preliminarily considers that the conditions of paragraph 1 are met and which remedy or remedies it preliminarily considers necessary and proportionate. | 5. The Commission shall communicate its objections to the gatekeeper concerned within six <u>soon as possible and in any event no later than four</u> months from the opening of the investigation. In its objections, the Commission shall explain whether it preliminarily considers that the conditions of paragraph 1 are met and which remedy or remedies it preliminarily considers necessary and proportionate <u>considers on a preliminary basis, to be effective and necessary.</u> | 5. The Commission shall communicate its objections to the gatekeeper concerned within six months from the opening of the investigation. In its objections, the Commission shall explain whether it preliminarily considers that the conditions of paragraph 1 are met and which remedy or remedies it preliminarily considers necessary and proportionate. | 5. The Commission shall communicate its objections to the gatekeeper concerned within six months from the opening of the investigation. In its objections, the Commission shall explain whether it preliminarily considers that the conditions of paragraph 1 are met and which remedy or remedies it preliminarily considers necessary and proportionate. Text Origin: Commission Proposal |
| Article 16(5a) | | | | |
| 254a | | | | <u>5a. In order to effectively enable interested third parties to provide comments, the Commission shall at the same time as communicating its</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---|---|---|---|
| | | | | <p><u>preliminary findings to the gatekeeper pursuant to paragraph 5 or as soon as possible thereafter publish a non-confidential summary of the case and the measures that it is considering taking or that it considers the gatekeeper concerned should take. The Commission shall specify a reasonable timeframe within which such comments can be provided.</u></p> <p>Text Origin: Auxiliary</p> |
| Article 16(5b) | | | | |
| 254b | | | | <p><u>5b. Where the Commission intends to adopt a decision pursuant to paragraph 1 by making commitments offered by the gatekeeper pursuant to Article 23 binding on that gatekeeper, it shall publish a non-confidential summary of the case and the main content of the commitments. Interested third parties may submit their observations within a reasonable timeframe which is set by the Commission.</u></p> <p>Text Origin: Auxiliary</p> |
| Article 16(6) | | | | |
| 255 | 6. The Commission may at any time during the market investigation | 6. <u>In the course of the market investigation, the Commission</u> | 6. The Commission may at any time during the market investigation | 6. <u>In the course of the market investigation, the Commission</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---|---|---|--|
| | <p>extend its duration where the extension is justified on objective grounds and proportionate. The extension may apply to the deadline by which the Commission has to issue its objections, or to the deadline for adoption of the final decision. The total duration of any extension or extensions pursuant to this paragraph shall not exceed six months. The Commission may consider commitments pursuant to Article 23 and make them binding in its decision.</p> | <p>may<i>The Commission may at any time during the market investigation</i> extend its duration where the<u>such</u> extension is justified on objective grounds and proportionate. The extension may apply to the deadline by which the Commission has to issue its objections, or to the deadline for adoption of the final decision. The total duration of any extension or extensions pursuant to this paragraph shall not exceed six months.<i>The Commission may consider commitments pursuant to Article 23 and make them binding in its decision</i><u>months.</u></p> | <p>extend its duration where the extension is justified on objective grounds and proportionate. The extension may apply to the deadline by which the Commission has to issue its objections, or to the deadline for adoption of the final decision. The total duration of any extension or extensions pursuant to this paragraph shall not exceed six months.<u>months.</u> The<u>The</u> Commission may consider commitments pursuant to Article 23 and make them binding in its decision.</p> | <p>may<i>The Commission may at any time during the market investigation</i> extend its duration where the<u>such</u> extension is justified on objective grounds and proportionate. The extension may apply to the deadline by which the Commission has to issue its objections, or to the deadline for adoption of the final decision. The total duration of any extension or extensions pursuant to this paragraph shall not exceed six months.<i>The Commission may consider commitments pursuant to Article 23 and make them binding in its decision</i><u>months.</u></p> <p>Text Origin: EP Mandate</p> |
| Article 16(6a) | | | | |
| 255a | | <p><u>6a. In order to ensure effective compliance by the gatekeeper with its obligations laid down in Articles 5 or 6, the Commission shall regularly review the remedies that it imposes in accordance with paragraph 1 of this Article. The Commission shall be entitled to modify those remedies if, following an investigation, it finds that they are not effective.</u></p> | | <p><u>6a. In order to ensure effective compliance by the gatekeeper with its obligations laid down in Articles 5, 6 and 6a the Commission shall regularly review the remedies that it imposes in accordance with paragraphs 1 and 1a of this Article. The Commission shall be entitled to modify those remedies if, following an investigation, it finds that they are not effective.</u></p> <p>Text Origin: EP Mandate</p> |
| Article 17 | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------------------------|---|--|--|---|
| 256 | Article 17 Market investigation into new services and new practices | Article 17 Market investigation into new services and new practices | Article 17 Market investigation into new services and new practices | Article 17 Market investigation into new services and new practices Text Origin: Commission Proposal |
| Article 17, first paragraph | | | | |
| 257 | The Commission may conduct a market investigation with the purpose of examining whether one or more services within the digital sector should be added to the list of core platform services or to detect types of practices that may limit the contestability of core platform services or may be unfair and which are not effectively addressed by this Regulation. It shall issue a public report at the latest within 24 months from the opening of the market investigation. | The Commission may conduct a market investigation with the purpose of examining whether one or more services within the digital sector should be added to the list of core platform services or to detect types of practices that may limit the contestability of core platform services or may be unfair and which are not effectively addressed by this Regulation. It shall issue a public report at the latest within <u>2418</u> months from the opening of the market investigation. | The Commission may conduct a market investigation with <u>for</u> the purpose of examining whether one or more services within the digital sector should be added to the list of core platform services or to detect <u>for the purpose of detecting</u> types of practices that may limit the contestability of core platform services or may be <u>type of practices that are</u> unfair and which are not effectively addressed by this Regulation. It shall issue a public report at the latest within 24 months from the opening of the market investigation. <u>In its assessment, the Commission shall take into account any relevant findings of proceedings carried out under Articles 101 and 102 of the TFEU concerning digital markets as well as any other relevant developments.</u> | The Commission may conduct a market investigation with <u>for</u> the purpose of examining whether one or more services within the digital sector should be added to the list of core platform services or to detect <u>for the purpose of detecting</u> types of practices that may limit the contestability of core platform services or may be <u>type of practices that are</u> unfair and which are not effectively addressed by this Regulation. It shall issue a public report at the latest within <u>2418</u> months from the opening of the market investigation. <u>In its assessment, the Commission shall take into account any relevant findings of proceedings carried out under Articles 101 and 102 of the TFEU concerning digital markets as well as any other relevant developments.</u> Text Origin: Council Mandate |
| Article 17, first paragraph a | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---|--|--|---|--|
| 257a | | | | <p><u><i>1a. The Commission may, when conducting a market investigation pursuant to paragraph 1, consult third parties, including end users or business users of services within the digital sector investigated or end users and business users being subject to practices under investigation.</i></u></p> <p>Text Origin: Auxiliary</p> |
| Article 17, second paragraph, introductory part | | | | |
| 258 | Where appropriate, that report shall: | Where appropriate, that report shall: | -Where appropriate, that report shall <u><i>be accompanied by:</i></u> | -Where appropriate, that report shall <u><i>be accompanied by:</i></u> |
| Text Origin: Council Mandate | | | | |
| Article 17, second paragraph, point (a) | | | | |
| 259 | (a) be accompanied by a proposal to amend this Regulation in order to include additional services within the digital sector in the list of core platform services laid down in point 2 of Article 2; | (a) be accompanied by a proposal to amend this Regulation in order to include additional services within the digital sector in the list of core platform services laid down in point 2 of Article 2; | (a) <i>be accompanied by</i> a proposal to amend this Regulation in order to include additional services within the digital sector in the list of core platform services laid down in point 2 of Article 2 <u><i>or to include new obligations in Article 5 or 6; or</i></u> | (a) <i>be accompanied by</i> a proposal to amend this Regulation in order to include additional services within the digital sector in the list of core platform services laid down in point 2 of Article 2 <u><i>or to include new obligations in Chapter III; or</i></u> |
| Text Origin: Council Mandate | | | | |
| Article 17, second paragraph, point (b) | | | | |
| 260 | (b) be accompanied by a delegated | (b) be accompanied by a delegated | (b) <i>be accompanied by a delegated</i> | (b) <i>be accompanied by a delegated</i> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--|---|--|--|--|
| | act amending Articles 5 or 6 as provided for in Article 10. | act amending Articles 5 or 6 as provided for in Article 10. | act amending a draft delegated act supplementing the obligations laid down in Articles 5 or 6 as provided for in Article 10. | act amending a draft delegated act supplementing the obligations laid down in Articles 5 and 6 or amending and supplementing the obligations laid down in Article 6 or 6 as provided for in Article 10. Text Origin: Council Mandate |
| Article 17, second paragraph, point (ba) | | | | |
| 260a | | <u>(ba) The Commission shall be entitled to impose interim measures if there is a risk of serious and immediate damage for business users or end users of gatekeepers.</u> | | |
| Article 17, second paragraph a | | | | |
| 260b | | | <u>Where appropriate, the proposal to amend this Regulation under point (a) may also propose to remove existing services from the list of core platform services laid down in point 2 of Article 2 or to remove existing obligations from Articles 5 or 6.</u> | <u>Where appropriate, the proposal to amend this Regulation under point (a) may also propose to remove existing services from the list of core platform services laid down in point 2 of Article 2 or to remove existing obligations from Articles 5, 6 or 6a.</u> Text Origin: Council Mandate |
| Chapter V | | | | |
| 261 | Chapter V Investigative, enforcement and monitoring powers | Chapter V Investigative, enforcement and monitoring powers | Chapter V Investigative, enforcement and monitoring powers | Chapter V Investigative, enforcement and monitoring powers |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------------------------|---|---|--|--|
| | | | | Text Origin: Commission Proposal |
| Article 18 | | | | |
| 262 | Article 18 Opening of proceedings | Article 18 Opening of proceedings | Article 18 Opening of proceedings | Article 18 Opening of proceedings Text Origin: Commission Proposal |
| Article 18, first paragraph | | | | |
| 263 | Where the Commission intends to carry out proceedings in view of the possible adoption of decisions pursuant to Article 7, 25 and 26, it shall adopt a decision opening a proceeding. | Where the Commission intends to carry out proceedings in view of the possible adoption of decisions pursuant to Article 7, 25 and 26, it shall adopt a decision opening a proceeding. | Where the Commission intends to carry out proceedings in view of the possible adoption of decisions pursuant to Article <u>Articles</u> 7, 25 and 26, it shall adopt a decision opening a proceeding. | Where the Commission intends to carry out proceedings in view of the possible adoption of decisions pursuant to Article <u>Articles</u> 7, 25 and 26, it shall adopt a decision opening a proceeding. Text Origin: Council Mandate |
| Article 18, first paragraph a | | | | |
| 263a | | | <u><i>The Commission may exercise its powers of investigation pursuant to this Regulation before opening proceedings.</i></u> | <u><i>The Commission may exercise its powers of investigation pursuant to this Regulation before opening proceedings.</i></u> Text Origin: Council Mandate |
| Article 19 | | | | |
| 264 | Article 19 | Article 19 | Article 19 | Article 19 |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|---|--|--|---|
| | Requests for information | Requests for information | Requests for information | Requests for information <small>Text Origin: Commission Proposal</small> |
| Article 19(1) | | | | |
| 265 | 1. The Commission may by simple request or by decision require information from undertakings and associations of undertakings to provide all necessary information, including for the purpose of monitoring, implementing and enforcing the rules laid down in this Regulation. The Commission may also request access to data bases and algorithms of undertakings and request explanations on those by a simple request or by a decision. | 1. The Commission may by simple request or by decision require information from undertakings and associations of undertakings to provide all necessary information, including for the purpose of monitoring, implementing and enforcing the rules laid down in this Regulation. The Commission may also request access to data bases and algorithms of undertakings <u>and information about testings</u> and request explanations on those by a simple request or by a decision. | 1. <u>In order to carry out the duties assigned to it by this Regulation</u> , the Commission may, by simple request or by decision, require information from undertakings and associations of undertakings to provide all necessary information, including for the purpose of monitoring, implementing and enforcing the rules laid down in this Regulation. The Commission may also request access to data bases <u>any data</u> and algorithms of undertakings and request explanations on those by a simple request or by a decision. | 1. <u>In order to carry out the duties assigned to it by this Regulation</u> , the Commission may, by simple request or by decision, require information from undertakings and associations of undertakings to provide all necessary information, including for the purpose of monitoring, implementing and enforcing the rules laid down in this Regulation. The Commission may also request access to <u>any</u> data bases and algorithms of undertakings and <u>information about testing and</u> request explanations on those by a simple request or by a decision. <small>Text Origin: Council Mandate</small> |
| Article 19(2) | | | | |
| 266 | 2. The Commission may request information from undertakings and associations of undertakings pursuant to paragraph 1 also prior to opening a market investigation pursuant to Article 14 or proceedings pursuant to Article 18. | 2. The Commission may request information from undertakings and associations of undertakings pursuant to paragraph 1 also prior to opening a market investigation pursuant to Article 14 or proceedings pursuant to Article 18. | <i>deleted</i> | 2. The Commission may request information from undertakings and associations of undertakings pursuant to paragraph 1 also prior to opening a market investigation pursuant to Article 14 or proceedings pursuant to Article 18. <u>(deleted)</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|--|---|---|--|
| Article 19(3) | | | | |
| 267 | 3. When sending a simple request for information to an undertaking or association of undertakings, the Commission shall state the purpose of the request, specify what information is required and fix the time-limit within which the information is to be provided, and the penalties provided for in Article 26 for supplying incomplete, incorrect or misleading information or explanations. | 3. When sending a simple request for information to an undertaking or association of undertakings, the Commission shall state the purpose of the request, specify what information is required and fix the time-limit within which the information is to be provided, and the penalties provided for in Article 26 for supplying incomplete, incorrect or misleading information or explanations. | 3. When sending a simple request for information to an undertaking or association of undertakings, the Commission shall state the <u>legal basis and</u> purpose of the request, specify what information is required and fix the time-limit within which the information is to be provided, and the penalties provided for in Article 26 for supplying incomplete, incorrect or misleading information or explanations. | 3. When sending a simple request for information to an undertaking or association of undertakings, the Commission shall state the <u>legal basis and</u> purpose of the request, specify what information is required and fix the time-limit within which the information is to be provided, and the penalties provided for in Article 26 for supplying incomplete, incorrect or misleading information or explanations. Text Origin: Council Mandate |
| Article 19(4) | | | | |
| 268 | 4. Where the Commission requires undertakings and associations of undertakings to supply information by decision, it shall state the purpose of the request, specify what information is required and fix the time-limit within which it is to be provided. Where the Commission requires undertakings to provide access to its data-bases and algorithms, it shall state the legal basis and the purpose of the request, and fix the time-limit within which it is to be provided. It shall also indicate the penalties provided for in | 4. Where the Commission requires undertakings and associations of undertakings to supply information by decision, it shall state the purpose of the request, specify what information is required and fix the time-limit within which it is to be provided. Where the Commission requires undertakings to provide access to its data-bases and algorithms, it shall state the <u>legal basis and the</u> purpose of the request, <u>specify what information is required</u> and fix the time-limit within which it is to be provided. It | 4. Where the Commission requires undertakings and associations of undertakings to supply information by decision, it shall state the <u>legal basis and the</u> purpose of the request, specify what information is required and fix the time-limit within which it is to be provided. Where the Commission requires undertakings to provide access to its data- <u>bases any data</u> and algorithms, it shall state the legal basis and the purpose of the request, and fix the time-limit within which it is to be provided. It shall also indicate the | 4. Where the Commission requires undertakings and associations of undertakings to supply information by decision, it shall state the purpose of the request, specify what information is required and fix the time-limit within which it is to be provided. Where the Commission requires undertakings to provide access to its data-bases <u>any data</u> and algorithms, it shall state the <u>legal basis and the</u> purpose of the request, and fix the time-limit within which it is to be provided. It shall also indicate the penalties provided for in |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|--|--|---|---|
| | Article 26 and indicate or impose the periodic penalty payments provided for in Article 27. It shall further indicate the right to have the decision reviewed by the Court of Justice. | shall also indicate the penalties provided for in Article 26 and indicate or impose the periodic penalty payments provided for in Article 27. It shall further indicate the right to have the decision reviewed by the Court of Justice. | penalties provided for in Article 26 and indicate or impose the periodic penalty payments provided for in Article 27. It shall further indicate the right to have the decision reviewed by the Court of Justice. | Article 26 and indicate or impose the periodic penalty payments provided for in Article 27. It shall further indicate the right to have the decision reviewed by the Court of Justice. Text Origin: EP Mandate |
| Article 19(5) | | | | |
| 269 | 5. The undertakings or associations of undertakings or their representatives shall supply the information requested on behalf of the undertaking or the association of undertakings concerned. Lawyers duly authorised to act may supply the information on behalf of their clients. The latter shall remain fully responsible if the information supplied is incomplete, incorrect or misleading. | 5. The undertakings or associations of undertakings or their representatives shall supply the information requested on behalf of the undertaking or the association of undertakings concerned. Lawyers duly authorised to act may supply the information on behalf of their clients. The latter shall remain fully responsible if the information supplied is incomplete, incorrect or misleading. | 5. The undertakings or associations of undertakings or their representatives <u>and, in the case of legal persons, companies or firms, or associations having no legal personality, the persons authorised to represent them by law or by their constitution,</u> shall supply the information requested on behalf of the undertaking or the association of undertakings concerned. Lawyers duly authorised to act may supply the information on behalf of their clients. The latter shall remain fully responsible if the information supplied is incomplete, incorrect or misleading. | 5. The undertakings or associations of undertakings or their representatives shall supply the information requested on behalf of the undertaking or the association of undertakings concerned. Lawyers duly authorised to act may supply the information on behalf of their clients. The latter shall remain fully responsible if the information supplied is incomplete, incorrect or misleading. Text Origin: EP Mandate |
| Article 19(5a) | | | | |
| 269a | | | <u>5a. The Commission shall without delay forward a copy of the simple request or of the decision requesting information to the</u> | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-----------------------------|--|--|---|---|
| | | | <u>competent authority of the Member State, enforcing the rules referred to in Article 1(6), in whose territory the undertaking or association of undertakings is established.</u> | |
| Article 19(6) | | | | |
| 270 | 6. At the request of the Commission, the governments and authorities of the Member States shall provide the Commission with all necessary information to carry out the duties assigned to it by this Regulation. | 6. At the request of the Commission, the governments and authorities of the Member States shall provide the Commission with all necessary information to carry out the duties assigned to it by this Regulation. | 6. At the request of the Commission, the governments and competent authorities of the Member States shall provide the Commission with all necessary information <u>in their possession</u> to carry out the duties assigned to it by this Regulation. | 6. At the request of the Commission, the governments and competent authorities of the Member States shall provide the Commission with all necessary information <u>in their possession</u> to carry out the duties assigned to it by this Regulation. Text Origin: Council Mandate |
| Article 20 | | | | |
| 271 | Article 20 Power to carry out interviews and take statements | Article 20 Power to carry out interviews and take statements | Article 20 Power to carry out interviews and take statements | Article 20 Power to carry out interviews and take statements Text Origin: Commission Proposal |
| Article 20, first paragraph | | | | |
| 272 | The Commission may interview any natural or legal person which consents to being interviewed for the purpose of collecting information, relating to the subject-matter of an | The Commission, <u>and the national competent authorities in accordance with Article 31c</u> , may interview any natural or legal person which consents to being interviewed | <u>In order to carry out the duties assigned to it by this Regulation</u> , the Commission may interview any natural or legal person which consents to being interviewed for the | <u>In order to carry out the duties assigned to it by this Regulation</u> , the Commission may interview any natural or legal person which consents to being interviewed for the |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------------------------|---|---|---|---|
| | investigation, including in relation to the monitoring, implementing and enforcing of the rules laid down in this Regulation. | for the purpose of collecting information, relating to the subject-matter of an investigation, including in relation to the monitoring, implementing and enforcing of the rules laid down in this Regulation. | purpose of collecting information, relating to the subject-matter of an investigation, including in relation to the monitoring, implementing and enforcing of the rules laid down in this Regulation. <u>The Commission shall be entitled to record such interview by any technical means.</u> | purpose of collecting information, relating to the subject-matter of an investigation, including in relation to the monitoring, implementing and enforcing of the rules laid down in this Regulation. <u>The Commission shall be entitled to record such interview by any technical means.</u> Text Origin: Council Mandate |
| Article 20, first paragraph a | | | | |
| 272a | | | <u>Where an interview pursuant to paragraph 1 is conducted on the premises of an undertaking, the Commission shall inform the competent authority of the Member State, enforcing the rules referred to in Article 1(6), in whose territory the interview takes place. If so requested by the said competent authority, its officials may assist the officials and other accompanying persons authorised by the Commission to conduct the interview.</u> | <u>Where an interview pursuant to paragraph 1 is conducted on the premises of an undertaking, the Commission shall inform the competent authority of the Member State, enforcing the rules referred to in Article 1(6), in whose territory the interview takes place. If so requested by the said competent authority, its officials may assist the officials and other accompanying persons authorized by the Commission to conduct the interview.</u> Text Origin: Council Mandate |
| Article 21 | | | | |
| 273 | Article 21 Powers to conduct on-site inspections | Article 21 Powers to conduct on-site inspections | Article 21 Powers to conduct on-site inspections | Article 21 Powers to conduct on-site inspections |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-----------------------------------|---|---|--|---|
| | | | | Text Origin: Council Mandate |
| Article 21(1) | | | | |
| 274 | 1. The Commission may conduct on-site inspections at the premises of an undertaking or association of undertakings. | 1. The Commission may conduct on-site inspections at the premises of an undertaking or association of undertakings. | 1. <u>In order to carry out the duties assigned to it by this Regulation</u> , the Commission may conduct on-site <u>all necessary</u> inspections at the premises of an undertaking or association of undertakings. | 1. <u>In order to carry out the duties assigned to it by this Regulation</u> , the Commission may conduct on-site <u>all necessary</u> inspections at the premises of an undertaking or association of undertakings. . Text Origin: Council Mandate |
| Article 21(1a), introductory part | | | | |
| 274a | | | <u>1a. The officials and other accompanying persons authorised by the Commission to conduct an inspection are empowered:</u> | <u>1a. The officials and other accompanying persons authorised by the Commission to conduct an inspection are empowered:</u> Text Origin: Council Mandate |
| Article 21(1a), point (a) | | | | |
| 274b | | | <u>(a) to enter any premises, land and means of transport of undertakings and associations of undertakings;</u> | <u>(a) to enter any premises, land and means of transport of undertakings and associations of undertakings;</u> Text Origin: Council Mandate |
| Article 21(1a), point (b) | | | | |
| 274c | | | <u>(b) to examine the books and other</u> | <u>(b) to examine the books and other</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------|---------------------|------------|--|---|
| | | | <u>records related to the business, irrespective of the medium on which they are stored;</u> | <u>records related to the business, irrespective of the medium on which they are stored;</u> <small>Text Origin: Council Mandate</small> |
| Article 21(1a), point (c) | | | | |
| 274d | | | <u>(c) to take or obtain in any form copies of or extracts from such books or records;</u> | <u>(c) to take or obtain in any form copies of or extracts from such books or records;</u> <small>Text Origin: Council Mandate</small> |
| Article 21(1a), point (d) | | | | |
| 274e | | | <u>(d) to require the undertaking or association of undertakings to provide access to and explanations on its organisation, functioning, IT system, algorithms, data-handling and business practices and to record or document the explanations given;</u> | <u>(d) to require the undertaking or association of undertakings to provide access to and explanations on its organisation, functioning, IT system, algorithms, data-handling and business practices and to record or document the explanations given;</u> <small>Text Origin: Council Mandate</small> |
| Article 21(1a), point (e) | | | | |
| 274f | | | <u>(e) to seal any business premises and books or records for the period and to the extent necessary for the inspection;</u> | <u>(e) to seal any business premises and books or records for the period and to the extent necessary for the inspection;</u> <small>Text Origin: Council Mandate</small> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------|--|--|---|---|
| | Article 21(1a), point (f) | | | |
| 274g | | | <u>(f) to ask any representative or member of staff of the undertaking or association of undertakings for explanations on facts or documents relating to the subject-matter and purpose of the inspection and to record the answers;</u> | <u>(f) to ask any representative or member of staff of the undertaking or association of undertakings for explanations on facts or documents relating to the subject-matter and purpose of the inspection and to record the answers;</u> Text Origin: Council Mandate |
| | Article 21(2) | | | |
| 275 | 2. On-site inspections may also be carried out with the assistance of auditors or experts appointed by the Commission pursuant to Article 24(2). | 2. On-site inspections may also be carried out with the assistance of <u>rotating</u> auditors or experts appointed by the Commission pursuant to Article 24(2). | 2. On-site Inspections may also be carried out with the assistance of auditors or experts appointed by the Commission pursuant to Article 24(2) <u>as well as the competent authority of the Member State, enforcing the rules referred to in Article 1(6) in whose territory the inspection is to be conducted.</u> | 2. On-site inspections may also be carried out with <u>To carry out inspections, the Commission may request</u> the assistance of auditors or experts appointed by the Commission pursuant to Article 24(2) <u>as well as the assistance of the competent authority of the Member State, enforcing the rules referred to in Article 1(6) in whose territory the inspection is to be conducted.</u> Text Origin: Council Mandate |
| | Article 21(3) | | | |
| 276 | 3. During on-site inspections the Commission and auditors or experts appointed by it may require the | 3. During on-site inspections the Commission and auditors or experts appointed by it may require the | 3. During on-site inspections the Commission and , auditors or experts appointed by it <u>as well as the</u> | 3. During on-site inspections the Commission and , auditors or experts appointed by it <u>and the competent</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|--|--|---|--|
| | <p>undertaking or association of undertakings to provide access to and explanations on its organisation, functioning, IT system, algorithms, data-handling and business conducts. The Commission and auditors or experts appointed by it may address questions to key personnel.</p> | <p>undertaking or association of undertakings to provide access to and explanations on its organisation, functioning, IT system, algorithms, data-handling and business conducts. The Commission and auditors or experts appointed by it may address questions to key personnel.</p> | <p><u>competent authority of the Member State, enforcing the rules referred to in Article 1(6) in whose territory the inspection is to be conducted</u> may require the undertaking or association of undertakings to provide access to and explanations on its organisation, functioning, IT system, algorithms, data-handling and business conducts. The Commission and auditors or experts appointed by it <u>as well as the competent authority of the Member State, enforcing the rules referred to in Article 1(6) in whose territory the inspection is to be conducted</u> may address questions to key personnel <u>any representative or member of staff</u>.</p> | <p><u>authority of the Member State, enforcing the rules referred to in Article 1(6) in whose territory the inspection is to be conducted</u> may require the undertaking or association of undertakings to provide access to and explanations on its organisation, functioning, IT system, algorithms, data-handling and business conducts. The Commission and auditors or experts appointed by it <u>and the competent authority of the Member State, enforcing the rules referred to in Article 1(6) in whose territory the inspection is to be conducted</u> may address questions to key personnel <u>any representative or member of staff</u>.</p> <p>Text Origin: Council Mandate</p> |
| Article 21(3a) | | | | |
| 276a | | | <p><u>3a. The officials and other accompanying persons authorised by the Commission to conduct an inspection shall exercise their powers upon production of a written authorisation specifying the subject matter and purpose of the inspection and the penalties provided for in Article 26 in case the production of the required books or other records related to the business is incomplete or where the</u></p> | <p><u>3a. The officials and other accompanying persons authorised by the Commission to conduct an inspection shall exercise their powers upon production of a written authorisation specifying the subject matter and purpose of the inspection and the penalties provided for in Article 26 in case the production of the required books or other records related to the business is incomplete or where the</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|--|--|---|---|
| | | | <u>answers to questions asked under paragraphs 1a and 3 are incorrect or misleading. In good time before the inspection, the Commission shall give notice of the inspection to the competition authority of the Member State in whose territory it is to be conducted.</u> | <u>answers to questions asked under paragraphs 1a and 3 are incorrect or misleading. In good time before the inspection, the Commission shall give notice of the inspection to the competition authority of the Member State in whose territory it is to be conducted.</u> |
| Article 21(4) | | | | |
| 277 | 4. Undertakings or associations of undertakings are required to submit to an on-site inspection ordered by decision of the Commission. The decision shall specify the subject matter and purpose of the visit, set the date on which it is to begin and indicate the penalties provided for in Articles 26 and 27 and the right to have the decision reviewed by the Court of Justice. | 4. Undertakings or associations of undertakings are required to submit to an on-site inspection ordered by decision of the Commission. The decision shall specify the subject matter and purpose of the visit, set the date on which it is to begin and indicate the penalties provided for in Articles 26 and 27 and the right to have the decision reviewed by the Court of Justice. | 4. Undertakings or associations of undertakings are required to submit to an on-site inspection ordered by decision of the Commission. The decision shall specify the subject matter and purpose of the visit, set the date on which it is to begin and indicate the penalties provided for in Articles 26 and 27 and the right to have the decision reviewed by the Court of Justice. <u>The Commission shall take such decisions after consulting the competent authority of the Member State, enforcing the rules referred to in Article 1(6) in whose territory the inspection is to be conducted.</u> | 4. Undertakings or associations of undertakings are required to submit to an on-site inspection ordered by decision of the Commission. The decision shall specify the subject matter and purpose of the visit, set the date on which it is to begin and indicate the penalties provided for in Articles 26 and 27 and the right to have the decision reviewed by the Court of Justice. |
| Article 21(4a) | | | | |
| 277a | | | <u>4a. Officials of as well as those authorised or appointed by the competent authority of the Member State, enforcing the rules referred</u> | <u>4a. Officials of as well as those authorised or appointed by the competent authority of the Member State, enforcing the rules referred</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|------------|--|--|
| | | | <p><i><u>to in Article 1(6) in whose territory the inspection is to be conducted shall, at the request of that authority or of the Commission, actively assist the officials and other accompanying persons authorised by the Commission. To this end, they shall enjoy the powers specified in paragraph 1a and 3.</u></i></p> | <p><i><u>to in Article 1(6) in whose territory the inspection is to be conducted shall, at the request of that authority or of the Commission, actively assist the officials and other accompanying persons authorised by the Commission. To this end, they shall enjoy the powers specified in paragraph 1a and 3.</u></i></p> <p>Text Origin: Council Mandate</p> |
| Article 21(4b) | | | | |
| 277b | | | <p><i><u>4b. Where the officials and other accompanying persons authorised by the Commission find that an undertaking or association of undertakings opposes an inspection ordered pursuant to this Article, the Member State concerned shall afford them the necessary assistance, requesting where appropriate the assistance of the police or of an equivalent enforcement authority, so as to enable them to conduct their inspection.</u></i></p> | <p><i><u>4b. Where the officials and other accompanying persons authorised by the Commission find that an undertaking or association of undertakings opposes an inspection ordered pursuant to this Article, the Member State concerned shall afford them the necessary assistance, requesting where appropriate the assistance of the police or of an equivalent enforcement authority, so as to enable them to conduct their inspection.</u></i></p> <p>Text Origin: Council Mandate</p> |
| Article 21(4c) | | | | |
| 277c | | | <p><i><u>4c. If the assistance provided for in paragraph 6 requires authorisation from a judicial authority according</u></i></p> | <p><i><u>4c. If the assistance provided for in paragraph 8 requires authorisation from a judicial authority according</u></i></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|------------|--|--|
| | | | <p><u>to national rules, such authorisation shall be applied for. Such authorisation may also be applied for as a precautionary measure.</u></p> | <p><u>to national rules, such authorisation shall be applied for. Such authorisation may also be applied for as a precautionary measure.</u></p> <p>Text Origin: Council Mandate</p> |
| Article 21(4d) | | | | |
| 277d | | | <p><u>4d. Where authorisation as referred to in paragraph 7 is applied for, the national judicial authority shall control that the Commission decision is authentic and that the coercive measures envisaged are neither arbitrary nor excessive having regard to the subject matter of the inspection. In its control of the proportionality of the coercive measures, the national judicial authority may ask the Commission, directly or through the competent authority of the Member State, enforcing the rules referred to in Article 1(6), for detailed explanations in particular on the grounds the Commission has for suspecting infringement of this Regulation, as well as on the seriousness of the suspected infringement and on the nature of the involvement of the undertaking concerned. However, the national judicial authority may not call into question the necessity for the</u></p> | <p><u>4d. Where authorisation as referred to in paragraph 9 is applied for, the national judicial authority shall control that the Commission decision is authentic and that the coercive measures envisaged are neither arbitrary nor excessive having regard to the subject matter of the inspection. In its control of the proportionality of the coercive measures, the national judicial authority may ask the Commission, directly or through the competent authority of the Member State, enforcing the rules referred to in Article 1(6), for detailed explanations in particular on the grounds the Commission has for suspecting infringement of this Regulation, as well as on the seriousness of the suspected infringement and on the nature of the involvement of the undertaking concerned. However, the national judicial authority may not call into question the necessity for the</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|--|---|--|---|
| | | | <i><u>inspection nor demand that it be provided with the information in the file of the Commission. The lawfulness of the Commission decision shall be subject to review only by the Court of Justice.</u></i> | <i><u>inspection nor demand that it be provided with the information in the file of the Commission. The lawfulness of the Commission decision shall be subject to review only by the Court of Justice.</u></i> Text Origin: Council Mandate |
| Article 22 | | | | |
| 278 | Article 22 Interim measures | Article 22 Interim measures | Article 22 Interim measures | Article 22 Interim measures Text Origin: Commission Proposal |
| Article 22(1) | | | | |
| 279 | 1. In case of urgency due to the risk of serious and irreparable damage for business users or end users of gatekeepers, the Commission may, by decision adopt in accordance with the advisory procedure referred to in Article 32(4), order interim measures against a gatekeeper on the basis of a prima facie finding of an infringement of Articles 5 or 6. | 1. In ease <i>cases</i> of urgency due to the risk of serious and irreparable <i>immediate</i> damage for business users or end users of gatekeepers, the Commission may, by decision adopt in accordance with the advisory procedure referred to in Article 32(4), order interim measures against <i>on</i> a gatekeeper on the basis of a prima facie finding of an infringement of Articles 5 or 6. | 1. In case of urgency due to the risk of serious and irreparable damage for business users or end users of gatekeepers, the Commission may, by decision adopt <i>adopted</i> in accordance with the advisory procedure referred to in Article 32(4) <i>37a(2)</i> , order interim measures against a gatekeeper on the basis of a prima facie finding of an infringement of Articles <i>Article</i> 5 or 6. | 1. In case of urgency due to the risk of serious and irreparable damage for business users or end users of gatekeepers, the Commission may, by decision adopt <i>adopted</i> in accordance with the advisory procedure referred to in Article 32(4) <i>[...]</i> , order interim measures against a gatekeeper on the basis of a prima facie finding of an infringement of Articles 5 or 6 <i>Article 5, Article 6 or Article 6a</i> . Text Origin: Council Mandate |
| Article 22(2) | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---|---|---|--|
| 280 | 2. A decision pursuant to paragraph 1 may only be adopted in the context of proceedings opened in view of the possible adoption of a decision of non-compliance pursuant to Article 25(1). This decision shall apply for a specified period of time and may be renewed in so far this is necessary and appropriate. | 2. A decision pursuant to paragraph 1 may <u>shall</u> only be adopted in the context of proceedings opened in view of <u>with a view to</u> the possible adoption of a decision of non-compliance pursuant to Article 25(1). This <u>That</u> decision shall apply for a specified period of time and may be renewed in so far this is necessary and appropriate. | 2. A decision pursuant to paragraph 1 may only be adopted in the context of proceedings opened in view of the possible adoption of a decision of non-compliance pursuant to Article 25(1). This decision shall apply for a specified period of time and may be renewed in so far this is necessary and appropriate. | 2. A decision pursuant to paragraph 1 may <u>shall</u> only be adopted in the context of proceedings opened in view of <u>with a view to</u> the possible adoption of a decision of non-compliance pursuant to Article 25(1). This <u>That</u> decision shall apply for a specified period of time and may be renewed in so far this is necessary and appropriate. Text Origin: EP Mandate |
| Article 22(2a) | | | | |
| 280a | | <u>2a. In cases of urgency due to the risk of serious and immediate damage to business users or end users of gatekeepers, resulting from new practices implemented by one or more gatekeepers that could undermine contestability of core platform services or that could be unfair pursuant to Article 10(2), the Commission may impose interim measures on the gatekeepers concerned in order to prevent such a risk materialising.</u> | | |
| Article 22(2b) | | | | |
| 280b | | <u>2b. A decision referred to in paragraph 2a of this Article shall only be adopted in the context of a</u> | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|---|--|--|---|
| | | <u>market investigation pursuant to Article 17 and within 6 months of the opening of such an investigation. The interim measures shall apply for a specified period of time and, in any case, shall be renewed or withdrawn in order to take account of the final decision resulting from the market investigation pursuant to Article 17.</u> | | |
| Article 23 | | | | |
| 281 | Article 23 Commitments | <i>deleted</i> | Article 23 Commitments | Article 23 Commitments Text Origin: Commission Proposal |
| Article 23(1) | | | | |
| 282 | 1. If during proceedings under Articles 16 or 25 the gatekeeper concerned offers commitments for the relevant core platform services to ensure compliance with the obligations laid down in Articles 5 and 6, the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) make those commitments binding on that gatekeeper and declare that there are no further grounds for action. | <i>deleted</i> | 1. If during proceedings under Articles <u>Article</u> 16 or 25 the gatekeeper concerned offers commitments for the relevant core platform services to ensure compliance with the obligations laid down in Articles 5 and 6, the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) <u>37a(2)</u> make those commitments binding on that gatekeeper and declare that there are no further grounds for action. | 1. If during proceedings under Articles 16 or 25 <u>Article 16</u> the gatekeeper concerned offers commitments for the relevant core platform services to ensure compliance with the obligations laid down in Articles 5, 6 and 6a <u>and 6</u> ; the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) <u>[...]</u> make those commitments binding on that gatekeeper and declare that there are no further grounds for action. |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------------------------|---|----------------|---|---|
| | | | | Text Origin: Council Mandate |
| Article 23(2), introductory part | | | | |
| 283 | 2. The Commission may, upon request or on its own initiative, reopen by decision the relevant proceedings, where: | <i>deleted</i> | 2. The Commission may, upon request or on its own initiative, reopen by decision the relevant proceedings, where: | 2. The Commission may, upon request or on its own initiative, reopen by decision the relevant proceedings, where: Text Origin: Commission Proposal |
| Article 23(2), point (a) | | | | |
| 284 | (a) there has been a material change in any of the facts on which the decision was based; | <i>deleted</i> | (a) there has been a material change in any of the facts on which the decision was based; | (a) there has been a material change in any of the facts on which the decision was based; Text Origin: Commission Proposal |
| Article 23(2), point (b) | | | | |
| 285 | (b) the gatekeeper concerned acts contrary to its commitments; | <i>deleted</i> | (b) the gatekeeper concerned acts contrary to its commitments; | (b) the gatekeeper concerned acts contrary to its commitments; Text Origin: Commission Proposal |
| Article 23(2), point (c) | | | | |
| 286 | (c) the decision was based on incomplete, incorrect or misleading information provided by the parties. | <i>deleted</i> | (c) the decision was based on incomplete, incorrect or misleading information provided by the parties. | (c) the decision was based on incomplete, incorrect or misleading information provided by the parties. |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------|--|--|--|--|
| | | | | Text Origin: Commission Proposal |
| Article 23(2), point (ca) | | | | |
| 286a | | | | <u>(ca) the commitments are not effective.</u> |
| Article 23(3) | | | | |
| 287 | 3. Should the Commission consider that the commitments submitted by the gatekeeper concerned cannot ensure effective compliance with the obligations laid down in Articles 5 and 6, it shall explain the reasons for not making those commitments binding in the decision concluding the relevant proceedings. | <i>deleted</i> | 3. Should the Commission consider that the commitments submitted by the gatekeeper concerned cannot ensure effective compliance with the obligations laid down in Articles 5 and 6, it shall explain the reasons for not making those commitments binding in the decision concluding the relevant proceedings. | 3. Should the Commission consider that the commitments submitted by the gatekeeper concerned cannot ensure effective compliance with the obligations laid down in Articles 5 and 6, it shall explain the reasons for not making those commitments binding in the decision concluding the relevant proceedings. Text Origin: Commission Proposal |
| Article 24 | | | | |
| 288 | Article 24 Monitoring of obligations and measures | Article 24 Monitoring of obligations and measures | Article 24 Monitoring of obligations and measures | Article 24 Monitoring of obligations and measures Text Origin: Commission Proposal |
| Article 24(1) | | | | |
| 289 | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|--|--|--|--|
| | 1. The Commission may take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in Articles 5 and 6 and the decisions taken pursuant to Articles 7, 16, 22 and 23. | 1. The Commission may <u>shall</u> take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in Articles 5 and 6 and the decisions taken pursuant to Articles 7, 16, 22 and 23. | 1. The Commission may take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in Articles 5 and 6 and the decisions taken pursuant to Articles 7, 16, 22 and 23. <u>These actions may include in particular the imposition of an obligation on the gatekeeper to retain all documents deemed to be relevant to assess the gatekeepers' implementation of and compliance with these obligations and decisions.</u> | 1. The Commission may <u>shall</u> take the necessary actions to monitor the effective implementation and compliance with the obligations laid down in Articles 5, 6 and 6a and 6 and the decisions taken pursuant to Articles 7, 16, 22 and 23. <u>These actions may include in particular the imposition of an obligation on the gatekeeper to retain all documents deemed to be relevant to assess the gatekeepers' implementation of and compliance with these obligations and decisions.</u> Text Origin: Council Mandate |
| Article 24(2) | | | | |
| 290 | 2. The actions pursuant to paragraph 1 may include the appointment of independent external experts and auditors to assist the Commission to monitor the obligations and measures and to provide specific expertise or knowledge to the Commission. | 2. The actions pursuant to paragraph 1 may include the appointment of independent external experts and auditors to assist the Commission to monitor the obligations and measures and to provide specific expertise or knowledge to the Commission. | 2. The actions pursuant to paragraph 1 may include the appointment of independent external experts and auditors, <u>as well as from competent authorities of the Member States</u> , to assist the Commission to monitor the obligations and measures and to provide specific expertise or knowledge to the Commission. | 2. The actions pursuant to paragraph 1 may include the appointment of independent external experts and auditors, <u>as well as the appointment of officials from competent authorities of the Member States</u> , to assist the Commission to monitor the obligations and measures and to provide specific expertise or knowledge to the Commission. Text Origin: Council Mandate |
| Article 24a | | | | |
| 290a | | <u>Article 24a</u> | | <u>Article 24a</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|---|-----------------|--|
| | | <u>Complaint mechanism</u> | | <u>Information by third parties</u> |
| Article 24a(1) | | | | |
| 290b | | <p><u>1. Business users, competitors, end-users of the core platform services as well as their representatives or other person with a legitimate interest may complain to the competent national authorities about any practice or behaviour by gatekeepers that falls into the scope of this Regulation, including non-compliance.</u></p> <p><u>The competent national authorities shall assess such complaints and shall report them to the Commission.</u></p> <p><u>The Commission shall examine whether there are reasonable grounds to open proceedings pursuant to Article 18 or a market investigation pursuant to Article 14.</u></p> | | <p><u>1. 1. Any third party including business users, competitors or end-users of the core platform services identified pursuant to Article 3(7) of this Regulation as well as their representatives, may inform the national authority competent to enforce the rules referred to in Article 1(6) or directly the Commission about any practice or behaviour by gatekeepers that falls within the scope of this Regulation.</u></p> <p><u>2. The competent national authorities and Commission shall have full discretion as regards the appropriate measures and are under no obligation to follow-up on the information received.</u></p> <p><u>3. Where the national authority determines based on the information received pursuant to paragraph 1 that there may be an issue of non-compliance with this Regulation, it shall transfer this information to the Commission.</u></p> |
| Article 24a(2) | | | | |
| 290c | | | | deleted |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|--|-----------------|---|
| Article 24a(2) | | | | |
| 290d | | <u>2. Directive (EU) 2019/1937 shall apply to the complaints and the reporting of breaches of this Regulation and the protection of persons reporting such breaches.</u> | | |
| Article 24b | | | | |
| 290e | | <u>Article 24b Compliance function</u> | | <u>Article 24b Compliance function</u> Text Origin: EP Mandate |
| Article 24b(1) | | | | |
| 290f | | <u>1. Gatekeepers shall establish a compliance function, which is independent from the operational functions of the gatekeeper and appoint one or more compliance officers, including the head of the compliance function.</u> | | <u>1. Gatekeepers shall establish a compliance function, which is independent from the operational functions of the gatekeeper and composed of one or more compliance officers, including the head of the compliance function.</u> Text Origin: EP Mandate |
| Article 24b(2) | | | | |
| 290g | | <u>2. The gatekeeper shall ensure that compliance function pursuant to paragraph 1 has sufficient authority, stature and resources, as well as access to the management body of the gatekeeper to monitor</u> | | <u>2. The gatekeeper shall ensure that compliance function pursuant to paragraph 1 has sufficient authority, stature and resources, as well as access to the management body of the gatekeeper to monitor</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|---|-----------------|---|
| | | <p><u><i>the compliance of the gatekeeper with this Regulation.</i></u></p> | | <p><u><i>the compliance of the gatekeeper with this Regulation.</i></u></p> <p>Text Origin: EP Mandate</p> |
| Article 24b(3) | | | | |
| 290h | | <p><u><i>3. Gatekeeper shall ensure that compliance officers appointed pursuant to paragraph 1 have the professional qualifications, knowledge, experience and ability necessary to fulfil the tasks referred to in paragraph 4.</i></u></p> <p><u><i>Gatekeeper shall also ensure that the head of the compliance function appointed pursuant to paragraph 1 is a senior manager with distinct responsibility for the compliance function and shall be independent from the operational functions and management body of the gatekeeper.</i></u></p> | | <p><u><i>3. The management body of the gatekeeper shall ensure that compliance officers appointed pursuant to paragraph 1 have the professional qualifications, knowledge, experience and ability necessary to fulfil the tasks referred to in paragraph 5.</i></u></p> <p><u><i>The management body of the gatekeeper shall also ensure that the head of the compliance function appointed pursuant to paragraph 1 is an independent senior manager with distinct responsibility for the compliance function.</i></u></p> <p>Text Origin: EP Mandate</p> |
| Article 24b(4) | | | | |
| 290i | | <p><u><i>4. The head of the compliance function shall report directly to the management body of the gatekeeper and shall have the powers to raise concerns and warn that body where risks of non-compliance with this Regulation arise, without prejudice to the responsibilities of the</i></u></p> | | <p><u><i>4. The head of the compliance function shall report directly to the management body of the gatekeeper and can raise concerns and warn that body where risks of non-compliance with this Regulation arise, without prejudice to the responsibilities of the management</i></u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|---|-----------------|--|
| | | <p><u>management body in its supervisory and managerial functions.</u></p> <p><u>The head of the compliance function shall not be removed without prior approval of the management body of the gatekeeper.</u></p> | | <p><u>body in its supervisory and managerial functions.</u></p> <p><u>The head of the compliance function shall not be removed without prior approval of the management body of the gatekeeper.</u></p> <p>Text Origin: EP Mandate</p> |
| Article 24b(5) | | | | |
| 290j | | <p><u>5. Compliance officers appointed by the gatekeeper pursuant to paragraph 1 shall oversee compliance of the gatekeeper with the obligations in this Regulation, including at least the following tasks:</u></p> <p><u>(a) organising, monitoring and supervising the measures and activities of the gatekeepers that aim to ensure compliance with the obligations laid down in this Regulation;</u></p> <p><u>(b) informing and advising the management and employees of the gatekeeper about relevant obligations under this Regulation;</u></p> <p><u>(c) where applicable, monitoring compliance with commitments made binding pursuant to Article 23, without prejudice to the Commission being able to appoint independent</u></p> | | <p><u>5. Compliance officers appointed by the gatekeeper pursuant to paragraph 1 shall have the following tasks:</u></p> <p><u>(a) organising, monitoring and supervising the measures and activities of the gatekeepers that aim to ensure compliance with this Regulation;</u></p> <p><u>(b) informing and advising the management and employees of the gatekeeper on compliance with this Regulation;</u></p> <p><u>(c) [where applicable, monitoring compliance with commitments made binding pursuant to Article 23, without prejudice to the Commission being able to appoint independent external experts pursuant to Article 24(2)].</u></p> <p><u>(d) cooperating with the Commission for the purpose of this</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|--|-----------------|---|
| | | <u>external experts pursuant to Article 24(2).</u> <u>(d) cooperating with the Commission for the purpose of this Regulation.</u> | | <u>Regulation.</u> Text Origin: EP Mandate |
| Article 24b(6) | | | | |
| g | 290k | <u>6. Gatekeepers shall communicate the name and contact details of the head of the compliance function to the Commission.</u> | | <u>6. Gatekeepers shall communicate the name and contact details of the head of the compliance function to the Commission.</u> Text Origin: EP Mandate |
| Article 24b(7) | | | | |
| g | 290l | <u>7. The management body of the gatekeeper shall define, oversee and be accountable for the implementation of the governance arrangements of the gatekeeper that ensure independence of the compliance function, including the segregation of duties in the organisation of the gatekeeper and the prevention of conflicts of interest.</u> | | <u>7. The management body of the gatekeeper shall define, oversee and be accountable for the implementation of the governance arrangements of the gatekeeper that ensure independence of the compliance function, including the segregation of duties in the organisation of the gatekeeper and the prevention of conflicts of interest.</u> Text Origin: EP Mandate |
| Article 24b(8) | | | | |
| g | 290m | | | <u>8. The management body shall approve and review periodically, at</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------------------------|--|--|---|---|
| | | | | <u><i>least once a year, the strategies and policies for taking up, managing and monitoring the compliance with this Regulation.</i></u> |
| Article 24b(9) | | | | |
| 290n | | | | <u><i>9. The management body shall devote sufficient time to the management and monitoring of compliance with this Regulation. It shall actively participate in decisions relating to the management and enforcement of this Regulation and ensure that adequate resources are allocated to it.</i></u> |
| Article 25 | | | | |
| 291 | Article 25 Non-compliance | Article 25 Non-compliance | Article 25 Non-compliance | Article 25 Non-compliance Text Origin: Commission Proposal |
| Article 25(1), introductory part | | | | |
| 292 | 1. The Commission shall adopt a non-compliance decision in accordance with the advisory procedure referred to in Article 32(4) where it finds that a gatekeeper does not comply with | 1. The Commission shall adopt a non-compliance decision in accordance with the advisory procedure referred to in Article 32(4) where it finds that a gatekeeper does not comply with | 1. The Commission shall adopt a non-compliance decision in accordance with the advisory procedure referred to in Article 32(4) <u>37a(2)</u> where it finds that a gatekeeper does not comply with | 1. The Commission shall adopt a non-compliance decision in accordance with the advisory procedure referred to in Article 32(4) <u>32</u> where it finds that a gatekeeper does not comply with |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--------------------------|--|--|--|--|
| | one or more of the following: | one or more of the following: | one or more of the following: | one or more of the following: Text Origin: EP Mandate |
| Article 25(1), point (a) | | | | |
| 293 | (a) any of the obligations laid down in Articles 5 or 6; | (a) any of the obligations laid down in Articles 5 or 6; | (a) any of the obligations laid down in Articles 5 or 6; | (a) any of the obligations laid down in Articles 5, <u>6 or 6a</u> or 6 ; Text Origin: Commission Proposal |
| Article 25(1), point (b) | | | | |
| 294 | (b) measures specified in a decision adopted pursuant to Article 7(2); | (b) measures specified in a decision adopted pursuant to Article 7(2); | (b) measures specified in a decision adopted pursuant to Article 7(2); | (b) measures specified in a decision adopted pursuant to Article 7(2); Text Origin: Commission Proposal |
| Article 25(1), point (c) | | | | |
| 295 | (c) measures ordered pursuant to Article 16(1); | (c) measures ordered pursuant to Article 16(1); | (c) measures ordered pursuant to Article 16(1); | (c) measures ordered pursuant to Article 16(1); Text Origin: Commission Proposal |
| Article 25(1), point (d) | | | | |
| 296 | (d) interim measures ordered pursuant to Article 22; or | (d) interim measures ordered pursuant to Article 22; or | (d) interim measures ordered pursuant to Article 22; or | (d) interim measures ordered pursuant to Article 22; or Text Origin: Commission Proposal |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--------------------------|---|---|---|---|
| Article 25(1), point (e) | | | | |
| 297 | (e) commitments made legally binding pursuant to Article 23. | <i>deleted</i> | (e) commitments made legally binding pursuant to Article 23. | (e) commitments made legally binding pursuant to Article 23. <small>Text Origin: Council Mandate</small> |
| Article 25(1a) | | | | |
| 297a | | <u><i>1a. The Commission shall adopt its decision within 12 months from the opening of proceedings pursuant to Article 18.</i></u> | | <u><i>1a. The Commission shall endeavour to adopt its decision within 12 months from the opening of proceedings pursuant to Article 18.</i></u> <small>Text Origin: EP Mandate</small> |
| Article 25(2) | | | | |
| 298 | 2. Before adopting the decision pursuant to paragraph 1, the Commission shall communicate its preliminary findings to the gatekeeper concerned. In the preliminary findings, the Commission shall explain the measures it considers to take or it considers that the gatekeeper should take in order to effectively address the preliminary findings. | 2. Before adopting the decision pursuant to paragraph 1, the Commission shall communicate its preliminary findings to the gatekeeper concerned. In the <u>those</u> preliminary findings, the Commission shall explain the measures it considers to take or is <u>considering taking or that</u> it considers that the gatekeeper should take in order to effectively address the preliminary findings. | 2. Before adopting the decision pursuant to paragraph 1, the Commission shall communicate its preliminary findings to the gatekeeper concerned. In the preliminary findings, the Commission shall explain the measures it considers to take or it considers that the gatekeeper should take in order to effectively address the preliminary findings. | 2. Before adopting the decision pursuant to paragraph 1, the Commission shall communicate its preliminary findings to the gatekeeper concerned. In the <u>those</u> preliminary findings, the Commission shall explain the measures it considers to take or is <u>considering taking or that</u> it considers that the gatekeeper should take in order to effectively address the preliminary findings. <small>Text Origin: EP Mandate</small> |
| Article 25(2a) | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|--|--|--|--|
| 298a | | | | <p><u>2a. Where it intends to adopt a decision pursuant to paragraph 1, the Commission may consult third parties.</u></p> <p>Text Origin: Auxiliary</p> |
| Article 25(3) | | | | |
| 299 | 3. In the non-compliance decision adopted pursuant to paragraph 1, the Commission shall order the gatekeeper to cease and desist with the non-compliance within an appropriate deadline and to provide explanations on how it plans to comply with the decision. | 3. In the non-compliance decision adopted pursuant to paragraph 1, the Commission shall order the gatekeeper to cease and desist with the non-compliance within an appropriate deadline and to provide explanations on how it plans to comply with the decision. | 3. In the non-compliance decision adopted pursuant to paragraph 1, the Commission shall order the gatekeeper to cease and desist with the non-compliance within an appropriate deadline and to provide explanations on how it plans to comply with the decision. | 3. In the non-compliance decision adopted pursuant to paragraph 1, the Commission shall order the gatekeeper to cease and desist with the non-compliance within an appropriate deadline and to provide explanations on how it plans to comply with the decision. |
| Article 25(4) | | | | |
| 300 | 4. The gatekeeper shall provide the Commission with the description of the measures it took to ensure compliance with the decision adopted pursuant to paragraph 1. | 4. The gatekeeper shall provide the Commission with the description of the measures <u>that it has taken</u> it took to ensure compliance with the decision adopted pursuant to paragraph 1. | 4. The gatekeeper shall provide the Commission with the description of the measures it took to ensure compliance with the <u>non-compliance</u> decision adopted pursuant to paragraph 1. | 4. The gatekeeper shall provide the Commission with the description of the measures <u>that it has taken</u> it took to ensure compliance with the <u>non-compliance</u> decision adopted pursuant to paragraph 1. |
| Article 25(5) | | | | |
| 301 | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------------------------|--|--|---|---|
| | 5. Where the Commission finds that the conditions of paragraph 1 are not met, it shall close the investigation by a decision. | 5. Where the Commission finds that the conditions of paragraph 1 are not met, it shall close the investigation by a decision. | 5. Where the Commission finds that the conditions of paragraph 1 are not met, it shall close the investigation by a decision. | 5. Where the Commission finds that the conditions of paragraph 1 are not met, it shall close the investigation by a decision. Text Origin: Commission Proposal |
| Article 26 | | | | |
| 302 | Article 26 Fines | Article 26 Fines | Article 26 Fines | Article 26 Fines Text Origin: Commission Proposal |
| Article 26(1), introductory part | | | | |
| 303 | 1. In the decision pursuant to Article 25, the Commission may impose on a gatekeeper fines not exceeding 10% of its total turnover in the preceding financial year where it finds that the gatekeeper, intentionally or negligently, fails to comply with: | 1. -In the decision pursuant to Article 25, the Commission may impose on a gatekeeper fines not <u>less than 4% and not exceeding 10%</u> 20% of its total <u>worldwide</u> turnover in the preceding financial year where it finds that the gatekeeper, intentionally or negligently, fails to comply with: | 1. -In the decision <u>adopted</u> pursuant to Article 25, the Commission may impose on a gatekeeper fines not exceeding 10% of its total <u>worldwide</u> turnover in the preceding financial year where it finds that the gatekeeper, intentionally or negligently, fails to comply with: | 1. -In the decision <u>adopted</u> pursuant to Article 25, the Commission may impose on a gatekeeper fines not exceeding 10% of its total <u>worldwide</u> turnover in the preceding financial year where it finds that the gatekeeper, intentionally or negligently, fails to comply with: Text Origin: Council Mandate |
| Article 26(1), point (a) | | | | |
| 304 | (a) any of the obligations pursuant to Articles 5 and 6; | (a) any of the obligations pursuant to Articles 5 and 6; | (a) any of the obligations pursuant to Articles 5 and 6; | (a) any of the obligations pursuant to Articles 5, <u>6 and 6a</u> and 6 ; Text Origin: Commission Proposal |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---|---------------------------|--|---|---|
| | Article 26(1), point (aa) | | | |
| 6 | 304a | <u><i>(aa) the obligation to notify information that is required pursuant to Article 12;</i></u> | | |
| | Article 26(1), point (ab) | | | |
| 6 | 304b | <u><i>(ab) the obligation to notify information that is required pursuant to Article 13 or supply incorrect, incomplete or misleading information;</i></u> | | |
| | Article 26(1), point (b) | | | |
| 6 | 305 | (b) the measures specified by the Commission pursuant to a decision under Article 7(2); | (b) the measures specified by the Commission pursuant to a decision under Article 7(2); | (b) the measures specified by the Commission pursuant to a decision under Article 7(2); Text Origin: Commission Proposal |
| | Article 26(1), point (c) | | | |
| 6 | 306 | (c) measures ordered pursuant to Article 16(1); | (c) measures ordered pursuant to Article 16(1); | (c) measures ordered pursuant to Article 16(1); Text Origin: Commission Proposal |
| | Article 26(1), point (d) | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------------------------|---|--|--|--|
| 307 | (d) a decision ordering interim measures pursuant to Article 22; | (d) a decision ordering interim measures pursuant to Article 22; | (d) a decision ordering interim measures pursuant to Article 22; <i>or</i> | (d) a decision ordering interim measures pursuant to Article 22; <i>Text Origin: EP Mandate</i> |
| Article 26(1), point (e) | | | | |
| 308 | (e) a commitment made binding by a decision pursuant to Article 23. | <i>deleted</i> | (e) a commitment made binding by a decision pursuant to Article 23. | (e) a commitment made binding by a decision pursuant to Article 23. <i>Text Origin: Commission Proposal</i> |
| Article 26(1a) | | | | |
| 308a | | | | <u><i>1a. Notwithstanding paragraph 1, the Commission may impose on a gatekeeper fines up to 20% of its total worldwide turnover in the preceding financial year where it finds in a decision pursuant to Article 25 that a gatekeeper has committed the same or a similar infringement of an obligation laid down in Article 5, 6 or 6a in relation to the same core platform service as it was found to have committed in a decision adopted in the 8 preceding years.</i></u> |
| Article 26(2), introductory part | | | | |
| 309 | 2. The Commission may by decision impose on undertakings and | 2. The Commission may by decision impose on undertakings and | 2. The Commission may by decision impose on undertakings and | 2. The Commission may by decision impose on undertakings and |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------|---|---|---|---|
| | associations of undertakings fines not exceeding 1% of the total turnover in the preceding financial year where they intentionally or negligently: | associations of undertakings fines not exceeding 1% of the total turnover in the preceding financial year where they intentionally or negligently: | associations of undertakings fines not exceeding 1% of the <u>their</u> total <u>worldwide</u> turnover in the preceding financial year where they intentionally or negligently: | associations of undertakings fines not exceeding 1% of the <u>their</u> total <u>worldwide</u> turnover in the preceding financial year where they intentionally or negligently: Text Origin: Council Mandate |
| Article 26(2), point (-a) | | | | |
| 309a | | | <u>(-a) fail to comply with the obligation to notify the Commission according to Article 3(3);</u> | <u>(-a) fail to comply with the obligation to notify the Commission according to Article 3(3);</u> Text Origin: Council Mandate |
| Article 26(2), point (a) | | | | |
| 310 | (a) fail to provide within the time-limit information that is required for assessing their designation as gatekeepers pursuant to Article 3(2) or supply incorrect, incomplete or misleading information; | (a) fail to provide within the time-limit information that is required for assessing their designation as gatekeepers pursuant to Article 3(2) or supply incorrect, incomplete or misleading information; | (a) fail to provide within the time-limit information that is required for assessing their designation as gatekeepers pursuant to Article 3(2) or supply incorrect, incomplete or misleading information; | (a) fail to provide within the time-limit information that is required for assessing their designation as gatekeepers pursuant to Article 3(2) or supply incorrect, incomplete or misleading information; Text Origin: Commission Proposal |
| Article 26(2), point (b) | | | | |
| 311 | (b) fail to notify information that is required pursuant to Article 12 or supply incorrect, incomplete or misleading information; | <i>deleted</i> | (b) fail to notify information that is required pursuant to Article 12 or supply incorrect, incomplete or misleading information <u>that is required pursuant to Article 12;</u> | (b) fail to notify information that is required pursuant to Article 12 or supply incorrect, incomplete or misleading information <u>that is required pursuant to Article 12;</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--------------------------|--|--|---|---|
| | | | | Text Origin: Council Mandate |
| Article 26(2), point (c) | | | | |
| 312 | (c) fail to submit the description that is required pursuant to Article 13; | <i>deleted</i> | (c) fail to submit the description <u>or supply incorrect, incomplete or misleading information</u> that is required pursuant to Article 13; | (c) fail to submit the description <u>or supply incorrect, incomplete or misleading information</u> that is required pursuant to Article 13; Text Origin: Council Mandate |
| Article 26(2), point (d) | | | | |
| 313 | (d) supply incorrect, incomplete or misleading information or explanations that are requested pursuant to Articles 19 or Article 20; | (d) supply incorrect, incomplete or misleading information or explanations that are requested pursuant to Articles 19 or Article 20; | (d) <u>fail to supply or</u> supply incorrect, incomplete or misleading information or explanations that are requested pursuant to Articles 19 or Article 20; | (d) <u>fail to supply or</u> supply incorrect, incomplete or misleading information or explanations that are requested pursuant to Articles 19 or Article 20; Text Origin: Council Mandate |
| Article 26(2), point (e) | | | | |
| 314 | (e) fail to provide access to databases and algorithms pursuant to Article 19; | (e) fail to provide access to databases and algorithms pursuant to Article 19; | (e) fail to provide access to databases and algorithms pursuant to Article 19; | (e) fail to provide access to databases and algorithms pursuant to Article 19; Text Origin: Commission Proposal |
| Article 26(2), point (f) | | | | |
| 315 | (f) fail to rectify within a time-limit set by the Commission, incorrect, | (f) fail to rectify within a time-limit set by the Commission, incorrect, | (f) fail to rectify within a time-limit set by the Commission, incorrect, | (f) fail to rectify within a time-limit set by the Commission, incorrect, |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------|---|---|---|---|
| | incomplete or misleading information given by a member of staff, or fail or refuse to provide complete information on facts relating to the subject-matter and purpose of an inspection pursuant to Article 21; | incomplete or misleading information given by a member of staff, or fail or refuse to provide complete information on facts relating to the subject-matter and purpose of an inspection pursuant to Article 21; | incomplete or misleading information given by a <u>representative or a</u> member of staff, or fail or refuse to provide complete information on facts relating to the subject-matter and purpose of an inspection, pursuant to Article 21; | incomplete or misleading information given by a <u>representative or a</u> member of staff, or fail or refuse to provide complete information on facts relating to the subject-matter and purpose of an inspection, pursuant to Article 21; Text Origin: Council Mandate |
| Article 26(2), point (g) | | | | |
| 316 | (g) refuse to submit to an on-site inspection pursuant to Article 21. | (g) refuse to submit to an on-site inspection pursuant to Article 21. | (g) refuse to submit to an on-site inspection pursuant to Article 21; | (g) refuse to submit to an on-site inspection pursuant to Article 21; Text Origin: Council Mandate |
| Article 26(2), point (ga) | | | | |
| 316a | | | <u>(ga) fail to comply with the measures adopted by the Commission pursuant to Article 24;</u> <u>or</u> | <u>(ga) fail to comply with the measures adopted by the Commission pursuant to Article 24;</u> <u>or</u> Text Origin: Council Mandate |
| Article 26(2), point (gb) | | | | |
| 316b | | | <u>(gb) fail to comply with the conditions for access to the Commission's file pursuant to Article 30(4).</u> | <u>(gb) fail to comply with the conditions for access to the Commission's file pursuant to Article 30(4).</u> Text Origin: Council Mandate |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------------------------|---|---|--|--|
| Article 26(3) | | | | |
| 317 | 3. In fixing the amount of the fine, regard shall be had to the gravity, duration, recurrence, and, for fines imposed pursuant to paragraph 2, delay caused to the proceedings. | 3. In fixing the amount of the fine, regard shall be had to the gravity, duration, recurrence, and, for fines imposed pursuant to paragraph 2, delay caused to the proceedings. | 3. In fixing the amount of the fine, regard <u>the Commission</u> shall be had to <u>take regard of</u> the gravity, duration, recurrence, and, for fines imposed pursuant to paragraph 2, delay caused to the proceedings. | 3. In fixing the amount of the fine, regard <u>the Commission</u> shall be had to <u>take regard of</u> the gravity, duration, recurrence, and, for fines imposed pursuant to paragraph 2, delay caused to the proceedings. Text Origin: Council Mandate |
| Article 26(4), introductory part | | | | |
| 318 | 4. When a fine is imposed on an association of undertakings taking account of the turnover of its members and the association is not solvent, the association shall be obliged to call for contributions from its members to cover the amount of the fine. | 4. When a fine is imposed on an association of undertakings taking account of the turnover of its members and the association is not solvent, the association shall be obliged to call for contributions from its members to cover the amount of the fine. | 4. -When a fine is imposed on an association of undertakings taking account of the <u>worldwide</u> turnover of its members and the association is not solvent, the association shall be obliged to call for contributions from its members to cover the amount of the fine. | 4. -When a fine is imposed on an association of undertakings taking account of the <u>worldwide</u> turnover of its members and the association is not solvent, the association shall be obliged to call for contributions from its members to cover the amount of the fine. Text Origin: Council Mandate |
| Article 26(4), first paragraph | | | | |
| 319 | Where such contributions have not been made to the association within a time-limit set by the Commission, the Commission may require payment of the fine directly by any of the undertakings whose representatives were members of the decision-making bodies concerned of the association. | Where such contributions have not been made to the association within a time-limit set by the Commission, the Commission may require payment of the fine directly by any of the undertakings whose representatives were members of the decision-making bodies concerned of the association. | Where such contributions have not been made to the association <u>of undertakings</u> within a time-limit set by the Commission, the Commission may require payment of the fine directly by any of the undertakings whose representatives were members of the decision-making bodies concerned of the association. | Where such contributions have not been made to the association <u>of undertakings</u> within a time-limit set by the Commission, the Commission may require payment of the fine directly by any of the undertakings whose representatives were members of the decision-making bodies concerned of the association. |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------------|--|--|--|--|
| | | | | Text Origin: Council Mandate |
| Article 26(4), second paragraph | | | | |
| 320 | After having required payment in accordance with the second subparagraph, the Commission may require payment of the balance by any of the members of the association which were active on the market on which the infringement occurred, where necessary to ensure full payment of the fine. | After having required payment in accordance with the second subparagraph, the Commission may require payment of the balance by any of the members of the association which were active on the market on which the infringement occurred, where necessary to ensure full payment of the fine. | After having required payment in accordance with the second subparagraph, the Commission may require payment of the balance by any of the members of the association which were active on the market on which the infringement occurred <u>of undertakings</u> , where necessary to ensure full payment of the fine. | After having required payment in accordance with the second subparagraph, the Commission may require payment of the balance by any of the members of the association which were active on the market on which the infringement occurred <u>of undertakings</u> , where necessary to ensure full payment of the fine. Text Origin: Council Mandate |
| Article 26(4), third paragraph | | | | |
| 321 | However, the Commission shall not require payment pursuant to the second or the third subparagraph from undertakings which show that they have not implemented the infringing decision of the association and either were not aware of its existence or have actively distanced themselves from it before the Commission started investigating the case. | However, the Commission shall not require payment pursuant to the second or the third subparagraph from undertakings which show that they have not implemented the infringing decision of the association and either were not aware of its existence or have actively distanced themselves from it before the Commission started investigating the case. | However, the Commission shall not require payment pursuant to the second or the third subparagraph from undertakings which show that they have not implemented the infringing decision of the association <u>of undertakings</u> and either were not aware of its existence or have actively distanced themselves from it before the Commission started investigating the case <u>opened proceedings under Article 18</u> . | However, the Commission shall not require payment pursuant to the second or the third subparagraph from undertakings which show that they have not implemented the infringing decision of the association <u>of undertakings</u> and either were not aware of its existence or have actively distanced themselves from it before the Commission started investigating the case <u>opened proceedings under Article 18</u> . Text Origin: Council Mandate |
| Article 26(4), fourth paragraph | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------------------------|--|--|--|--|
| 322 | The financial liability of each undertaking in respect of the payment of the fine shall not exceed 10 % of its total turnover in the preceding financial year. | The financial liability of each undertaking in respect of the payment of the fine shall not exceed 10 % of its total turnover in the preceding financial year. | The financial liability of each undertaking in respect of the payment of the fine shall not exceed 10 % of its total <i>worldwide</i> turnover in the preceding financial year. | The financial liability of each undertaking in respect of the payment of the fine shall not exceed 10 20 % of its total <i>worldwide</i> turnover in the preceding financial year. Text Origin: Council Mandate |
| Article 27 | | | | |
| 323 | Article 27 Periodic penalty payments | Article 27 Periodic penalty payments | Article 27 Periodic penalty payments | Article 27 Periodic penalty payments Text Origin: Commission Proposal |
| Article 27(1), introductory part | | | | |
| 324 | 1. The Commission may by decision impose on undertakings, including gatekeepers where applicable, periodic penalty payments not exceeding 5 % of the average daily turnover in the preceding financial year per day, calculated from the date set by that decision, in order to compel them: | 1. The Commission may by decision impose on undertakings, including gatekeepers where applicable, periodic penalty payments not exceeding 5 % of the average daily turnover in the preceding financial year per day, calculated from the date set by that decision, in order to compel them: | 1. The Commission may by decision impose on undertakings, including gatekeepers where applicable, <i>and association of undertakings</i> periodic penalty payments not exceeding 5 % of the average daily <i>worldwide</i> turnover in the preceding financial year per day, calculated from the date set by that decision, in order to compel them: | 1. The Commission may by decision impose on undertakings, including gatekeepers where applicable, <i>and association of undertakings</i> periodic penalty payments not exceeding 5 % of the average daily <i>worldwide</i> turnover in the preceding financial year per day, calculated from the date set by that decision, in order to compel them: Text Origin: Council Mandate |
| Article 27(1), point (-a) | | | | |
| 324a | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--------------------------|---|---|---|---|
| | | | | <u><i>(-a) to comply with the measures specified by the Commission pursuant to a decision under Article 7(2);</i></u> |
| Article 27(1), point (a) | | | | |
| 325 | (a) to comply with the decision pursuant to Article 16(1); | (a) to comply with the decision pursuant to Article 16(1); | (a) to comply with the decision pursuant to Article 16(1); | (a) to comply with the decision pursuant to Article 16(1); Text Origin: Commission Proposal |
| Article 27(1), point (b) | | | | |
| 326 | (b) to supply correct and complete information within the time limit required by a request for information made by decision pursuant to Article 19; | (b) to supply correct and complete information within the time limit required by a request for information made by decision pursuant to Article 19; | (b) to supply correct and complete information within the time limit required by a request for information made by decision pursuant to Article 19; | (b) to supply correct and complete information within the time limit required by a request for information made by decision pursuant to Article 19; Text Origin: Commission Proposal |
| Article 27(1), point (c) | | | | |
| 327 | (c) to ensure access to data-bases and algorithms of undertakings and to supply explanations on those as required by a decision pursuant to Article 19; | (c) to ensure access to data-bases and algorithms of undertakings and to supply explanations on those as required by a decision pursuant to Article 19; | (c) to ensure access to data-bases and algorithms of undertakings and to supply explanations on those as required by a decision pursuant to Article 19; | (c) to ensure access to data-bases and algorithms of undertakings and to supply explanations on those as required by a decision pursuant to Article 19; Text Origin: Commission Proposal |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--------------------------|--|--|---|---|
| Article 27(1), point (d) | | | | |
| 328 | (d) to submit to an on-site inspection which was ordered by a decision taken pursuant to Article 21; | (d) to submit to an on-site inspection which was ordered by a decision taken pursuant to Article 21; | (d) to submit to an on-site inspection which was ordered by a decision taken pursuant to Article 21; | (d) to submit to an on-site inspection which was ordered by a decision taken pursuant to Article 21; Text Origin: Council Mandate |
| Article 27(1), point (e) | | | | |
| 329 | (e) to comply with a decision ordering interim measures taken pursuant to Article 22(1); | (e) to comply with a decision ordering interim measures taken pursuant to Article 22(1); | (e) to comply with a decision ordering interim measures taken pursuant to Article 22(1); | (e) to comply with a decision ordering interim measures taken pursuant to Article 22(1); Text Origin: Commission Proposal |
| Article 27(1), point (f) | | | | |
| 330 | (f) to comply with commitments made legally binding by a decision pursuant to Article 23(1); | (f) to comply with commitments made legally binding by a decision pursuant to Article 23(1); | (f) to comply with commitments made legally binding by a decision pursuant to Article 23(1); | (f) to comply with commitments made legally binding by a decision pursuant to Article 23(1); Text Origin: Commission Proposal |
| Article 27(1), point (g) | | | | |
| 331 | (g) to comply with a decision pursuant to Article 25(1). | (g) to comply with a decision pursuant to Article 25(1). | (g) to comply with a decision pursuant to Article 25(1). | (g) to comply with a decision pursuant to Article 25(1). Text Origin: Commission Proposal |
| Article 27(2) | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|--|---|---|---|
| 332 | 2. Where the undertakings have satisfied the obligation which the periodic penalty payment was intended to enforce, the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) set the definitive amount of the periodic penalty payment at a figure lower than that which would arise under the original decision. | 2. Where the undertakings have satisfied the obligation which the periodic penalty payment was intended to enforce, the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) set the definitive amount of the periodic penalty payment <i>at a figure lower than that which would arise under the original decision.</i> | 2. Where the undertakings <u>or association of undertakings</u> have satisfied the obligation which the periodic penalty payment was intended to enforce, the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) <u>37a(2)</u> set the definitive amount of the periodic penalty payment at a figure lower than that which would arise under the original decision. | 2. Where the undertakings <u>or association of undertakings</u> have satisfied the obligation which the periodic penalty payment was intended to enforce, the Commission may by decision adopted in accordance with the advisory procedure referred to in Article 32(4) <u>32</u> set the definitive amount of the periodic penalty payment at a figure lower than that which would arise under the original decision. Text Origin: Council Mandate |
| Article 28 | | | | |
| 333 | Article 28 Limitation periods for the imposition of penalties | Article 28 Limitation periods for the imposition of penalties | Article 28 Limitation periods for the imposition of penalties | Article 28 Limitation periods for the imposition of penalties Text Origin: Commission Proposal |
| Article 28(1) | | | | |
| 334 | 1. The powers conferred on the Commission by Articles 26 and 27 shall be subject to a three year limitation period. | 1. The powers conferred on the Commission by Articles 26 and 27 shall be subject to a three <u>five</u> year limitation period. | 1. The powers conferred on the Commission by Articles 26 and 27 shall be subject to a three <u>five</u> year limitation period, <u>with the exception of the case of infringements of provisions concerning requests for information, pursuant to Article 19, powers to conduct interviews and take statements, pursuant to Article</u> | 1. The powers conferred on the Commission by Articles 26 and 27 shall be subject to a three <u>five</u> year limitation period. Text Origin: EP Mandate |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------------------------|--|--|---|---|
| | | | <u>20, or the conduct of inspections, pursuant to Article 21, where such limitation period shall be three years.</u> | |
| Article 28(2) | | | | |
| 335 | 2. Time shall begin to run on the day on which the infringement is committed. However, in the case of continuing or repeated infringements, time shall begin to run on the day on which the infringement ceases. | 2. Time shall begin to run on the day on which the infringement is committed. However, in the case of continuing or repeated infringements, time shall begin to run on the day on which the infringement ceases. | 2. Time shall begin to run on the day on which the infringement is committed. However, in the case of continuing or repeated infringements, time shall begin to run on the day on which the infringement ceases. | 2. Time shall begin to run on the day on which the infringement is committed. However, in the case of continuing or repeated infringements, time shall begin to run on the day on which the infringement ceases. Text Origin: Commission Proposal |
| Article 28(3), introductory part | | | | |
| 336 | 3. Any action taken by the Commission for the purpose of an investigation or proceedings in respect of an infringement shall interrupt the limitation period for the imposition of fines or periodic penalty payments. The limitation period shall be interrupted with effect from the date on which the action is notified to at least one undertaking or association of undertakings which has participated in the infringement. Actions which interrupt the running of the period shall include in particular the | 3. Any action taken by the Commission for the purpose of an investigation or proceedings in respect of an infringement shall interrupt the limitation period for the imposition of fines or periodic penalty payments. The limitation period shall be interrupted with effect from the date on which the action is notified to at least one undertaking or association of undertakings which has participated in the infringement. Actions which interrupt the running of the period shall include in particular the | 3. Any action taken by the Commission for the purpose of an <u>market</u> investigation or proceedings in respect of an infringement shall interrupt the limitation period for the imposition of fines or periodic penalty payments. The limitation period shall be interrupted with effect from the date on which the action is notified to at least one undertaking or association of undertakings which has participated in the infringement. Actions which interrupt the running of the period shall include in particular the | 3. Any action taken by the Commission for the purpose of an <u>market</u> investigation or proceedings in respect of an infringement shall interrupt the limitation period for the imposition of fines or periodic penalty payments. The limitation period shall be interrupted with effect from the date on which the action is notified to at least one undertaking or association of undertakings which has participated in the infringement. Actions which interrupt the running of the period shall include in particular the |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--------------------------|--|--|--|--|
| | following: | following: | following: | following: Text Origin: Council Mandate |
| Article 28(3), point (a) | | | | |
| 337 | (a) requests for information by the Commission; | (a) requests for information by the Commission; | (a) requests for information by the Commission; | (a) requests for information by the Commission; Text Origin: Commission Proposal |
| Article 28(3), point (b) | | | | |
| 338 | (b) on-site inspection; | (b) on-site inspection; | (b) on-site inspection <u>written authorisations to conduct inspections issued to its officials by the Commission</u> ; | (b) on-site inspection <u>written authorisations to conduct inspections issued to its officials by the Commission</u> ; Text Origin: Council Mandate |
| Article 28(3), point (c) | | | | |
| 339 | (c) the opening of a proceeding by the Commission pursuant to Article 18. | (c) the opening of a proceeding by the Commission pursuant to Article 18. | (c) the opening of a proceeding by the Commission pursuant to Article 18. | (c) the opening of a proceeding by the Commission pursuant to Article 18. Text Origin: Commission Proposal |
| Article 28(4) | | | | |
| 340 | 4. Each interruption shall start time running afresh. However, the limitation period shall expire at the | 4. Each interruption shall start time running afresh. However, the limitation period shall expire at the | 4. Each interruption shall start time running afresh. However, the limitation period shall expire at the | 4. Each interruption shall start time running afresh. However, the limitation period shall expire at the |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|--|--|--|--|
| | latest on the day on which a period equal to twice the limitation period has elapsed without the Commission having imposed a fine or a periodic penalty payment. That period shall be extended by the time during which limitation is suspended pursuant to paragraph 5. | latest on the day on which a period equal to twice the limitation period has elapsed without the Commission having imposed a fine or a periodic penalty payment. That period shall be extended by the time during which limitation is suspended pursuant to paragraph 5. | latest on the day on which a period equal to twice the limitation period has elapsed without the Commission having imposed a fine or a periodic penalty payment. That period shall be extended by the time during which limitation is suspended pursuant to paragraph 5. | latest on the day on which a period equal to twice the limitation period has elapsed without the Commission having imposed a fine or a periodic penalty payment. That period shall be extended by the time during which limitation is suspended pursuant to paragraph 5. Text Origin: Commission Proposal |
| Article 28(5) | | | | |
| 341 | 5. The limitation period for the imposition of fines or periodic penalty payments shall be suspended for as long as the decision of the Commission is the subject of proceedings pending before the Court of Justice of the European Union. | 5. The limitation period for the imposition of fines or periodic penalty payments shall be suspended for as long as the decision of the Commission is the subject of proceedings pending before the Court of Justice of the European Union. | 5. The limitation period for the imposition of fines or periodic penalty payments shall be suspended for as long as the decision of the Commission is the subject of proceedings pending before the Court of Justice of the European <i>Union.</i> | 5. The limitation period for the imposition of fines or periodic penalty payments shall be suspended for as long as the decision of the Commission is the subject of proceedings pending before the Court of Justice of the European <i>Union.</i> Text Origin: Council Mandate |
| Article 29 | | | | |
| 342 | Article 29 Limitation periods for the enforcement of penalties | Article 29 Limitation periods for the enforcement of penalties | Article 29 Limitation periods for the enforcement of penalties | Article 29 Limitation periods for the enforcement of penalties Text Origin: Commission Proposal |
| Article 29(1) | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------------------------|---|---|---|---|
| 343 | 1. The power of the Commission to enforce decisions taken pursuant to Articles 26 and 27 shall be subject to a limitation period of five years. | 1. The power of the Commission to enforce decisions taken pursuant to Articles 26 and 27 shall be subject to a limitation period of five years. | 1. The power of the Commission to enforce decisions taken pursuant to Articles 26 and 27 shall be subject to a limitation period of five years. | 1. The power of the Commission to enforce decisions taken pursuant to Articles 26 and 27 shall be subject to a limitation period of five years. Text Origin: Commission Proposal |
| Article 29(2) | | | | |
| 344 | 2. Time shall begin to run on the day on which the decision becomes final. | 2. Time shall begin to run on the day on which the decision becomes final. | 2. Time shall begin to run on the day on which the decision becomes final. | 2. Time shall begin to run on the day on which the decision becomes final. Text Origin: Commission Proposal |
| Article 29(3), introductory part | | | | |
| 345 | 3. The limitation period for the enforcement of penalties shall be interrupted: | 3. The limitation period for the enforcement of penalties shall be interrupted: | 3. The limitation period for the enforcement of penalties shall be interrupted: | 3. The limitation period for the enforcement of penalties shall be interrupted: Text Origin: Commission Proposal |
| Article 29(3), point (a) | | | | |
| 346 | (a) by notification of a decision varying the original amount of the fine or periodic penalty payment or refusing an application for variation; | (a) by notification of a decision varying the original amount of the fine or periodic penalty payment or refusing an application for variation; | (a) by notification of a decision varying the original amount of the fine or periodic penalty payment or refusing an application for variation; | (a) by notification of a decision varying the original amount of the fine or periodic penalty payment or refusing an application for variation; Text Origin: Commission Proposal |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------------------------|---|---|---|---|
| Article 29(3), point (b) | | | | |
| 347 | (b) by any action of the Commission or of a Member State, acting at the request of the Commission, designed to enforce payment of the fine or periodic penalty payment. | (b) by any action of the Commission or of a Member State, acting at the request of the Commission, designed to enforce payment of the fine or periodic penalty payment. | (b) by any action of the Commission or of a Member State, acting at the request of the Commission, designed to enforce payment of the fine or periodic penalty payment. | (b) by any action of the Commission or of a Member State, acting at the request of the Commission, designed to enforce payment of the fine or periodic penalty payment. Text Origin: Commission Proposal |
| Article 29(4) | | | | |
| 348 | 4. Each interruption shall start time running afresh. | 4. Each interruption shall start time running afresh. | 4. Each interruption shall start time running afresh. | 4. Each interruption shall start time running afresh. Text Origin: Commission Proposal |
| Article 29(5), introductory part | | | | |
| 349 | 5. The limitation period for the enforcement of penalties shall be suspended for so long as: | 5. The limitation period for the enforcement of penalties shall be suspended for so long as: | 5. The limitation period for the enforcement of penalties shall be suspended for so long as: | 5. The limitation period for the enforcement of penalties shall be suspended for so long as: Text Origin: Commission Proposal |
| Article 29(5), point (a) | | | | |
| 350 | (a) time to pay is allowed; | (a) time to pay is allowed; | (a) time to pay is allowed; | (a) time to pay is allowed; Text Origin: Commission |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------------------------|--|---|--|--|
| | | | | Proposal |
| Article 29(5), point (b) | | | | |
| 351 | (b) enforcement of payment is suspended pursuant to a decision of the Court of Justice. | (b) enforcement of payment is suspended pursuant to a decision of the Court of Justice. | (b) enforcement of payment is suspended pursuant to a decision of the Court of Justice <u>or to a decision by a national court.</u> | (b) enforcement of payment is suspended pursuant to a decision of the Court of Justice <u>or to a decision by a national court.</u> Text Origin: Council Mandate |
| Article 30 | | | | |
| 352 | Article 30 Right to be heard and access to the file | Article 30 Right to be heard and access to the file | Article 30 Right to be heard and access to the file | Article 30 Right to be heard and access to the file Text Origin: Commission Proposal |
| Article 30(1), introductory part | | | | |
| 353 | 1. Before adopting a decision pursuant to Article 7, Article 8(1), Article 9(1), Articles 15, 16, 22, 23, 25 and 26 and Article 27(2), the Commission shall give the gatekeeper or undertaking or association of undertakings concerned the opportunity of being heard on: | 1. Before adopting a decision pursuant to Article 7, Article 8(1), Article 9(1), Articles 15, 16, 22, 23, 25 and 26 and Article 27(2), the Commission shall give the gatekeeper or undertaking or association of undertakings concerned <u>including third parties with a legitimate interest,</u> the opportunity of being heard on: | 1. Before adopting a decision pursuant to Article 7, Article 8(1), Article 9(1), Articles 15, 16, 22, 23, 25 and 26 and Article 27(2), the Commission shall give the gatekeeper or undertaking or association of undertakings concerned the opportunity of being heard on: | 1. Before adopting a decision pursuant to Article 7, Article 8(1), Article 9(1), Articles 15, 16, 22, 23, 25 and 26 and Article 27(2), the Commission shall give the gatekeeper or undertaking or association of undertakings concerned the opportunity of being heard on: Text Origin: Commission Proposal |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--------------------------|---|---|---|---|
| Article 30(1), point (a) | | | | |
| 354 | (a) preliminary findings of the Commission, including any matter to which the Commission has taken objections; | (a) preliminary findings of the Commission, including any matter to which the Commission has taken objections; | (a) preliminary findings of the Commission, including any matter to which the Commission has taken objections; | (a) preliminary findings of the Commission, including any matter to which the Commission has taken objections; Text Origin: Commission Proposal |
| Article 30(1), point (b) | | | | |
| 355 | (b) measures that the Commission may intend to take in view of the preliminary findings pursuant to point (a) of this paragraph. | (b) measures that the Commission may intend to take in view of the preliminary findings pursuant to point (a) of this paragraph. | (b) measures that the Commission may intend to take in view of the preliminary findings pursuant to point (a) of this paragraph. | (b) measures that the Commission may intend to take in view of the preliminary findings pursuant to point (a) of this paragraph. Text Origin: Commission Proposal |
| Article 30(2) | | | | |
| 356 | 2. Gatekeepers, undertakings and associations of undertakings concerned may submit their observations to the Commission's preliminary findings within a time limit which shall be fixed by the Commission in its preliminary findings and which may not be less than 14 days. | 2. Gatekeepers, undertakings and associations of undertakings concerned <u>including third parties with a legitimate interest</u> may submit their observations to the Commission's preliminary findings within a time limit which shall be fixed by the Commission in its preliminary findings and which may not be less than 14 days. | 2. Gatekeepers, undertakings and associations of undertakings concerned may submit their observations to the Commission's preliminary findings within a time limit which shall be fixed by the Commission in its preliminary findings and which may not be less than 14 days. | 2. Gatekeepers, undertakings and associations of undertakings concerned may submit their observations to the Commission's preliminary findings within a time limit which shall be fixed by the Commission in its preliminary findings and which may not be less than 14 days. Text Origin: Commission Proposal |
| Article 30(3) | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|--|--|--|--|
| 357 | 3. The Commission shall base its decisions only on objections on which gatekeepers, undertakings and associations of undertakings concerned have been able to comment. | 3. The Commission shall base its decisions only on objections on which gatekeepers, undertakings and , associations of undertakings concerned <u>and third parties with a legitimate interest</u> have been able to comment. | 3. The Commission shall base its decisions only on objections on which gatekeepers, undertakings and associations of undertakings concerned have been able to comment. | 3. The Commission shall base its decisions only on objections on which gatekeepers, undertakings and associations of undertakings concerned have been able to comment. Text Origin: Commission Proposal |
| Article 30(4) | | | | |
| 358 | 4. The rights of defence of the gatekeeper or undertaking or association of undertakings concerned shall be fully respected in any proceedings. The gatekeeper or undertaking or association of undertakings concerned shall be entitled to have access to the Commission's file under the terms of a negotiated disclosure, subject to the legitimate interest of undertakings in the protection of their business secrets. The right of access to the file shall not extend to confidential information and internal documents of the Commission or the authorities of the Member States. In particular, the right of access shall not extend to correspondence between the Commission and the authorities of the Member States. Nothing in this paragraph shall prevent the Commission from | 4. The rights of defence of the gatekeeper or undertaking or association of undertakings concerned shall be fully respected in any proceedings. The gatekeeper or undertaking or association of undertakings concerned shall be entitled to have access to the Commission's file under the terms of a negotiated disclosure, subject to the legitimate interest of undertakings in the protection of their business secrets. The right of access to the file shall not extend to confidential information and internal documents of the Commission or the authorities of the Member States. In particular, the right of access shall not extend to correspondence between the Commission and the authorities of the Member States. Nothing in this paragraph shall prevent the Commission from | 4. The rights of defence of the gatekeeper or undertaking or association of undertakings concerned shall be fully respected in any proceedings. The gatekeeper or undertaking or association of undertakings concerned shall be entitled to have access to the Commission's file under the terms of a negotiated disclosure, subject to the legitimate interest of undertakings in the protection of their business secrets. The <u>Commission shall have the power to issue decisions setting out such terms of disclosure in case of disagreement between the parties.</u> <u>The</u> right of access to the file <u>of the Commission</u> shall not extend to confidential information and internal documents of the Commission or the <u>competent</u> authorities of the Member States. In particular, the right of | 4. The rights of defence of the gatekeeper or undertaking or association of undertakings concerned shall be fully respected in any proceedings. The gatekeeper or undertaking or association of undertakings concerned shall be entitled to have access to the Commission's file under the terms of a negotiated disclosure, subject to the legitimate interest of undertakings in the protection of their business secrets. The <u>Commission shall have the power to issue decisions setting out such terms of disclosure in case of disagreement between the parties.</u> <u>The</u> right of access to the file <u>of the Commission</u> shall not extend to confidential information and internal documents of the Commission or the <u>competent</u> authorities of the Member States. In particular, the right of |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|--|--|--|--|
| | disclosing and using information necessary to prove an infringement. | disclosing and using information necessary to prove an infringement. | access shall not extend to correspondence between the Commission and the <u>competent</u> authorities of the Member States. Nothing in this paragraph shall prevent the Commission from disclosing and using information necessary to prove an infringement. | access shall not extend to correspondence between the Commission and the <u>competent</u> authorities of the Member States. Nothing in this paragraph shall prevent the Commission from disclosing and using information necessary to prove an infringement. Text Origin: Council Mandate |
| Article 30a | | | | |
| 358a | | <u>Article 30a</u> <u>Accountability</u> | | <u>Article 30a</u> <u>Annual reporting</u> |
| Article 30a(1) | | | | |
| 358b | | <u>1. The Commission shall adopt an annual report on the state of the digital economy. This report shall provide an analysis of the market position, influence and business models of the gatekeepers in the common market. The report shall include a summary of its activities, in particular supervisory measures adopted under Chapter II and IV of this Regulation as well as an assessment on whether competition rules, the provisions of this Regulation (and Regulation XX/2021 DSA) and current enforcement levels are adequate to address anticompetitive conduct</u> | | <u>1. The Commission shall submit to the European Parliament and to the Council an annual report on the implementation of this Regulation and the progress made towards achieving its objectives.</u> <u>That report shall include:</u> <u>a) a summary of the Commission's activities including any adopted measures or decisions and ongoing market investigations in connection with this Regulation;</u> <u>b) the findings resulting from the monitoring of the implementation by the gatekeepers of the</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|--|-----------------|--|
| | | <p><u>and ensure the contestability and fairness of digital markets. This annual report shall also include an assessment of the audit reports foreseen in Article 13 and a social impact assessment, which assesses new digital products and services and their potential impact on mental health, user behaviour, disinformation, polarisation and democracy. In the fulfilment of this mandate, the Commission shall coordinate its supervisory and monitoring efforts with those foreseen under the Digital Services Act, so as to achieve the best possible synergies.</u></p> | | <p><u>obligations under this Regulation;</u> <u>c) an assessment of the audited description referred to in Article 13</u> <u>d) an overview of the cooperation between the Commission and national authorities in connection with this Regulation;</u> <u>e) an overview of the activities and tasks performed by the High Level Group of Digital Regulators including how its recommendations as regards the enforcement of this Regulation are to be implemented.</u></p> <p><u>The report shall be made public on the website of the Commission.</u></p> |
| Article 30a(2) | | | | |
| 358c | | <p><u>2. The European Parliament through its competent committees may provide an opinion on an annual basis on the report by the Commission including proposals for market investigations into new services and new practices under Article 17.</u></p> | | |
| Article 30a(3) | | | | |
| 358d | | <p><u>3. The Commission shall reply in writing to the opinion adopted by the European Parliament as well as respond to any call for action</u></p> | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|------------------------------------|--|------------------------------------|--|
| | | <u>concerning Article 17 therein, including providing justifications for foreseen inaction, and to any question addressed to it by the European Parliament or by the Council within five weeks of its receipt.</u> | | |
| Article 30a(4) | | | | |
| 358e | | <u>4. At the request of the European Parliament, the Commission shall participate in a hearing before the European Parliament. A hearing shall take place at least bi-annually. The respective Commissioner shall make a statement before the European Parliament and answer any questions from its members, whenever so requested. In addition, a continuous, high-level dialogue between the European Parliament and the Commission shall be ensured through exchanges, which take place no less than four times a year.</u> | | |
| Article 31 | | | | |
| 359 | Article 31 Professional secrecy | Article 31 Professional secrecy | Article 31 Professional secrecy | Article 31 Professional secrecy Text Origin: Commission Proposal |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|--|---|--|--|
| Article 31(1) | | | | |
| 360 | 1. The information collected pursuant to Articles 3, 12, 13, 19, 20 and 21 shall be used only for the purposes of this Regulation. | 1. The information collected pursuant to Articles 3, 12, 13, 19, 20 and 21 <u>19, 20, 21 and 31d</u> shall be used only for the purposes of this Regulation. | 1. The information collected pursuant to Articles 3, 12, 13, 19, 20 and 21 <u>this Regulation</u> shall be used only for the purposes of this Regulation. | 1. The information collected pursuant to Articles 3, 12, 13, 19, 20 and 21 <u>this Regulation</u> shall be used only for the purposes of this Regulation. Text Origin: Council Mandate |
| Article 31(1a) | | | | |
| 360a | | <u>1a. The information collected pursuant to Article 12 shall be used only for the purposes of this Regulation and Regulation (EC) No 139/2004.</u> | | See row 360 b |
| Article 31(1a) | | | | |
| 360b | | | <u>1a. The information collected pursuant to Article 12 shall be used only for the purposes of this Regulation, Regulation (EC) No 139/2004 and national merger rules.</u> | <u>1a. The information collected pursuant to Article 12 shall be used only for the purposes of this Regulation, Regulation (EC) No 139/2004 and national merger rules.</u> Text Origin: Council Mandate |
| Article 31(1b) | | | | |
| 360c | | <u>1b. The information collected pursuant to Article 13 shall be used only for the purposes of this Regulation and Regulation (EU)</u> | | <u>1b. The information collected pursuant to Article 13 shall be used only for the purposes of this Regulation and Regulation (EU)</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|---|--|--|--|
| | | 2016/679. | | 2016/679. Text Origin: EP Mandate |
| Article 31(2) | | | | |
| 361 | <p>2. Without prejudice to the exchange and to the use of information provided for the purpose of use pursuant to Articles 32 and 33, the Commission, the authorities of the Member States, their officials, servants and other persons working under the supervision of these authorities and any natural or legal person, including auditors and experts appointed pursuant to Article 24(2), shall not disclose information acquired or exchanged by them pursuant to this Regulation and of the kind covered by the obligation of professional secrecy. This obligation shall also apply to all representatives and experts of Member States participating in any of the activities of the Digital Markets Advisory Committee pursuant to Article 32.</p> | <p>2. Without prejudice to the exchange and to the use of information provided for the purpose of use pursuant to Articles 12, 13, 31d, 32 and 33, the Commission, the authorities of the Member States, their officials, servants and other persons working under the supervision of these authorities and any natural or legal person, including auditors and experts appointed pursuant to Article 24(2), shall not disclose information acquired or exchanged by them pursuant to this Regulation and of the kind covered by the obligation of professional secrecy. This obligation shall also apply to all representatives and experts of Member States participating in any of the activities of the Digital Markets Advisory Committee pursuant to Article 32.</p> | <p>2. Without prejudice to the exchange and to the use of information provided for the purpose of use pursuant to Articles 32 and 3332a, 33 and 37a, the Commission, the authorities of the Member States, their officials, servants and other persons working under the supervision of these authorities and any natural or legal person, including auditors and experts appointed pursuant to Article 24(2), shall not disclose information acquired or exchanged by them pursuant to this Regulation and of the kind covered by the obligation of professional secrecy. <i>This obligation shall also apply to all representatives and experts of Member States participating in any of the activities of the Digital Markets Advisory Committee pursuant to Article 32.</i></p> | <p>2. Without prejudice to the exchange and to the use of information provided for the purpose of use pursuant to Articles 32 and 3332a, 33 and 37a, the Commission, the authorities of the Member States, their officials, servants and other persons working under the supervision of these authorities and any natural or legal person, including auditors and experts appointed pursuant to Article 24(2), shall not disclose information acquired or exchanged by them pursuant to this Regulation and of the kind covered by the obligation of professional secrecy. <i>This obligation shall also apply to all representatives and experts of Member States participating in any of the activities of the Digital Markets Advisory Committee pursuant to Article 32.</i></p> <p>Text Origin: Council Mandate</p> |
| Article 31a | | | | |
| 361a | | Article 31a European High-Level Group of | | Text Origin: Auxiliary |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|---|-----------------|------------------------|
| | | <u>Digital Regulators</u> | | |
| Article 31a(1) | | | | |
| g | 361b | <u>1. The Commission shall establish a European High-Level Group of Digital Regulators (the "Group") in the form of an expert group, consisting of a representative of the Commission, a representative of relevant Union bodies, representatives of national competition authorities and representatives of other national competent authorities in specific sectors including data protection, electronic communications and consumer protection authorities.</u> | | Text Origin: Auxiliary |
| Article 31a(2) | | | | |
| g | 361c | <u>2. For the purposes of paragraph 1, the relevant national competent authorities shall be represented in the group by their respective heads. In order to facilitate the work of the Group, the Commission shall provide it with a secretariat.</u> | | |
| Article 31a(3) | | | | |
| g | 361d | <u>3. The work of the Group may be organised into expert working groups building cross-regulator</u> | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-----------------------------------|---------------------|---|-----------------|-----------------|
| | | <u>specialist teams that provide the Commission with high level of expertise.</u> | | |
| Article 31b | | | | |
| 6 | 361e | <u>Article 31b</u> <u>Tasks of the European High-Level Group of Digital Regulators</u> | | |
| Article 31b(1), introductory part | | | | |
| 6 | 361f | <u>1. The Group shall assist the Commission in ensuring the consistent application of this Regulation and monitoring its compliance by means of advice, expertise and recommendations. To that end, the Group shall have the following tasks:</u> | | |
| Article 31b(1), point (a) | | | | |
| 6 | 361g | <u>(a) to consider matters related to cooperation and coordination between the Commission and Member States in their enforcement actions by promoting the exchange of information and best practices about their work and decision-making principles and practices with the aim of developing a consistent regulatory approach;</u> | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---|---------------------------|---|-----------------|-----------------|
| | Article 31b(1), point (b) | | | |
| G | 361h | <u>(b) to make recommendations to the Commission on the need to conduct market investigations under Articles 14, 15, 16 and 17;</u> | | G |
| | Article 31b(1), point (c) | | | |
| G | 361i | <u>(c) to make recommendations to the Commission on the need to update the obligations of the Regulation under Articles 5 and 6;</u> | | G |
| | Article 31b(1), point (d) | | | |
| G | 361j | <u>(d) to provide advice and expertise to the Commission in the preparation of legislative proposals and policy initiatives including under Article 38;</u> | | G |
| | Article 31b(1), point (e) | | | |
| G | 361k | <u>(e) to provide advice and expertise to the Commission in the preparation of delegated acts;</u> | | G |
| | Article 31b(1), point (f) | | | |
| G | 361l | <u>(f) where necessary, to provide advice and expertise in the early preparation of implementing acts,</u> | | G |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------|---------------------|---|-----------------|-----------------|
| | | <u>before submission to the committee in accordance with Regulation (EU) No 182/2011; and</u> | | |
| Article 31b(1), point (g) | | | | |
| G | 361m | <u>(g) at the request of the Commission, to provide technical advice and expertise before the adoption of a specification decision under Article 7.</u> | | |
| Article 31b(2) | | | | |
| G | 361n | <u>2. The Group shall report every year on its activities to the European Parliament and offer recommendations and policy suggestions related to the enforcement of this Regulation and other matters contributing to the development of a consistent regulatory approach to the digital single market.</u> | | |
| Article 31b(3) | | | | |
| G | 361o | <u>3. The Group shall establish its rules of procedure in line with Commission expert groups rules established by Commission decision C(2016)3301.</u> | | |
| Article 31b(4) | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|---|-----------------|-----------------|
| G | 361p | <u><i>4. The Group meetings with stakeholders and gatekeepers shall be registered and published on a monthly basis in line with the EU transparency register.</i></u> | | |
| Article 31c | | | | |
| G | 361q | <u><i>Article 31c Role of national competition authorities and other competent authorities</i></u> | | |
| Article 31c(1) | | | | |
| G | 361r | <u><i>1. National competition authorities as well as other competent authorities designated by the Member State shall support the Commission in monitoring compliance with and enforcement of the obligations laid down in this Regulation and report regularly to the Commission on compliance with this Regulation.</i></u> | | |
| Article 31c(2) | | | | |
| G | 361s | <u><i>2. National competition authorities as well as other competent authorities may, under the coordination of the Commission, provide support to a market</i></u> | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|---|-----------------|---|
| | | <u>investigation or proceedings pursuant to Article 7(2), 15, 16, 17, 19, 20, 21 by collecting information and providing expertise.</u> | | |
| Article 31c(3) | | | | |
| 361t | | <u>3. National competition authorities as well as other competent authorities may collect complaints in accordance with the procedure laid down in Article 24a.</u> | | |
| Article 31d | | | | |
| 361u | | <u>Article 31d Cooperation and coordination with Member States</u> | | <u>Article 31a Cooperation with national authorities</u> |
| Article 31d(1) | | | | |
| 361v | | <u>1. The Commission and Member States shall work in close cooperation and coordinate their enforcement actions to ensure coherent, effective and complementary enforcement of this Regulation.</u> | | <u>1. The Commission and Member States shall work in close cooperation and coordinate their enforcement actions to ensure coherent, effective and complementary enforcement of available legal instruments applied to gatekeepers within the meaning of this Regulation.</u> Text Origin: EP Mandate |
| Article 31d(2) | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|---|-----------------|--|
| 361w | | <p><u>2. Where a national authority intends to launch an investigation on gatekeepers based on national laws referred to in Article 1(6), it shall inform the Commission in writing of the first formal investigative measure, before or immediately after the start of such measure. This information may also be made available to the national competition authorities as well as other competent authorities of the other Member States.</u></p> | | |
| Article 31d(3) | | | | |
| 361x | | <p><u>3. Where a national authority intends to impose obligations on gatekeepers based on national laws referred to in Article 1(6), it shall, no later than 60 days before its adoption, communicate the draft measure to the Commission stating the reasons for the measure. This information may also be made available to the national competition authorities as well as other competent authorities of the other Member States. Where the Commission within those 60 days indicates to the national authority concerned that the draft measure runs counter to this Regulation or to a decision adopted by the Commission under this Regulation</u></p> | | <p><u>3. The Commission may consult national authorities where appropriate, on any matter relating to the application of the Regulation.</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---|--|--------------------------------------|---|
| | | <u>or contemplated in proceedings initiated by the Commission, that national authority shall not adopt the measure.</u> | | |
| Article 31d(4) | | | | |
| 361y | | <u>4. The Commission and the national competition authorities as well as other competent authorities of the Member States enforcing the rules referred to in Article 1(6) shall have the power to provide one another with any matter of fact or of law, including confidential information.</u> | | |
| Article 31d(5) | | | | |
| 361z | | <u>5. The national competition authorities as well as other competent authorities of the Member States enforcing the rules referred to in Article 1(6) may consult the Commission on any matter relating to the application of this Regulation.</u> | | |
| Article 32 | | | | |
| 362 | Article 32 Digital Markets Advisory Committee | Article 32 Digital Markets Advisory Committee | Article 32 deleted | Article 32 Digital Markets Advisory Committee (deleted) |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---|--|-----------------|--|
| Article 32(1) | | | | |
| 363 | 1. The Commission shall be assisted by the Digital Markets Advisory Committee. That Committee shall be a Committee within the meaning of Regulation (EU) No 182/2011. | 1. The Commission shall be assisted by the Digital Markets Advisory Committee. That Committee shall be a Committee within the meaning of Regulation (EU) No 182/2011. | <i>deleted</i> | 1. The Commission shall be assisted by the Digital Markets Advisory Committee. That Committee shall be a Committee within the meaning of Regulation (EU) deleted No 182/2011. Text Origin: Commission Proposal |
| Article 32(1a) | | | | |
| 363a | | <u>1a. For meetings in which specific issues are to be discussed, Member States shall be entitled to appoint an additional representative from an authority with the relevant expertise for those issues. This is without prejudice to the right of members of the Committee to be assisted by other experts from the Member States.</u> | | Text Origin: EP Mandate |
| Article 32(2) | | | | |
| 364 | 2. Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so | 2. Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so | <i>deleted</i> | 2. Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|--|--|-----------------|---|
| | request. | request. | | request. (deleted) |
| Article 32(3) | | | | |
| 365 | 3. The Commission shall communicate the opinion of the Digital Markets Advisory Committee to the addressee of an individual decision, together with that decision. It shall make the opinion public together with the individual decision, having regard to the legitimate interest in the protection of professional secrecy. | 3. The Commission shall communicate the opinion of the Digital Markets Advisory Committee to the addressee of an individual decision, together with that decision. It shall make the opinion public together with the individual decision, having regard to the legitimate interest in the protection of professional secrecy. | deleted | 3. The Commission shall communicate the opinion of the Digital Markets Advisory Committee to the addressee of an individual decision, together with that decision. It shall make the opinion public together with the individual decision, having regard to the legitimate interest in the protection of professional secrecy. (deleted) |
| Article 32(4) | | | | |
| 366 | 4. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply. | 4. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply. | deleted | 4. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply. (EU deleted) |
| Article 32(4a) | | | | |
| 366a | | 4a. Meetings of the Digital Markets Advisory Committee and the Commission with representatives of gatekeepers and other stakeholders shall be registered and published on a monthly basis in line with the EU transparency register. | | |
| Article 32a | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|------------|--|--|
| 366b | | | <u>Article 32a</u> <u>Cooperation and coordination</u> | <u>Article 31b</u> <u>Cooperation and coordination with competent authorities enforcing competition rules</u> |
| Article 32a(1) | | | | |
| 366c | | | <u>1. The Commission and Member States shall work in close cooperation and coordinate their enforcement actions to ensure coherent, effective and complementary enforcement of available legal instruments applied to gatekeepers within the meaning of this Regulation.</u> | <u>1. The Commission and the competent authorities of the Member States enforcing the rules referred to in Article 1(6) shall cooperate with each other and inform each other about their respective enforcement action through the European Competition Network (ECN). They shall have the power to provide one another with any matter of fact or of law, including confidential information. In case the competent authority is not a member of the ECN, the Commission shall make the necessary arrangements for cooperation and exchange of information on cases concerning the enforcement of the this Regulation and the enforcement of cases referred to in Article 1(6) of such authorities. The Commission may lay down such arrangements in the implementing act pursuant to point (ga) of Article 36(1).</u> |
| Article 32a(2) | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|------------|---|--|
| 366d | | | <p><u>2. National authorities shall not take decisions which run counter to a decision adopted by the Commission under this Regulation.</u></p> | <p><u>2. Where a national authority intends to launch an investigation on gatekeepers based on national laws referred to in Article 1(6), it shall inform the Commission in writing of the first formal investigative measure, before or immediately after the start of such measure. This information may also be made available to the competent authorities enforcing the rules referred to in Article 1(6) of the other Member States.</u></p> |
| Article 32a(3) | | | | |
| 366e | | | <p><u>3. The Commission and the competent authorities of the Member States enforcing the rules referred to in Article 1(6) shall cooperate with each other and inform each other about their respective enforcement action through the European Competition Network (ECN). They shall have the power to provide one another with any matter of fact or of law, including confidential information. In case the competent authority is not a member of the ECN, the Commission shall make the necessary arrangements for cooperation and exchange of information on cases concerning the enforcement of the this</u></p> | <p><u>3. Where a national authority intends to impose obligations on gatekeepers based on national laws referred to in Article 1(6), it shall, no later than 30 days before its adoption, communicate the draft measure to the Commission stating the reasons for the measure. In the case of interim measures, the national authority shall communicate to the Commission the draft measures envisaged as soon as possible, and at the latest immediately after the adoption of such measures. This information may also be made available to the competent authorities enforcing the rules referred to in Article 1(6) of the other Member States.</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|------------|--|---|
| | | | <u>Regulation and the enforcement of cases referred to in Article 1(6) of such authorities. The Commission may lay down such arrangements in the implementing act pursuant to point (ga) of Article 36(1).</u> | Text Origin: Council Mandate |
| Article 32a(4) | | | | |
| g | 366f | | | <u>4. The information mechanisms provided for in paragraphs 2 and 3 shall not apply to decisions envisaged pursuant to national merger rules.</u> |
| Article 32a(4) | | | | |
| g | 366g | | <u>4. Information exchanged pursuant to paragraph 3 shall only be exchanged and used for the purpose of coordination of the enforcement of this Regulation and the rules referred to in that paragraph.</u> | <u>5. Information exchanged pursuant to paragraphs 1 to 3 shall only be exchanged and used for the purpose of coordination of the enforcement of this Regulation and the rules referred to in Article 1(6).</u> |
| Article 32a(5) | | | | |
| g | 366h | | <u>5. The Commission may ask competent authorities of the Member States to support any of its market investigations pursuant to this Regulation.</u> | <u>6. The Commission may ask competent authorities of the Member States enforcing the rules referred to in Article 1(6) to support any of its market investigations pursuant to this Regulation.</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|------------|---|---|
| Article 32a(6) | | | | |
| 366i | | | <p><u>6. Where it has the competence and investigative powers to do so under national law, a competent authority of the Member States enforcing the rules referred to in Article 1(6) may on its own initiative conduct an investigation into a case of possible non-compliance with Articles 5 and 6 of this Regulation on its territory. Before taking a first formal investigative measure, that authority shall inform the Commission in writing. The opening of proceedings by the Commission pursuant to Article 18 shall relieve the competent authorities of the Member States enforcing the rules referred to in Article 1(6) of the possibility to conduct such an investigation or end it where it is already pending. The authority shall report to the Commission on the findings of its investigation in order to support the Commission in its role as sole enforcer of this Regulation.</u></p> | <p><u>7. Where it has the competence and investigative powers to do so under national law, a competent authority of the Member States enforcing the rules referred to in Article 1(6) may on its own initiative conduct an investigation into a case of possible non-compliance with Articles 5, 6 and 6a of this Regulation on its territory. Before taking a first formal investigative measure, that authority shall inform the Commission in writing. The opening of proceedings by the Commission pursuant to Article 18 shall relieve the competent authorities of the Member States enforcing the rules referred to in Article 1(6) of the possibility to conduct such an investigation or end it where it is already pending. The authority shall report to the Commission on the findings of its investigation in order to support the Commission in its role as sole enforcer of this Regulation.</u></p> |
| Article 32a(7) | | | | |
| 366j | | | <p><u>7. The Commission may consult other regulatory authorities of the Member States and related Union bodies where appropriate to inform the execution of the duties assigned</u></p> | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|------------|--|--|
| | | | <u>to it by this Regulation.</u> | |
| Article 32a(8) | | | | |
| G | 366k | | <u>8. Where a national authority intends to launch an investigation on gatekeepers based on national laws enforcing the rules referred to in Article 1(6), it shall inform the Commission in writing of the first formal investigative measure, before or immediately after the start of such measure. This information may also be made available to the competent national competition authorities of the other Member States.</u> | |
| Article 32b | | | | |
| G | 366l | | <u>Article 32b</u> <u>Cooperation with national courts</u> | <u>Article 31c</u> <u>Cooperation with national courts</u> Text Origin: Council Mandate |
| Article 32b(1) | | | | |
| G | 366m | | <u>1. In proceedings for the application of this Regulation, national courts may ask the Commission to transmit to them information in its possession or its opinion on questions concerning the application of this Regulation.</u> | <u>1. In proceedings for the application of this Regulation, national courts may ask the Commission to transmit to them information in its possession or its opinion on questions concerning the application of this Regulation.</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|------------|---|---|
| | | | | Text Origin: Council Mandate |
| Article 32b(2) | | | | |
| 366n | | | <p><u>2. Member States shall forward to the Commission a copy of any written judgment of national courts deciding on the application of this Regulation. Such copy shall be forwarded without delay after the full written judgment is notified to the parties.</u></p> | <p><u>2. Member States shall forward to the Commission a copy of any written judgment of national courts deciding on the application of this Regulation. Such copy shall be forwarded without delay after the full written judgment is notified to the parties.</u></p> <p>Text Origin: Council Mandate</p> |
| Article 32b(3) | | | | |
| 366o | | | <p><u>3. Where the coherent application of this Regulation so requires, the Commission, acting on its own initiative, may submit written observations to national courts. With the permission of the court in question, it may also make oral observations.</u></p> | <p><u>3. Where the coherent application of this Regulation so requires, the Commission, acting on its own initiative, may submit written observations to national courts. With the permission of the court in question, it may also make oral observations.</u></p> <p>Text Origin: Council Mandate</p> |
| Article 32b(4) | | | | |
| 366p | | | <p><u>4. For the purpose of the preparation of their observations only, the Commission may request the relevant national court to</u></p> | <p><u>4. For the purpose of the preparation of their observations only, the Commission may request the relevant national court to</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|------------|---|---|
| | | | <u><i>transmit or ensure the transmission to the Commission of any documents necessary for the assessment of the case.</i></u> | <u><i>transmit or ensure the transmission to the Commission of any documents necessary for the assessment of the case.</i></u> Text Origin: Council Mandate |
| Article 32b(5) | | | | |
| 366q | | | <u><i>5. National courts shall not give a decision which runs counter to a decision adopted by the Commission under this Regulation. They must also avoid giving decisions which would conflict with a decision contemplated by the Commission in proceedings it has initiated under this Regulation. To that effect, the national court may assess whether it is necessary to stay its proceedings. This is without prejudice to the ability of national courts to request a preliminary ruling under Article 267 of the TFEU.</i></u> | <u><i>5. National courts shall not give a decision which runs counter to a decision adopted by the Commission under this Regulation. They must also avoid giving decisions which would conflict with a decision contemplated by the Commission in proceedings it has initiated under this Regulation. To that effect, the national court may assess whether it is necessary to stay its proceedings. This is without prejudice to the ability of national courts to request a preliminary ruling under Article 267 of the TFEU.</i></u> Text Origin: Council Mandate |
| Article 32c | | | | |
| 366r | | | | <u><i>Article 31d High-Level Group</i></u> |
| Article 32c(1) | | | | |
| 366s | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|------------|-----------------|--|
| | | | | <u>1. The Commission shall establish a high-level group for the Digital Markets Act.</u> |
| Article 32c(2) | | | | |
| 366t | | | | <u>2. The high-level group shall be composed of the following European bodies and networks:</u> <u>(a) Body of the European Regulators for Electronic Communications,</u> <u>(b) European Data Protection Supervisor and European Data Protection Board,</u> <u>(c) European Competition Network,</u> <u>(d) Consumer Protection Cooperation Network, and</u> <u>(e) European Regulatory Group of Audiovisual Media Regulators.</u> |
| Article 32c(3) | | | | |
| 366u | | | | <u>3. The European bodies and networks referred to in paragraph 2 shall each have an equal number of representatives in the high-level group and the group shall not exceed 30 members.</u> |
| Article 32c(4) | | | | |
| 366v | | | | <u>4. In order to facilitate the work of the high-level group, the</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|------------|-----------------|---|
| | | | | <p><u>Commission shall provide its secretariat. The high-level group shall be chaired by the Commission, which shall participate in its meetings. The high-level group shall meet upon request of the Commission at least once per calendar year. The Commission shall also convene a meeting of the group when so requested by the majority of the members composing the group in order to address a specific issue.</u></p> |
| Article 32c(5) | | | | |
| 366w | | | | <p><u>5. The high-level group may provide the Commission with advice and expertise in the areas falling within the competences of its members, including:</u> <u>(a) advice and recommendations within their expertise relevant for any general matter of implementation or enforcement of this Regulation;</u> <u>(b) advice and expertise promoting a consistent regulatory approach across different regulatory instruments. The high-level group may in particular identify and assess the current and potential interactions between this Regulation and the sector-specific rules applied by national authorities composing the bodies and networks</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---|---------------------|------------|-----------------|--|
| | | | | <p><u>referred to in paragraph 2 and submit an annual report to the Commission presenting such assessment and identifying potential trans-regulatory issues. Such report may be accompanied by recommendations aiming at converging towards consistent transdisciplinary approaches and synergies between the implementation of this Regulation and other sectoral regulations. The report should be communicated to the European Parliament and to the Council.</u></p> <p><u>(c) In the context of market investigations into new services and new practices, the high-level group may provide expertise to the Commission on the need to modify, add or remove rules of the Regulation, to ensure that digital markets across the Union are contestable and fair.</u></p> |
| | Article 32d | | | |
| G | 366x | | | G |
| | Article 32d(1) | | | |
| G | 366y | | | G |
| | Article 32d(2) | | | |
| G | 366z | | | G |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---|---------------------|---|---|--|
| | Article 32d(3) | | | |
| G | 366aa | | | |
| | Article 32d(4) | | | |
| G | 366ab | | | |
| | Article 33 | | | |
| G | 367 | Article 33 Request for a market investigation | Article 33 Request for a market investigation | Article 33 Request for a market investigation Text Origin: Commission Proposal |
| | Article 33(1) | | | |
| G | 368 | 1. When three or more Member States request the Commission to open an investigation pursuant to Article 15 because they consider that there are reasonable grounds to suspect that a provider of core platform services should be designated as a gatekeeper, the Commission shall within four months examine whether there are reasonable grounds to open such an investigation. | 1. When three or more Member States <u>Two or more national competition authorities or other competent national authorities may</u> request the Commission to open an investigation pursuant to Article 15 because they consider that there are reasonable grounds to suspect that a provider of core platform services should be designated as a gatekeeper, <u>Articles 15, 16, 17 or 25. Competent authority (ies) shall submit evidence in support of their request.</u> The Commission shall within four months examine whether there are reasonable grounds to open such an investigation. <u>Where the Commission considers that there</u> | 1. When Three or more Member States <u>may</u> request the Commission to open an investigation pursuant to Article 15 because they consider that there are reasonable grounds to suspect that a provider of core platform services <u>an undertaking</u> should be designated as a gatekeeper, the Commission shall within four months examine whether there are reasonable grounds to open such an investigation <u>and the result of such examination shall be published.</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|--|---|---|
| | | <u>are insufficient grounds for initiating proceedings, it may reject such request and inform the respective competent authority (ies) of its reasons. The Commission shall publish the results of its assessment.</u> | | |
| Article 33(1a) | | | | |
| 368a | | | <u>1a. When a Member State requests the Commission to open an investigation pursuant to Article 16 because it considers that there are reasonable grounds to suspect that a gatekeeper has systematically infringed the obligations laid down in Articles 5 and 6 and has further strengthened or extended its gatekeeper position in relation to the characteristics under Article 3(1), the Commission shall within four months examine whether there are reasonable grounds to open such an investigation and the result of such examination shall be published.</u> | <u>1a. One or more Member State may request the Commission to open an investigation pursuant to Article 16 because it considers that there are reasonable grounds to suspect that a gatekeeper has systematically infringed the obligations laid down in Articles 5, 6 and 6a and has maintained, further strengthened or extended its gatekeeper position in relation to the characteristics under Article 3(1).</u> |
| Article 33(1b) | | | | |
| 368b | | | <u>1b. When three or more Member States request the Commission to open an investigation pursuant to Article 17 because they consider that there are reasonable grounds</u> | <u>1b. Three or more Member States may request the Commission to open an investigation pursuant to Article 17 because they consider that there are reasonable grounds</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|--|-----------------------|--|---|
| | | | <p><u>to suspect that one or more services within the digital sector should be added to the list of core platform services pursuant to Article 2(2) or that there are reasonable grounds to suspect that one or several types of practices are not effectively addressed by this Regulation and may limit the contestability of core platform services or may be unfair, the Commission shall within four months examine whether there are reasonable grounds to open such an investigation and the result of such examination shall be published.</u></p> | <p><u>to suspect that one or more services within the digital sector should be added to the list of core platform services pursuant to Article 2(2) or that there are reasonable grounds to suspect that one or several types of practices are not effectively addressed by this Regulation and may limit the contestability of core platform services or may be unfair.</u></p> |
| Article 33(2) | | | | |
| 369 | <p>2. Member States shall submit evidence in support of their request.</p> | <p><i>deleted</i></p> | <p>2. Member States shall submit evidence in support of their request <u>pursuant to paragraphs 1, 1a and 1b. For requests pursuant to paragraph 1b, such evidence may include information on newly introduced offers of products, services, software or features which raise concerns of contestability or fairness, whether implemented in the context of existing core platform services or otherwise.</u></p> | <p>2. Member States shall submit evidence in support of their request <u>pursuant to paragraphs 1, 1a and 1b. For requests pursuant to paragraph 1b, such evidence may include information on newly introduced offers of products, services, software or features which raise concerns of contestability or fairness, whether implemented in the context of existing core platform services or otherwise.</u></p> <p><u>2a. The Commission shall within four months examine whether there are reasonable grounds to open an investigation pursuant to</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|--|--|---|---|
| | | | | <i>paragraphs 1, 1a or 1b. The Commission shall publish the results of its assessment.</i> |
| Chapter VI | | | | |
| 370 | Chapter VI General provisions | Chapter VI General provisions | Chapter VI General provisions | Chapter VI General provisions Text Origin: Commission Proposal |
| Article 34 | | | | |
| 371 | Article 34 Publication of decisions | Article 34 Publication of decisions | Article 34 Publication of decisions | Article 34 Publication of decisions Text Origin: Commission Proposal |
| Article 34(1) | | | | |
| 372 | 1. The Commission shall publish the decisions which it takes pursuant to Articles 3, 7, 8, 9, 15, 16, 17, 22, 23(1), 25, 26 and 27. Such publication shall state the names of the parties and the main content of the decision, including any penalties imposed. | 1. The Commission shall publish the decisions which it takes pursuant to Articles 3, 7, 8, 9, 15, 16, 17, 22, 23(1), 25, 26 and 27. Such publication shall state the names of the parties and the main content of the decision, including any penalties imposed. | 1. The Commission shall publish the decisions which it takes pursuant to Articles 3, 74, 7(2) , 8, 9, <u>14</u> , 15, 16, 17, <u>18</u> , 22, 23(1), 25, 26 and 27. Such publication shall state the names of the parties and the main content of the decision, including any penalties imposed. | 1. The Commission shall publish the decisions which it takes pursuant to Articles 3, 74, 7(2) , 8, 9, <u>14</u> , 15, 16, 17, <u>18</u> , 22, 23(1), 25, 26 and 27. Such publication shall state the names of the parties and the main content of the decision, including any penalties imposed. Text Origin: Council Mandate |
| Article 34(2) | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-----------------------------|--|--|---|--|
| 373 | 2. The publication shall have regard to the legitimate interest of gatekeepers or third parties in the protection of their confidential information. | 2. The publication shall have regard to the legitimate interest of gatekeepers or third parties in the protection of their confidential information. | 2. The publication shall have regard to the legitimate interest of gatekeepers or third parties in the protection of their confidential information. | 2. The publication shall have regard to the legitimate interest of gatekeepers or third parties in the protection of their confidential information. Text Origin: Commission Proposal |
| Article 35 | | | | |
| 374 | Article 35 Review by the Court of Justice of the European Union | Article 35 Review by the Court of Justice of the European Union | Article 35 Review by the Court of Justice of the European Union | Article 35 Review by the Court of Justice of the European Union Text Origin: Commission Proposal |
| Article 35, first paragraph | | | | |
| 375 | In accordance with Article 261 of the Treaty on the Functioning of the European Union, the Court of Justice of the European Union has unlimited jurisdiction to review decisions by which the Commission has imposed fines or periodic penalty payments. It may cancel, reduce or increase the fine or periodic penalty payment imposed. | In accordance with Article 261 of the Treaty on the Functioning of the European Union, the Court of Justice of the European Union has unlimited jurisdiction to review decisions by which the Commission has imposed fines or periodic penalty payments. It may cancel, reduce or increase the fine or periodic penalty payment imposed. | In accordance with Article 261 of the Treaty on the Functioning of the European Union <u>TFEU</u> , the Court of Justice of the European Union has unlimited jurisdiction to review decisions by which the Commission has imposed fines or periodic penalty payments. It may cancel, reduce or increase the fine or periodic penalty payment imposed. | In accordance with Article 261 of the Treaty on the Functioning of the European Union, the Court of Justice of the European Union has unlimited jurisdiction to review decisions by which the Commission has imposed fines or periodic penalty payments. It may cancel, reduce or increase the fine or periodic penalty payment imposed. Text Origin: Commission Proposal |
| Article 36 | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------------------------|---|---|--|--|
| 376 | Article 36 Implementing provisions | Article 36 <i>Implementing provisions</i> <u>Detailed arrangements</u> | Article 36 Implementing provisions | Article 36 Implementing provisions Text Origin: Commission Proposal |
| Article 36(1), introductory part | | | | |
| 377 | 1. The Commission may adopt implementing acts concerning: 3, 6, 12, 13, 15, 16, 17, 20, 22, 23, 25 and 30 | 1. The Commission may adopt implementing acts <i>concerning: 3, 6, 12, 13, 15, 16, 17, 20, 22, 23, 25 and 30</i> <u>laying down detailed arrangements for the application of the following:</u> | 1. The Commission may adopt implementing acts concerning: <i>3, 6, 12, 13, 15, 16, 17, 20, 22, 23, 25 and 30</i> | 1. The Commission may adopt implementing acts <i>concerning: 3, 6, 12, 13, 15, 16, 17, 20, 22, 23, 25 and 30</i> <u>laying down detailed arrangements for the application of the following:</u> Text Origin: EP Mandate |
| Article 36(1), point (a) | | | | |
| 378 | (a) the form, content and other details of notifications and submissions pursuant to Article 3; | (a) the form, content and other details of notifications and submissions pursuant to Article 3; | (a) the form, content and other details of notifications and submissions pursuant to Article 3; | (a) the form, content and other details of notifications and submissions pursuant to Article 3; Text Origin: Commission Proposal |
| Article 36(1), point (aa) | | | | |
| 378a | | <u>(aa) the form, content and other details on how choice is to be provided and consent is to be given, pursuant to Article 5 point (a);</u> | | |
| Article 36(1), point (ab) | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------|--|--|---|--|
| 378b | | <u>(ab) the form, content and other details on how information on price and remuneration are to be given, pursuant to Article 5 point (g);</u> | | |
| Article 36(1), point (b) | | | | |
| 379 | (b) the form, content and other details of the technical measures that gatekeepers shall implement in order to ensure compliance with points (h), (i) and (j) of Article 6(1). | (b) the form, content and other details of the technical measures that gatekeepers shall implement in order to ensure compliance with points (h), (i) and (j) of Article 6(1). | (b) the form, content and other details of the technical measures that gatekeepers shall implement in order to ensure compliance with points (h), (i) and (j) of Article 6(1); | (b) the form, content and other details of the technical measures that gatekeepers shall implement in order to ensure compliance with points (h), (i) and (j) of <u>Article 5, Article 6(1) or Article 6(1)-6a;</u> Text Origin: Council Mandate |
| Article 36(1), point (ba) | | | | |
| 379a | | | <u>(ba) the form, content and other details of the reasoned request pursuant to Article 7(7);</u> | <u>(ba) the form, content and other details of the reasoned request pursuant to Article 7(7);</u> Text Origin: Council Mandate |
| Article 36(1), point (bb) | | | | |
| 379b | | | <u>(bb) the form, content and other details of the reasoned requests pursuant to Articles 8 and 9;</u> | <u>(bb) the form, content and other details of the reasoned requests pursuant to Articles 8 and 9;</u> Text Origin: Council Mandate |
| Article 36(1), point (bc) | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|--------------------------|--|--|--|---|
| 379c | | | <u>(bc) the form, content and other details of the regulatory reports delivered pursuant to Article 9a;</u> | <u>(bc) the form, content and other details of the regulatory reports delivered pursuant to Article 9a;</u> Text Origin: Council Mandate |
| Article 36(1), point (c) | | | | |
| 380 | (c) the form, content and other details of notifications and submissions made pursuant to Articles 12 and 13; | (c) the form, content and other details of notifications and submissions made pursuant to Articles 12 and 13; | (c) the form, content and other details of notifications and submissions made pursuant to Articles 12 and 13; | (c) the form, content and other details of notifications and submissions made pursuant to Articles 12 and 13; Text Origin: Commission Proposal |
| Article 36(1), point (d) | | | | |
| 381 | (d) the practical arrangements of extension of deadlines as provided in Article 16; | (d) the practical arrangements of extension of deadlines as provided in Article 16; | (d) the practical arrangements of extension of deadlines as provided in Article 16; | (d) the practical arrangements of extension of deadlines as provided in Article 16 <u>for the calculation and extension of deadlines;</u> Text Origin: Commission Proposal |
| Article 36(1), point (e) | | | | |
| 382 | (e) the practical arrangements of the proceedings concerning investigations pursuant to Articles 15, 16, 17, and proceedings pursuant to Articles 22, 23 and 25; | (e) the practical arrangements of the proceedings concerning investigations pursuant to Articles 15, 16, 17, and proceedings pursuant to Articles 22, 23 and 25; | (e) the practical arrangements of the proceedings concerning investigations pursuant to Articles 15, 16, 17, and proceedings pursuant to Articles 22, 23 and 25; | (e) the practical arrangements of the proceedings concerning investigations pursuant to Articles 15, 16, 17, and proceedings pursuant to Articles 22, 23 and 25; Text Origin: Commission |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------|---|---|---|---|
| | | | | Proposal |
| Article 36(1), point (f) | | | | |
| 383 | (f) the practical arrangements for exercising rights to be heard provided for in Article 30; | (f) the practical arrangements for exercising rights to be heard provided for in Article 30; | (f) the practical arrangements for exercising rights to be heard provided for in Article 30; | (f) the practical arrangements for exercising rights to be heard provided for in Article 30; Text Origin: Commission Proposal |
| Article 36(1), point (g) | | | | |
| 384 | (g) the practical arrangements for the negotiated disclosure of information provided for in Article 30; | (g) the practical arrangements for the negotiated disclosure of information provided for in Article 30; | (g) the practical arrangements for the negotiated disclosure of information provided for in Article 30; | (g) the practical arrangements for the negotiated disclosure of information provided for in Article 30; Text Origin: Commission Proposal |
| Article 36(1), point (ga) | | | | |
| 384a | | | <u>(ga) the practical arrangements for the cooperation and coordination between the Commission and Member States provided for in Article 32a.</u> | <u>(ga) the practical arrangements for the cooperation and coordination between the Commission and national authorities provided for in Articles [...] and [...].</u> Text Origin: Council Mandate |
| Article 36(1), point (ga) | | | | |
| 384b | | <u>(ga) the practical arrangements for the cooperation and coordination</u> | | <u>(gb) operational and technical arrangements in view of</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------------------|---|---|---|--|
| | | <u>between the Commission and Member States provided for in Article 31d.</u> | | <u>implementing interoperability of number-independent interpersonal communication services pursuant to Article 6a.</u> See row 384 a |
| Article 36(1), point (gc) | | | | |
| 384c | | | | <u>(gc) the methodology and procedure for the audited description of techniques used for profiling of consumers. When developing a draft implementing act, the Commission shall consult the European Data Protection Supervisor and may consult the European Data Protection Board, civil society and other relevant experts .</u> |
| Article 36(1), point (h) | | | | |
| 385 | (h) THIS POINT IS MISSING. THANK YOU FOR USING ANOTHER LANGUAGE. | (h) THIS POINT IS MISSING. THANK YOU FOR USING ANOTHER LANGUAGE. | deleted | |
| Article 36(2) | | | | |
| 386 | 2. the practical arrangements for the cooperation and coordination between the Commission and Member States provided for in Article 1(7).Those implementing | 2. the practical arrangements for the cooperation and coordination between the Commission and Member States provided for in Article 1(7). Those implementing | 2. the practical arrangements for the cooperation and coordination between the Commission and Member States provided <u>for Implementing acts laid down in</u> | 2. the practical arrangements for the cooperation and coordination between the Commission and Member States provided <u>for Implementing acts laid down in</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|--|--|--|--|
| | acts shall be adopted in accordance with the advisory procedure referred to in Article 32(4). Before the adoption of any measures pursuant to paragraph 1, the Commission shall publish a draft thereof and invite all interested parties to submit their comments within the time limit it lays down, which may not be less than one month. | acts shall be adopted in accordance with the advisory procedure referred to in Article 32(4). Before the adoption of any measures pursuant to paragraph 1, the Commission shall publish a draft thereof and invite all interested parties to submit their comments within the time limit it lays down, which may not be less than one month. | <u>points (a) to (g) of paragraph 1 shall be adopted in accordance with the advisory procedure referred to in Article 1(7)37a(2). Those Implementing acts<u>act laid down in point (ga) of paragraph 1</u> shall be adopted in accordance with the advisory<u>examination</u> procedure referred to in Article 32(4)<u>37a(2a)</u>. Before the adoption of any measures pursuant to paragraph 1, the Commission shall publish a draft thereof and invite all interested parties to submit their comments within the time limit it lays down, which may not be less than one month.</u> | <u>points (a) to (gc) of paragraph 1 shall be adopted in accordance with the advisory procedure referred to in Article 1(7) 32. Those Implementing acts<u>act laid down in point (ga) of paragraph 1</u> shall be adopted in accordance with the advisory<u>examination</u> procedure referred to in Article 32(4) <u>32</u>. Before the adoption of any measures pursuant to paragraph 1, the Commission shall publish a draft thereof and invite all interested parties to submit their comments within the time limit it lays down, which may not be less than one month. Text Origin: Council Mandate</u> |
| Article 36a | | | | |
| 386a | | <u>Article 36a Guidelines</u> <u>To facilitate the compliance of gatekeepers with and the enforcement of the obligations in Articles 5, 6, 12 and 13, the Commission may accompany the obligations set out in those Articles with guidelines, where the Commission deems that this is appropriate. Where appropriate and necessary, the Commission may mandate the standardisation bodies</u> | | <u>Article 36a Guidelines</u> <u>The Commission may adopt guidelines on any of the aspects of this Regulation in order to facilitate its effective implementation and enforcement.</u> Text Origin: EP Mandate |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|--|--|--|---|
| | | <u>to facilitate the implementation of the obligations by developing appropriate standards.</u> | | |
| Article 36b | | | | |
| 386b | | | | <u>Article 36b</u> <u>Standardisation</u> <u>Where appropriate and necessary,</u> <u>the Commission may mandate</u> <u>European standardisation bodies to</u> <u>facilitate the implementation of the</u> <u>obligations by developing</u> <u>appropriate standards.</u> |
| Article 37 | | | | |
| 387 | Article 37 Exercise of the delegation | Article 37 Exercise of the delegation | Article 37 Exercise of the delegation | Article 37 Exercise of the delegation Text Origin: Commission Proposal |
| Article 37(1) | | | | |
| 388 | 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article. | 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article. | 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article. | 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article. Text Origin: Commission Proposal |
| Article 37(2) | | | | |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|---|---|--|--|
| 389 | <p>2. The power to adopt delegated acts referred to in Articles 3(6) and 9(1) shall be conferred on the Commission for a period of five years from DD/MM/YYYY. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.</p> | <p>2. The power to adopt delegated acts referred to in Articles 3(6) and 9(1)<u>10</u> shall be conferred on the Commission for a period of five years from DD/MM/YYYY. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.</p> | <p>2. The power to adopt delegated acts referred to in Articles 3(6) and 9(1)<u>Article 3(5) and (5a) and Article 10(1)</u> shall be conferred on the Commission for a period of five years from DD/MM/YYYY. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.</p> | <p>2. The power to adopt delegated acts referred to in Articles 3(6) and 9(1)<u>Article 3(5), Article 3(5a), Article 10 (1) and Article 10 (2)</u> shall be conferred on the Commission for a period of five years from DD/MM/YYYY. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.</p> <p><small>Text Origin: Council Mandate</small></p> |
| Article 37(3) | | | | |
| 390 | <p>3. The delegation of power referred to in Articles 3(6) and 9(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity</p> | <p>3. The delegation of power referred to in Articles 3(6) and 9(1)<u>10</u> may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity</p> | <p>3. The delegation of power referred to in Articles 3(6) and 9(1)<u>3(5) and (5a) and Article 10(1)</u> may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified</p> | <p>3. The delegation of power referred to in Articles 3(6) and 9(1)<u>3(5), 3(5a), Article 10(1) and Article 10 (2)</u> may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|--|--|--|--|
| | of any delegated acts already in force. | of any delegated acts already in force. | therein. It shall not affect the validity of any delegated acts already in force. | therein. It shall not affect the validity of any delegated acts already in force. Text Origin: Council Mandate |
| Article 37(4) | | | | |
| 391 | 4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making. | 4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making. | 4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making. | 4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making. Text Origin: Commission Proposal |
| Article 37(5) | | | | |
| 392 | 5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council. | 5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council. | 5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council. | 5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council. Text Origin: Commission Proposal |
| Article 37(6) | | | | |
| 393 | 6. A delegated act adopted pursuant to Articles 3(6) and 9(1) shall enter into force only if no objection has been expressed either by the | 6. A delegated act adopted pursuant to Articles 3(6) and 9(1) shall enter into force only if no objection has been expressed either by the | 6. A delegated act adopted pursuant to Articles 3(6) and 9(1) <u>3(5) and (5a) and Article 10(1)</u> shall enter into force only if no objection has | 6. A delegated act adopted pursuant to Articles 3(6) and 9(1) <u>3(5), 3(5a), Article 10(1) and (2)</u> shall enter into force only if no objection has been |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---|--|--|--|
| | European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council. | European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council. | been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council. | expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council. <i>Text Origin: Council Mandate</i> |
| Article 37a | | | | |
| 393a | | <p><u>Article 37a</u> <u>Amendment to Directive (EU) 2019/1937</u></p> <p><u>In Part XX of the Annex to Directive (EU) 2019/1937, the following point is added:</u></p> <p><u>"Regulation (EU) .../... of the European Parliament and of the Council of ... on XX (EU) 2021/XXX, and amending Directive (EU) 2019/37 (OJ L ...).</u></p> | | <p><u>Article 37a</u> <u>Reporting of breaches and protection of reporting persons</u></p> <p><u>Directive (EU) 2019/1937 shall apply to the reporting of all breaches of this Regulation and the protection of persons reporting such breaches.</u></p> |
| Article 37b | | | | |
| 393b | | | | <u>Article 37b</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|------------|---|--|
| | | | | <p><u>Amendment to Directive (EU) No 2019/1937</u></p> <p><u>In Point J of Part I of the Annex to Directive (EU) No 2019/1937, the following point is added: ‘(iv) Regulation [...] of the European Parliament and of the Council, of [...], on contestable and fair markets in the digital sector.’</u></p> |
| Article 37a | | | | |
| 393c | | | <u>Article 37a Committee procedure</u> | <p><u>Article 37c Committee procedure</u></p> <p>Text Origin: Council Mandate</p> |
| Article 37a(1) | | | | |
| 393d | | | <p><u>1. The Commission shall be assisted by a committee (‘the Digital Markets Advisory Committee’). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.</u></p> | <p><u>1. The Commission shall be assisted by a committee (‘the Digital Markets Advisory Committee’). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.</u></p> <p>Text Origin: Council Mandate</p> |
| Article 37a(2) | | | | |
| 393e | | | <p><u>2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.</u></p> | <p><u>2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------|---------------------|------------|--|--|
| | | | | Text Origin: Council Mandate |
| Article 37a(3) | | | | |
| 393f | | | <p><u>3. Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.</u></p> | <p><u>3. Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.</u></p> <p>Text Origin: Council Mandate</p> |
| Article 37a(4) | | | | |
| 393g | | | <p><u>4. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.</u></p> | <p><u>4. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.</u></p> <p>Text Origin: Council Mandate</p> |
| Article 37a(5) | | | | |
| 393h | | | <p><u>5. The Commission shall communicate the opinion of the committee to the addressee of an individual decision, together with that decision. It shall make the opinion public together with the individual decision, having regard to the legitimate interest in the</u></p> | <p><u>5. The Commission shall communicate the opinion of the committee to the addressee of an individual decision, together with that decision. It shall make the opinion public together with the individual decision, having regard to the legitimate interest in the</u></p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|-------------|---------------------|---|--|--|
| | | | <u>protection of professional secrecy.</u> | <u>protection of professional secrecy.</u> Text Origin: Council Mandate |
| Article 37d | | | | |
| 393i | | | | <u>Article 37d</u> <u>Directive (EU) 2020/1828 shall apply to the representative actions brought against infringements by gatekeepers of provisions of this Regulation that harm or may harm the collective interests of consumers.</u> |
| 393j | | | | |
| Article 37b | | | | |
| 393k | | <u>Article 37b</u> <u>Amendments to Directive (EU) 2020/1828 on Representative Actions for the Protection of the Collective Interests of Consumers</u> <u>The following is added to Annex I:</u> <u>"(X) Regulation of the European Parliament and of the Council on contestable and fair markets in the digital sector (Digital Markets Act)"</u> | | <u>Article 37f</u> <u>Amendments to Directive (EU) 2020/1828 on Representative Actions for the Protection of the Collective Interests of Consumers</u> <u>The following is added to Annex I:</u> <u>"(X) Regulation of the European Parliament and of the Council on contestable and fair markets in the digital sector (Digital Markets Act)"</u> Text Origin: EP Mandate |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|------------------------------|--|--|--|---|
| Article 37b | | | | |
| 393l | | | <u>Article 37b Guidelines</u> | See rows 386a and 393 j) |
| Article 37b, first paragraph | | | | |
| 393m | | | <u>The Commission may adopt guidelines on any of the aspects of this Regulation in order to facilitate its effective implementation and enforcement.</u> | See rows 386a and 393 i) |
| Article 38 | | | | |
| 394 | Article 38 Review | Article 38 Review | Article 38 Review | Article 38 Review Text Origin: Commission Proposal |
| Article 38(1) | | | | |
| 395 | 1. By DD/MM/YYYY, 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. | 1. By DD/MM/YYYY, 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. | 1. By DD/MM/YYYY, 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. | 1. By DD/MM/YYYY, 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. <u>2. The evaluation shall assess whether the aims of this Regulation of ensuring contestable and fair markets have been achieved and</u> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------------|--|--|--|---|
| | | | | <p><u>assess the impact of this Regulation on business-users, especially small and medium-sized enterprises and end-users. Moreover the Commission shall evaluate if the scope of article 6a may be extended to the social networks services.</u></p> <p>Text Origin: Commission Proposal</p> |
| Article 38(2) | | | | |
| 396 | <p>2. The evaluations shall establish whether additional rules, including regarding the list of core platform services laid down in point 2 of Article 2, the obligations laid down in Articles 5 and 6 and their enforcement, may be required to ensure that digital markets across the Union are contestable and fair. Following the evaluations, the Commission shall take appropriate measures, which may include legislative proposals.</p> | <p>2. The evaluations shall establish whether additional rules, including regarding the list of core platform services laid down in point 2 of Article 2, the obligations laid down in Articles 5 and 6 and their enforcement, may be required to ensure that digital markets across the Union are contestable and fair. Following the evaluations, the Commission shall take appropriate measures, which may include legislative proposals.</p> | <p>2. The evaluations shall establish whether <u>additional it is required to modify, add or remove</u> rules, including regarding the list of core platform services laid down in point 2 of Article 2, the obligations laid down in Articles 5 and 6 and their enforcement, may be required to ensure that digital markets across the Union are contestable and fair. Following the evaluations, the Commission shall take appropriate measures, which may include legislative proposals.</p> | <p>2. The evaluations shall establish whether <u>additional it is required to modify</u> rules, including regarding the list of core platform services laid down in point 2 of Article 2, the obligations laid down in Articles 5 and 6 and their enforcement, may be required to ensure that digital markets across the Union are contestable and fair. Following the evaluations, the Commission shall take appropriate measures, which may include legislative proposals.</p> <p>Text Origin: Council Mandate</p> |
| Article 38(3) | | | | |
| 397 | <p>3. Member States shall provide any relevant information they have that the Commission may require for the purposes of drawing up the report referred to in paragraph 1.</p> | <p>3. Member States shall provide any relevant information they have that the Commission may require for the purposes of drawing up the report referred to in paragraph 1.</p> | <p>3. <u>The competent authorities of</u> Member States shall provide any relevant information they have that the Commission may require for the purposes of drawing up the report</p> | <p>3. <u>The competent authorities of</u> Member States shall provide any relevant information they have that the Commission may require for the purposes of drawing up the report</p> |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------------------------|---|---|---|---|
| | | | referred to in paragraph 1. | referred to in paragraph 1. Text Origin: Council Mandate |
| Article 39 | | | | |
| 398 | Article 39 Entry into force and application | Article 39 Entry into force and application | Article 39 Entry into force and application | Article 39 Entry into force and application Text Origin: Commission Proposal |
| Article 39(1) | | | | |
| 399 | 1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. | 1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. | 1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. | 1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. Text Origin: Commission Proposal |
| Article 39(2), introductory part | | | | |
| 400 | 2. This Regulation shall apply from six months after its entry into force. | 2. This Regulation shall apply from six two months after its entry into force. | 2. This Regulation shall apply from six months after its entry into force. | 2. This Regulation shall apply from six months after its entry into force. Text Origin: Commission Proposal |
| Article 39(2), first paragraph | | | | |
| 401 | However Articles 3, 15, 18, 19, 20, 21, 26, 27, 30, 31 and 34 shall apply from [date of entry into force of this | However Articles 3, 15, 18, 19, 20, 21, 26, 27, 30, 31 and 34 shall apply from [date of entry into force of this | However Articles 3, 15, 18, 19, 20, 21, 26, 27, 30, 31 and 34 By way of derogation Articles 3(5) and (5a) | However By way of derogation Articles 3, 15, 18, 19, 20, 21, 26, 27, 30, 31 and 34 3(5) and 3(5a) and |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|----------------------------------|---|---|--|---|
| | Regulation]. | Regulation]. | <u>and Articles 36, 37 and 37a</u> shall apply from [date of entry into force of this Regulation]. | <u>Articles 31d, 36, 36a, 36b, 37 and [37c]</u> shall apply from [date of entry into force of this Regulation]. Text Origin: Council Mandate |
| Article 39(2), first paragraph a | | | | |
| 401a | | | | <u>Notwithstanding the first and second subparagraphs of this Article, Article XY [on the application of Directive (EU) 2020/1828] and Article 37d shall apply from 25 June 2023. However, if that date precedes the date of application referred to in the second subparagraph, the application of Article XY and article 37d shall be postponed until the date of application referred to in the second subparagraph.</u> |
| Article 39(3) | | | | |
| 402 | 3. This Regulation shall be binding in its entirety and directly applicable in all Member States. | 3. This Regulation shall be binding in its entirety and directly applicable in all Member States. | 3. This Regulation shall be binding in its entirety and directly applicable in all Member States. | 3. This Regulation shall be binding in its entirety and directly applicable in all Member States. Text Origin: Commission Proposal |
| Formula | | | | |
| 403 | Done at Brussels, | Done at Brussels, | Done at Brussels, | Done at Brussels, |

| | Commission Proposal | EP Mandate | Council Mandate | Draft Agreement |
|---------|-----------------------------|-----------------------------|-----------------------------|---|
| | | | | Text Origin: Commission Proposal |
| Formula | | | | |
| 404 | For the European Parliament | For the European Parliament | For the European Parliament | For the European Parliament Text Origin: Commission Proposal |
| Formula | | | | |
| 405 | The President | The President | The President | The President Text Origin: Commission Proposal |
| Formula | | | | |
| 406 | For the Council | For the Council | For the Council | For the Council Text Origin: Commission Proposal |
| Formula | | | | |
| 407 | The President | The President | The President | The President Text Origin: Commission Proposal |