

Open Letter: Draft Proposal on Platform to Business Relations

Brussels, 06 November 2018

Honourable Member of the European Parliament,

As a group of startup entrepreneurs, community leaders and associations we're writing to you to express concerns about the direction of ongoing negotiations regarding the draft proposal on Platform to Business Relations in the European Parliament.

The story of startups in Europe is the story of online platforms. More often than not, startups are intermediating between businesses and consumers. The possibility to review, compare and conclude transactions through a trusted partner is a key benefit for European citizens in our digital market. For business users, online platforms help easily reach consumers and across borders within the EU and beyond, helping overcome a still incomplete single market. This is where startups help to provide simple solutions to previously complicated realities, for both business users and consumers

The fact that startups use online platforms to scale across borders and often themselves provide services that are considered 'online intermediation services' is central to our argument. Europe counts **over 3.700 startups** that can be considered platforms in the sense of the proposal. However, we are concerned that the proposal, and in particular recent amendments, do not take this reality into account sufficiently.

Fairness and transparency are in the interest of all businesses, especially for new market entrants such as startups. Without an established market position, filled bank accounts and sizeable legal departments, startups rely on convincing products and services to compete and satisfy consumers. We want to urge caution against overly prescriptive and restrictive provisions. Legal complexity and uncertainty favours larger market players over newcomers and may set disincentives for good behaviour on online marketplaces. In particular, we highlight the following areas:

A one-sided perception of this being exclusively about small business users vs powerful platform providers. Such provisions do not consider countless smaller platform providers that seek to facilitate transactions between powerful business users. Further, they may neglect situations where both business partners are sizeable multinational corporations or both equally in need of protection.

Maintaining the role of online intermediation services in **protecting users' legitimate interest**: Platforms emerge where business realities are imperfect, intransparent or too costly. They can only be successful if they retain the trust of their users, both consumers and businesses, as well as their own reputation. The introduction of a strict notice period before a platform can take down content that contravenes its terms of services will essentially make these terms worthless, impact user expectations and, even if temporarily, commercial disadvantage to business users that do follow such rules.

The **blacklist of so-called unfair commercial practices** and potential mandatory sharing of data to business users, unsupported by evidence, will impact growth in startup ecosystems and innovative business models. A startup platform's growth often relies on providing ancillary services such as payments, SaaS or analytics while being able to generate value from these activities. Meanwhile, some of the practices listed will actually help business users free ride on the platform's investment.

Startups need to be able to operate in a **clear, foreseeable and workable legal framework**. Any broad extension of the Regulation's scope, for example to operating systems, without careful impact assessment is very worrying. Or changes that create ambiguity would increase the vulnerability of our innovators, in particular when dealing with larger business users. Including a concept of fairness and proportionality in the draft law, which sits uncomfortably with many legal traditions in Europe, will introduce vast space for interpretation and litigation which will prove unmanageable for startup platforms.

Thresholds force startups to compete with one hand tied to their back. 'Building the next big thing' is the vision and motivation for most entrepreneurs to thrive for more. If a lighter regime spells an inferior customer service or redress startups are forced to compete on unequal footing or play by rules which mean regulatory overkill. Both scenarios force our startups to stay small and contradict the ambition of a scaleup continent.

We invite you to reflect on the proposal and its amendments in light of an increasingly diverse and fast moving reality that is characterised and driven by countless startups in Europe. The importance of a strictly principle based approach can hardly be overstated for startups to thrive to build the next big thing in Europe.

We remain available and are looking forward to an ongoing dialogue and hope you will find our perspectives useful.

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Allied for Startups is a worldwide network of over 40 advocacy organisations focused on improving the policy environment for startups. We are working together to create a consensus on policies that can positively impact startups and grow digital entrepreneurship and digital economy at large. Our mission is to ensure that the voices of startups are heard in government.