



The association representing 75,000+ companies selling goods and services online to consumers in Europe.

## Executive Summary: Platform-to-Business Regulation

### Regulation on promoting fairness and transparency for business users of online intermediation services

#### Introduction

On 26 April, the European Commission proposed an [EU Regulation on fairness and transparency in online platform trading](#), together with the creation of an Observatory on the online platform economy. The European Commission's objective is putting in place a harmonized framework for minimum transparency and redress rights, which should protect companies that depend on online platforms for reaching consumers, while crucially safeguarding platforms' innovation potential. Ecommerce Europe overall welcomed the publication of the Commission's Proposal. However, Ecommerce Europe wants to stress that this Regulation should strike the right balance between online platforms' interests and the interests of online merchants, especially SMEs that sell via marketplaces. This document summarizes the position of Ecommerce Europe on the proposed Regulation and gives specific recommendations on how to improve it and achieve this fair balance.

#### Soft-touch approach

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As long as the soft-touch approach in the Commission's proposal is kept, Ecommerce Europe will, generally speaking, support it. We will not, however, support any obligation for online platforms to disclose trade secrets, such as algorithms.

#### Territorial scope

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Ecommerce Europe supports the provision on the material scope as well as the exception for small intermediary platforms. However, Ecommerce Europe strongly recommends replacing the term "persons" with "FTE" (full-time equivalent) in order to avoid placing the smallest platforms under the scope of the Regulation. Furthermore, Ecommerce Europe does not support the proposed provision on territorial scope in Article 1.2. as, in Ecommerce Europe's view, it seems to be clashing with Article 3 and Article 4 of Rome I.

#### Transparency and T&C

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Ecommerce Europe generally supports the provisions in the articles 3 till 7 of the Proposal as they will result in more transparency. However, regarding the 15-day prior notice when terms and conditions change, Ecommerce Europe suggests making an exception to that rule for beneficial terms and conditions as well as for the introduction of new product categories or features so that they could be applicable immediately after notification.

#### Ranking

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Ecommerce Europe does not support any provision that unnecessarily forces companies to disclose essential business information or secrets. Obliging platforms to set out the reasons for the relative importance of the ranking parameters will most likely force intermediary platforms to disclose such delicate information.

## **Internal complaint-handling system**

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Ecommerce Europe welcomes the provisions of Article 9 on the internal complaint-handling system. However, it does not understand why a yearly overview of the functioning and effectiveness of an **internal** complaint-handling system should be disclosed to the general public and not only to the relevant participants in online intermediation services since this information should be confidential. Ecommerce Europe, therefore, strongly recommends restricting the information to a general overview on the functioning and effectiveness of the internal complaint-handling system.

## **Mediation**

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Although Ecommerce Europe supports the provisions on mediation, we suggest introducing an obligation for mediators to redirect parties to the internal complaint handling mechanisms first, before being admissible to the mediation procedure. In addition, Ecommerce Europe believes that it is unfair to make the platform pay at least half of the mediation costs in cases where the mediation claim of the business user is obviously unfunded, without any ground or constitutes a repeated mediation claim from one party on an already decided matter. That is why Ecommerce Europe calls for a reasonable correction.

## **Representative court actions**

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Ecommerce Europe does not support the provision in Article 12 of the Proposal as we do not see - by absence of a proper assessment and without any request from the involved market parties - any need for public bodies to interfere in a purely Business-to-Business relation. Furthermore, Article 12 does not provide for the essential uniformity by leaving the decision up to the Member States on which entities would be entitled to take action before national courts. Therefore, Ecommerce Europe strongly advises policymakers to reconsider this provision.

## **Entry into force/application**

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Ecommerce Europe pleads for a transition period of at least one year since a six-month transition period is far too short for businesses to properly implement the new Regulation.



Ecommerce Europe Position Paper:  
[Proposal for an EU Regulation on fairness and transparency in online platform trading](#)