



EUROPEAN COMMISSION

Brussels, 26.11.2018
C(2018) 7264 final

Dear President,

The Commission would like to thank the Senát for its Opinion on the proposal for a regulation of the European Parliament and of the Council on promoting fairness and transparency for business users of online intermediation services {COM(2018) 238 final}.

This proposal forms part of the Commission's Digital Single Market strategy and is aimed at ensuring that business users of online intermediation services and corporate website users in relation to online search engines are granted appropriate transparency and effective redress possibilities.

The proposal assists European Union business users in trading across borders, while safeguarding the innovation potential of the wider online platform ecosystems. It principally aims to safeguard trust in online platforms by clarifying the rules of the game for business users, improving competition on platform quality by playing on reputational levers and by facilitating out-of-court dispute settlement.

The Commission is pleased that the Senát welcomes the efforts to develop a comprehensive approach to modifying the relations of providers of online intermediation services with their business partners across European Union Member States, and that it supports the generally positive opinion of the Government of the Czech Republic on the proposal.

The Commission would also like to take this opportunity to reassure the Senát that the proposal actually explicitly acknowledges the differences as well as similarities that exist between, on the one hand, online intermediation services and, on the other, online search engines. Separate legal definitions are indeed used to identify the two different types of services and their users. At the same time, small businesses do not depend exclusively on online intermediation services, but they can also derive significant Internet traffic from online search engines – even outside any contractual relationship with the latter.

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Ranking in both general as well as in specialised search can therefore have an important impact on the commercial success of those businesses and, indirectly, on consumer choice. To optimise the effectiveness of the proposal while recognising the differences between the respective services, the proposal therefore covers online search engines exclusively in relation to the transparency of ranking. This sole obligation that will apply to online search engines will moreover be without prejudice to the right of these services to enjoy trade secrets protection.

The Sénat's Opinion has been made available to the Commission's representatives in the ongoing negotiations with the co-legislators, the European Parliament and the Council, and will inform these discussions. The Commission remains hopeful that an agreement will be reached in the near future.

The Commission hopes that the clarifications provided in this reply address any issues raised by the Sénat and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Mariya Gabriel
Member of the Commission*