

消費者法規翻譯叢書之三十

外國消費者保護法

第三十輯

行政院編印

中華民國113年8月

序言

我國為更有效保護消費者權益，並順應世界潮流，於民國(下同)83年1月11日經總統公布施行消費者保護法，使我國正式進入消費者保護法時期，為我國消費者保護法制展開新紀元，嗣後並於92年、94年、104年修正部分條文。

值此保障消費者之思想已蔚為世界潮流之際，為健全並周延我國有關消費者保護法制及充實消費者保護之新知，原行政院消費者保護委員會於84年起，即著手編印外國消費者保護法規選輯，自84年6月出版外國消費者保護法第1輯；而行政院消費者保護處自101年1月1日改制後，仍承繼原行政院消費者保護委員會編印出版之初衷，賡續編印出版，截至112年止，共計出版29輯。選輯內容包括派員出國考察或開會時所蒐集，與經由國外政府機關、國際組織網站下載之消費者保護相關法規，並將之譯介，彙編成書，以供作本處與各界瞭解各國消費者保護相關法規及比較研究之參考。

本書為本處譯介外國消費者保護法第30輯，內容為歐盟「數位服務法」及西澳「2021年黃牛票防制法」，採用中文翻譯及英文左右對照方式印刷，俾供讀者閱讀之便利。

本選輯中譯文部分，歐盟數位服務法係由南臺科技大學財經法律研究所郭戎晉助理教授及財團法人資訊工業策進會科技法律研究所資深研究協理邱映曦博士共同翻譯；西澳2021年黃牛票防制法係由郭戎晉助理教授負責翻譯；謹此敘明，並表謝忱。

行政院消費者保護處 謹識

中華民國113年8月

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（法規）

規則

歐洲議會暨理事會 (EU) 第 2022/2065 號規則

2022 年 10 月 19 日

有關數位服務之單一市場，本規則修正 2000/31/EC 指令（數位服務法）。

歐洲議會暨理事會

依據《歐盟運作條約》，特別是第 114 條，參考歐盟執行委員會之提案，經過提供法制草案予各國議會，參考歐洲經濟社會委員會之意見，參考區域委員會之意見按照一般之立法程序。

鑒於：

- (1) 資訊社會服務，尤其是中介服務，在歐盟經濟及歐盟公民的日常生活中，已成為重要的一部分。在歐洲議會暨理事會通過 2000/31/EC 指令中適用於此類服務之現行法制架構的二十年後，新興與創新的商業模式和服務，例如可允許消費者與企業經營者簽訂遠距契約的線上社

(Legislative acts)

REGULATIONS

**REGULATION (EU) 2022/2065 OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL of 19 October 2022
on a Single Market For Digital Services and amending Directive 2000/31/
EC (Digital Services Act)
(Text with EEA relevance)**

**THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE
EUROPEAN UNION,**

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof, Having regard to the proposal from the European Commission, After transmission of the draft legislative act to the national parliaments, Having regard to the opinion of the European Economic and Social Committee, Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure, Whereas:

- (1) Information society services and especially intermediary services have become an important part of the Union's economy and the daily life of Union citizens. Twenty years after the adoption of the existing legal framework applicable to such services laid down in Directive 2000/31/EC of the European Parliament and of the Council, new and innovative business models and services, such as online social networks and online platforms allowing consumers to conclude distance contracts with traders, have allowed business users and consumers to impart and access

群網路與線上平臺，已使企業用戶及消費者能夠以新穎的方式傳遞與獲取資訊，並且參與交易。大多數歐盟公民現在每天都會使用這些服務。然而，數位轉型與這些服務的使用之增加，也為接受相關服務之個人、企業、和社會整體，帶來了新的風險和挑戰。

- (2) 愈來愈多的會員國正在導入或考慮於國家法律中導入關於本規則涵括之事項，特別是針對中介服務提供者應當採取何種方式來應對違法內容、網路假訊息或其他社會風險，施以盡職要求。然而在考慮通常用於提供這些服務之網際網路，原即具備之跨境特性時，那些分歧的國家法律則對內部市場產生負面影響，而依據《歐洲聯盟運作條約》（TFEU）第 26 條，內部市場應係一個沒有內部邊界限制的區域，以確保商品與服務於其內能夠自由流通。為此，在內部市場提供中介服務的條件應予以協調一致，以為企業提供進入新市場及開發內部市場利益的機會，同時讓消費者與其他服務接受者擁有更多的選擇。就本規則之目的而言，企業用戶、消費者與其他使用者即為「服務的接受者」。
- (3) 中介服務提供者負責和盡職的行為，對於安全、可預測、和值得信賴的線上環境，以及允許歐盟公民和其他人得以行使他們於《歐洲聯盟基本權利憲章》（《憲章》）中所保障的基本權利，特別是言論和資訊自由、營業自由、不受歧視的權利、和實現高標準的消費者保護，是至關重要的。

information and engage in transactions in novel ways. A majority of Union citizens now uses those services on a daily basis. However, the digital transformation and increased use of those services has also resulted in new risks and challenges for individual recipients of the relevant service, companies and society as a whole.

- (2) Member States are increasingly introducing, or are considering introducing, national laws on the matters covered by this Regulation, imposing, in particular, diligence requirements for providers of intermediary services as regards the way they should tackle illegal content, online disinformation or other societal risks. Those diverging national laws negatively affect the internal market, which, pursuant to Article 26 of the Treaty on the Functioning of the European Union (TFEU), comprises an area without internal frontiers in which the free movement of goods and services and freedom of establishment are ensured, taking into account the inherently cross-border nature of the internet, which is generally used to provide those services. The conditions for the provision of intermediary services across the internal market should be harmonised, so as to provide businesses with access to new markets and opportunities to exploit the benefits of the internal market, while allowing consumers and other recipients of the services to have increased choice. Business users, consumers and other users are considered to be ‘recipients of the service’ for the purpose of this Regulation.
- (3) Responsible and diligent behaviour by providers of intermediary services is essential for a safe, predictable and trustworthy online environment and for allowing Union citizens and other persons to exercise their fundamental rights guaranteed in the Charter of Fundamental Rights of the European Union (the ‘Charter’), in particular the freedom of expression and of information, the freedom to conduct a business, the right to non-

- (4) 因此，為了保障和改善內部市場的運作，應於歐盟層級制定一套針對目標的、一致的、有效的、符合比例原則之強制性的規則。本規則為創新數位服務在內部市場的興起及擴大提供了各項條件。於歐盟層級對中介服務提供者採取近似於國家管制措施之要求，對於避免及終結內部市場的分散並確保法律明確性有其必要，從而減少開發商的不確定性並促進相互操作性。經由採用技術中立的要求，創新不應受到阻礙，反而應得到刺激。
- (5) 本規則應適用於歐洲議會暨理事會於 (EU)2015/1535 指令中定義之某些資訊社會服務的提供者，即為通常自遠端透過電子方式且應接受者的個人請求，以有償方式而提供的任何服務。具體來說，本規則應適用於中介服務提供者，特別是包括所謂單純連線、快速存取、資訊儲存等類型的中介服務。有鑑於這些服務的使用量呈指數級增長，儘管這些服務主要用於各種合法及有益於社會的目的，它們在中介與傳播非法或其他有害資訊方面，卻也增強了作用。
- (6) 在實務上，某些中介服務提供者所中介的服務，可能或未必透過電子方式提供，例如遠端資訊科技服務、交通、住宿、或配送服務等。本規則應僅適用於中介服務，且不影響歐盟或各國家法律中，對於透過中介服務中介之商品或服務所為之相關規定，包括該中介服務為構成另一服務之一部分，而該服務並非歐盟法院之判例法所認定之中介服

- discrimination and the attainment of a high level of consumer protection.
- (4) Therefore, in order to safeguard and improve the functioning of the internal market, a targeted set of uniform, effective and proportionate mandatory rules should be established at Union level. This Regulation provides the conditions for innovative digital services to emerge and to scale up in the internal market. The approximation of national regulatory measures at Union level concerning the requirements for providers of intermediary services is necessary to avoid and put an end to fragmentation of the internal market and to ensure legal certainty, thus reducing uncertainty for developers and fostering interoperability. By using requirements that are technology neutral, innovation should not be hampered but instead be stimulated.
- (5) This Regulation should apply to providers of certain information society services as defined in Directive (EU) 2015/1535 of the European Parliament and of the Council, that is, any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient. Specifically, this Regulation should apply to providers of intermediary services, and in particular intermediary services consisting of services known as ‘mere conduit’, ‘caching’ and ‘hosting’ services, given that the exponential growth of the use made of those services, mainly for legitimate and socially beneficial purposes of all kinds, has also increased their role in the intermediation and spread of unlawful or otherwise harmful information and activities.
- (6) In practice, certain providers of intermediary services intermediate in relation to services that may or may not be provided by electronic means, such as remote information technology services, transport, accommodation or delivery services. This Regulation should apply only to intermediary services and not affect requirements set out in Union or national law

務的情形。

- (7) 為確保本規則中各項規定的有效性以及內部市場之公平競爭環境，這些規定應適用於中介服務提供者，無論其設立之地點或所在地為何，只要其於歐盟提供服務，並可證明其與歐盟之實質關聯。
- (8) 當服務提供者在歐盟內設有商業據點，或者在沒有此類商業據點的情況下，若一個或多個會員國中該服務接受者的人數相對於其人口而言相當大，或是該服務是以針對一個或多個會員國的活動為基礎，則應視為與歐盟存有實質關聯。而所謂針對一個或多個會員國的活動，可以依據所有相關情況來確定，包含使用在該會員國通用的語言或貨幣，或是訂購產品或服務的可能性，抑或相關頂級域名的使用等因素。所謂針對某個會員國的活動，也可以源自一個應用程式於相關國家應用程式商店是否可以取得、是否提供本地廣告服務或以該會員國使用的語言進行廣告、以及客戶關係的處理情形，例如以該會員國普遍使用的語言提供客戶服務等。當服務提供者將其服務活動指向歐洲議會暨理事會 (EU) 第 1215/2012 號規則第 17 條第 (1) 項第 (c) 款定義之一個或多個會員國內部，亦可視為有實質關聯。相反的，若僅係單純技術上可觸及一個歐盟的網站，不得僅以此理由視為該服務與歐盟建立了實質關聯。

relating to products or services intermediated through intermediary services, including in situations where the intermediary service constitutes an integral part of another service which is not an intermediary service as recognised in the case-law of the Court of Justice of the European Union.

- (7) In order to ensure the effectiveness of the rules laid down in this Regulation and a level playing field within the internal market, those rules should apply to providers of intermediary services irrespective of their place of establishment or their location, in so far as they offer services in the Union, as evidenced by a substantial connection to the Union.
- (8) Such a substantial connection to the Union should be considered to exist where the service provider has an establishment in the Union or, in the absence of such an establishment, where the number of recipients of the service in one or more Member States is significant in relation to the population thereof, or on the basis of the targeting of activities towards one or more Member States. The targeting of activities towards one or more Member States can be determined on the basis of all relevant circumstances, including factors such as the use of a language or a currency generally used in that Member State, or the possibility of ordering products or services, or the use of a relevant top-level domain. The targeting of activities towards a Member State could also be derived from the availability of an application in the relevant national application store, from the provision of local advertising or advertising in a language used in that Member State, or from the handling of customer relations such as by providing customer service in a language generally used in that Member State. A substantial connection should also be assumed where a service provider directs its activities to one or more Member States within the meaning of Article 17(1), point (c), of Regulation (EU) No 1215/2012 of the European Parliament and of the Council. In contrast, mere technical

(9) 為確保一個安全、可預測、和值得信賴的線上環境，本規則全面統一歐盟內部市場適用中介服務的規定，目的在解決線上非法內容傳播以及傳播虛假訊息或其他內容可能產生的社會風險，並使得《憲章》所載之基本權獲得有效保護，創新也得以促進。因此，會員國對於本規則規範範圍內之相關事項不應再採用或維持額外之國家要求，除非本規則有明文規定，否則將影響依據本規則目標所訂定，適用於中介服務提供者之統一規定的全面且一致之適用。這不應排除其他國家依據歐盟法律（包括 2000/31/EC 指令，特別是其中第 3 條）進行適用於中介服務提供者之國家立法的可能性，只要該其他國家法律的規定係以本規則所追求的目標以外之其他合法公共利益為目標。

(10) 本規則應無損歐盟其他法律中，規範一般情況下資訊社會服務的提供、規範內部市場中介服務提供的其他層面、或確立及補充本規則中所制定的一致性規定等的其他法案等規定之適用，例如：歐洲議會暨理事會 2010/13/EU 指令規範關於視訊共享平臺的規定、歐洲議會暨理事會 (EU) 第 2019/1148 號、(EU) 第 2019/1150 號、(EU) 第 2021/784 號與 (EU) 第 2021/1232 號規則、歐洲議會暨理事會 2002/58/EC 指令；亦不影響關於歐洲刑事案件電子證據提供與保存之請求規則、以及為刑事訴訟蒐集證據而指定法定代理人之統一規範條款的適用。

accessibility of a website from the Union cannot, on that ground alone, be considered as establishing a substantial connection to the Union.

- (9) This Regulation fully harmonises the rules applicable to intermediary services in the internal market with the objective of ensuring a safe, predictable and trusted online environment, addressing the dissemination of illegal content online and the societal risks that the dissemination of disinformation or other content may generate, and within which fundamental rights enshrined in the Charter are effectively protected and innovation is facilitated. Accordingly, Member States should not adopt or maintain additional national requirements relating to the matters falling within the scope of this Regulation, unless explicitly provided for in this Regulation, since this would affect the direct and uniform application of the fully harmonised rules applicable to providers of intermediary services in accordance with the objectives of this Regulation. This should not preclude the possibility of applying other national legislation applicable to providers of intermediary services, in compliance with Union law, including Directive 2000/31/EC, in particular its Article 3, where the provisions of national law pursue other legitimate public interest objectives than those pursued by this Regulation.
- (10) This Regulation should be without prejudice to other acts of Union law regulating the provision of information society services in general, regulating other aspects of the provision of intermediary services in the internal market or specifying and complementing the harmonised rules set out in this Regulation, such as Directive 2010/13/EU of the European Parliament and of the Council including the provisions thereof regarding video-sharing platforms, Regulations (EU) 2019/1148, (EU) 2019/1150, (EU) 2021/784 and (EU) 2021/1232 of the European Parliament and of the Council and Directive 2002/58/EC of the European Parliament and

同樣，為了清楚起見，本規則不應減損關於消費者保護的歐盟法律的適用，特別是歐洲議會暨理事會 (EU) 第 2017/2394 號及 (EU) 第 2019/1020 號規則，歐洲議會暨理事會 2001/95/EC、2005/29/EC、2011/83/EU 和 2013/11/EU 指令，以及理事會 93/13/EEC 指令；亦不影響關於個人資料保護的歐盟法律，特別是歐洲議會暨理事會 (EU) 第 2016/679 號規則。

本規則也應無損於關於國際私法之歐盟規則的適用，特別是關於管轄權以及民商事判決的承認與執行的規則，如 (EU) 第 1215/2012 號規則以及適用於契約和非契約義務的法律規則。與個人資料處理有關的個人保護僅受與該議題相關之歐盟法律規則的拘束，特別是 (EU) 第 2016/679 號規則與 2002/58/EC 指令。本規則亦不應影響關於工作條件的歐盟法律，以及民事與刑事之司法合作領域的歐盟法律之適用。然而，如果這些歐盟法律訂定處理之目標與本規則所訂目標相同時，則本規則之規定應適用於上述其他法律規範中未被處理或未被完全處理的議題，以及各該其他法律保留予會員國得於國家層面採取某些措施之議題。

of the Council, and provisions of Union law set out in a Regulation on European Production and Preservation Orders for electronic evidence in criminal matters and in a Directive laying down harmonised rules on the appointment of legal representatives for the purpose of gathering evidence in criminal proceedings.

Similarly, for reasons of clarity, this Regulation should be without prejudice to Union law on consumer protection, in particular Regulations (EU) 2017/2394 and (EU) 2019/1020 of the European Parliament and of the Council, Directives 2001/95/EC, 2005/29/EC, 2011/83/EU and 2013/11/EU of the European Parliament and of the Council, and Council Directive 93/13/EEC, and on the protection of personal data, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council.

This Regulation should also be without prejudice to Union rules on private international law, in particular rules regarding jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, as Regulation (EU) No 1215/2012, and rules on the law applicable to contractual and non-contractual obligations. The protection of individuals with regard to the processing of personal data is governed solely by the rules of Union law on that subject, in particular Regulation (EU) 2016/679 and Directive 2002/58/EC. This Regulation should also be without prejudice to Union law on working conditions and Union law in the field of judicial cooperation in civil and criminal matters. However, to the extent that those Union legal acts pursue the same objectives as those laid down in this Regulation, the rules of this Regulation should apply in respect of issues that are not addressed or not fully addressed by those other legal acts as well as issues on which those other legal acts leave Member States the possibility of adopting certain measures at national level.

- (11) 需闡明的是，本規則不減損關於著作權及其相關權利之歐盟法律的適用，包括歐洲議會暨理事會 2001/29/EC、2004/48/EC 和 (EU)2019/790 指令等，因各該規範建立之具體規則及程序應保持不受影響。
- (12) 為了實現並確保一個安全、可預測、及值得信賴之線上環境的目標，就本規則訂定之目的而言，「非法內容」的概念應廣泛反映離線環境中的既有規則。尤其，「非法內容」的概念應廣泛定義，以涵蓋與非法內容、產品、服務、及活動有關的資訊。特別是此概念應被理解為，泛指無論形式為何，依據所適用之法律，該資訊本身為非法資訊者而言，例如非法之仇恨言論或恐怖主義內容及法律禁止的歧視性內容等；或由於該資訊涉及非法活動而依據所適用之規範認定其違法者，可作為例證者如分享描繪兒少性虐待的圖像、未經同意非法分享他人圖像、網路跟蹤、銷售不合規範或仿冒的產品、以違反消費者保護法之作法銷售產品或提供服務、未經授權使用受著作權保護的資料、非法提供住宿服務或非法販賣活體動物等。相反的，潛在犯罪的目擊影片不應僅因其呈現了非法行為而被視為構成非法內容，因為依據國家或歐盟的法律，公開錄製或散布此類影片並不構成違法。於此情形，資訊或活動的違法性是由歐盟法律或是由符合歐盟法律的國家法律認定，以及相關法律的確切性質或主題為何，皆不重要。

- (11) It should be clarified that this Regulation is without prejudice to Union law on copyright and related rights, including Directives 2001/29/EC, 2004/48/EC and (EU) 2019/790 of the European Parliament and of the Council, which establish specific rules and procedures that should remain unaffected.
- (12) In order to achieve the objective of ensuring a safe, predictable and trustworthy online environment, for the purpose of this Regulation the concept of ‘illegal content’ should broadly reflect the existing rules in the offline environment. In particular, the concept of ‘illegal content’ should be defined broadly to cover information relating to illegal content, products, services and activities. In particular, that concept should be understood to refer to information, irrespective of its form, that under the applicable law is either itself illegal, such as illegal hate speech or terrorist content and unlawful discriminatory content, or that the applicable rules render illegal in view of the fact that it relates to illegal activities. Illustrative examples include the sharing of images depicting child sexual abuse, the unlawful non-consensual sharing of private images, online stalking, the sale of non-compliant or counterfeit products, the sale of products or the provision of services in infringement of consumer protection law, the non-authorized use of copyright protected material, the illegal offer of accommodation services or the illegal sale of live animals. In contrast, an eyewitness video of a potential crime should not be considered to constitute illegal content, merely because it depicts an illegal act, where recording or disseminating such a video to the public is not illegal under national or Union law. In this regard, it is immaterial whether the illegality of the information or activity results from Union law or from national law that is in compliance with Union law and what the precise nature or subject matter is of the law in question.

- (13) 有鑑於相關服務之特殊性，以及促使相應之服務提供者承擔其中某些特定義務的需要，有必要將子類別的線上平臺，自本規則中所定義的更廣泛的託管服務提供者類別中區分出來。線上平臺，例如允許消費者與企業經營者簽訂遠距契約的社群網路或線上平臺，應該被定義為託管服務提供者，其不僅應服務接受者的請求而儲存他們提供的資訊，也應服務接受者的請求而向公眾傳播該訊息。然而，為了避免施加過於寬泛的義務，當向公眾傳播功能本質上只是聯繫其他服務之次要且純粹輔助功能，或僅為主要服務之次要功能，且由於客觀技術之原因，如果沒有上述之其他或主要服務，則無法使用該特點或功能，而該特點或功能的整合，亦非是為了規避本規則中適用於線上平臺之規則的手段時，該託管服務之提供不應被視為線上平臺；舉例來說，網路報紙的評論區即可以構成此類功能，因為很明顯的，它是在出版者的編輯責任下進行新聞發布之主要服務的附帶輔助功能。相較之下，於社群網路中儲存評論很明顯不是所提供之服務的次要功能，則應將其視為線上平臺服務，即使它是附屬於服務接受者所發表的文章。就本規則之目的而言，當向公眾傳播具體資訊僅構成雲端運算或網站託管服務之輔助或次要的特徵或功能時，該服務不應被視為線上平臺。

(13) Considering the particular characteristics of the services concerned and the corresponding need to make the providers thereof subject to certain specific obligations, it is necessary to distinguish, within the broader category of providers of hosting services as defined in this Regulation, the subcategory of online platforms. Online platforms, such as social networks or online platforms allowing consumers to conclude distance contracts with traders, should be defined as providers of hosting services that not only store information provided by the recipients of the service at their request, but that also disseminate that information to the public at the request of the recipients of the service. However, in order to avoid imposing overly broad obligations, providers of hosting services should not be considered as online platforms where the dissemination to the public is merely a minor and purely ancillary feature that is intrinsically linked to another service, or a minor functionality of the principal service, and that feature or functionality cannot, for objective technical reasons, be used without that other or principal service, and the integration of that feature or functionality is not a means to circumvent the applicability of the rules of this Regulation applicable to online platforms. For example, the comments section in an online newspaper could constitute such a feature, where it is clear that it is ancillary to the main service represented by the publication of news under the editorial responsibility of the publisher. In contrast, the storage of comments in a social network should be considered an online platform service where it is clear that it is not a minor feature of the service offered, even if it is ancillary to publishing the posts of recipients of the service. For the purposes of this Regulation, cloud computing or web-hosting services should not be considered to be an online platform where dissemination of specific information to the public constitutes a minor and ancillary feature or a minor functionality of such services.

此外，當雲端運算服務及網站託管服務係作為基礎架構時（例如作為以網路為基底之應用程式、網站或線上平臺的底層基礎架構儲存裝置或運算服務），其本身不應被視為係依據其託管之應用程式、網站或線上平臺的接受者的請求，向公眾傳播所儲存或處理的資訊。

- (14) 本規則中使用的「向公眾傳播」的概念，應包含讓資訊可供潛在無限數量的人取得，這意味著一般服務接受者皆能夠輕鬆存取資訊，而無須提供所需資訊之服務接受者採取進一步行動，且無論這些人是否實際存取了相關資訊。因此，如果存取資訊需要向特定服務接受者之群組取得註冊或加入許可，則只有當尋求存取資訊的服務接受者可自動被註冊或許可加入，而無需由人為決定或選擇是否可被授予存取權限時，該資訊才可被視為向公眾傳播。歐洲議會暨理事會 (EU) 2018/1972 指令中定義的人際通訊服務，例如電子郵件或私人訊息服務，不屬於線上平臺定義的範圍，因為它們係用於由通訊發送方決定之有限人數間的人際通訊。然而，本規則規定的線上平臺提供者的義務，可能適用於允許向潛在無限數量的接受者提供資訊的服務，而不是依據通訊發送方決定，例如透過公開群組或開放管道。只有當傳播是依據提供資訊的服務接受者的直接請求而發生時，該資訊才應視為本規則定義之向公眾傳播。

Moreover, cloud computing services and web-hosting services, when serving as infrastructure, such as the underlying infrastructural storage and computing services of an internet-based application, website or online platform, should not in themselves be considered as disseminating to the public information stored or processed at the request of a recipient of the application, website or online platform which they host.

- (14) The concept of ‘dissemination to the public’, as used in this Regulation, should entail the making available of information to a potentially unlimited number of persons, meaning making the information easily accessible to recipients of the service in general without further action by the recipient of the service providing the information being required, irrespective of whether those persons actually access the information in question. Accordingly, where access to information requires registration or admittance to a group of recipients of the service, that information should be considered to be disseminated to the public only where recipients of the service seeking to access the information are automatically registered or admitted without a human decision or selection of whom to grant access. Interpersonal communication services, as defined in Directive (EU) 2018/1972 of the European Parliament and of the Council, such as emails or private messaging services, fall outside the scope of the definition of online platforms as they are used for interpersonal communication between a finite number of persons determined by the sender of the communication. However, the obligations set out in this Regulation for providers of online platforms may apply to services that allow the making available of information to a potentially unlimited number of recipients, not determined by the sender of the communication, such as through public groups or open channels. Information should be considered disseminated to the public within the meaning of this

- (15) 倘若提供者提供的某些服務適用本規則，而其他服務則不適用本規則，或者提供者提供的服務適用於本規則之不同章節規範，則本規則之相關條款應僅適用於屬於其規範範圍內之服務。
- (16) 2000/31/EC 指令中針對中介服務提供者建立有條件免除責任之水平規範框架的法律明確性規範，使得許多新興的服務可以出現並橫跨內部市場擴大其規模。因此，應保留該框架。然而有鑑於在國家層級轉換及應用相關規則時產生了分歧，且為了促進該規範之清楚明確及連貫性，該框架應納入本規則。同時，考慮到歐盟法院之判例法，進一步闡明該框架中的某些要素亦有其必要。
- (17) 本規則所規範有關中介服務提供者責任之規定，僅在相關中介服務提供者無法對其服務接受者所提供之非法內容負責時發動。這些規定不應被理解為是為了確立提供者何時須承擔責任而提供積極之依據，這應是由適用的歐盟法或國家法律來確定。此外，本規則所訂定之責任豁免，應適用於與任何類型的非法內容相關之任何類型的責任，無論這些法律確切的主題或性質為何。

Regulation only where that dissemination occurs upon the direct request by the recipient of the service that provided the information.

- (15) Where some of the services provided by a provider are covered by this Regulation whilst others are not, or where the services provided by a provider are covered by different sections of this Regulation, the relevant provisions of this Regulation should apply only in respect of those services that fall within their scope.
- (16) The legal certainty provided by the horizontal framework of conditional exemptions from liability for providers of intermediary services, laid down in Directive 2000/31/EC, has allowed many novel services to emerge and scale up across the internal market. That framework should therefore be preserved. However, in view of the divergences when transposing and applying the relevant rules at national level, and for reasons of clarity and coherence, that framework should be incorporated in this Regulation. It is also necessary to clarify certain elements of that framework, having regard to the case-law of the Court of Justice of the European Union.
- (17) The rules on liability of providers of intermediary services set out in this Regulation should only establish when the provider of intermediary services concerned cannot be held liable in relation to illegal content provided by the recipients of the service. Those rules should not be understood to provide a positive basis for establishing when a provider can be held liable, which is for the applicable rules of Union or national law to determine. Furthermore, the exemptions from liability established in this Regulation should apply in respect of any type of liability as regards any type of illegal content, irrespective of the precise subject matter or nature of those laws.

- (18) 本規則所訂定之責任豁免不應適用於中介服務者就其中介服務的提供，相較於僅透過對資訊進行技術及自動化處理方式中立地提供服務，而係發揮積極之作用以了解或控制服務接受者所提供的資訊時。這些豁免因此亦不應適用於非由服務接受者提供，而係由中介服務提供者自己提供之資訊所涉的相關責任，包括所涉資訊是在該提供者的編輯責任下所開展之情況。
- (19) 鑑於「單純連線」、「快取」、和「託管」活動的不同性質，以及相關服務提供者不同的定位和能力，有必要區分適用於這些活動的規定，就本規則而言，，如同歐盟法院的解釋，它們受到不同要求和條件的約束，且其範圍亦有所不同。
- (20) 當中介服務提供者故意與服務接受者合作，以從事非法活動，則服務不應被視為中立提供，也因此提供者不應享有本規則所訂定之責任豁免規定。舉例而言，當提供者以使非法活動更容易進行為主要目的來提供服務，例如表明其服務之目的是為促進非法活動或其服務適合該目的者。單就特定服務有提供加密傳輸或任何其他讓使用者身分無法辨識之系統的事實，本身不應構成促進非法活動。

- (18) The exemptions from liability established in this Regulation should not apply where, instead of confining itself to providing the services neutrally by a merely technical and automatic processing of the information provided by the recipient of the service, the provider of intermediary services plays an active role of such a kind as to give it knowledge of, or control over, that information. Those exemptions should accordingly not be available in respect of liability relating to information provided not by the recipient of the service but by the provider of the intermediary service itself, including where the information has been developed under the editorial responsibility of that provider.
- (19) In view of the different nature of the activities of ‘mere conduit’, ‘caching’ and ‘hosting’ and the different position and abilities of the providers of the services in question, it is necessary to distinguish the rules applicable to those activities, in so far as under this Regulation they are subject to different requirements and conditions and their scope differs, as interpreted by the Court of Justice of the European Union.
- (20) Where a provider of intermediary services deliberately collaborates with a recipient of the services in order to undertake illegal activities, the services should not be deemed to have been provided neutrally and the provider should therefore not be able to benefit from the exemptions from liability provided for in this Regulation. This should be the case, for instance, where the provider offers its service with the main purpose of facilitating illegal activities, for example by making explicit that its purpose is to facilitate illegal activities or that its services are suited for that purpose. The fact alone that a service offers encrypted transmissions or any other system that makes the identification of the user impossible should not in itself qualify as facilitating illegal activities.

- (21) 當提供者完全無法介入傳輸或存取的資訊時，應能受益於「單純連線」和「快取」服務的責任豁免。除其他事項外，此處要求提供者不得修改其傳輸或提供存取的資訊。然而，這項要求不應被理解為包含在傳輸或存取過程中發生的技術性操控，只要這些操控不會改變其傳輸或提供存取之資訊的完整性。
- (22) 為受益於託管服務的責任豁免，提供者應在實際知悉或察覺到非法活動或非法內容之後，立即迅速地採取行動，刪除該內容或禁止該內容之存取。刪除或禁止存取的行動應在遵守服務接受者的基本權利下進行，包括言論自由及資訊自由的權利。提供者能夠實際知悉或察覺到內容的非法性質，除其他事項外，可透過其自發的主動調查、或透過個人或組織依據本規則向其提交的通知，只要此類通知足夠確切且有充分證據，足以允許盡職的經濟經營者得以針對可能之非法內容進行合理地識別、評估、並視適當情況採取行動。然而一般而言，不能僅以提供者可一般性的意識到其服務亦可被用於儲存非法內容，就認定其符合上述之實際知悉或察覺。此外，提供者自動索引上傳到其服務的資訊、服務具有搜尋功能、或其依據服務接受者的個人資料或偏好推薦資訊等事實，不足以作為認定該提供者對於該平臺上進行的非法活動或儲存在該平臺上的非法內容有「具體」了解的理由。

- (21) A provider should be able to benefit from the exemptions from liability for ‘mere conduit’ and for ‘caching’ services when it is in no way involved with the information transmitted or accessed. This requires, among other things, that the provider does not modify the information that it transmits or to which it provides access. However, this requirement should not be understood to cover manipulations of a technical nature which take place in the course of the transmission or access, as long as those manipulations do not alter the integrity of the information transmitted or to which access is provided.
- (22) In order to benefit from the exemption from liability for hosting services, the provider should, upon obtaining actual knowledge or awareness of illegal activities or illegal content, act expeditiously to remove or to disable access to that content. The removal or disabling of access should be undertaken in the observance of the fundamental rights of the recipients of the service, including the right to freedom of expression and of information. The provider can obtain such actual knowledge or awareness of the illegal nature of the content, inter alia through its own-initiative investigations or through notices submitted to it by individuals or entities in accordance with this Regulation in so far as such notices are sufficiently precise and adequately substantiated to allow a diligent economic operator to reasonably identify, assess and, where appropriate, act against the allegedly illegal content. However, such actual knowledge or awareness cannot be considered to be obtained solely on the ground that that provider is aware, in a general sense, of the fact that its service is also used to store illegal content. Furthermore, the fact that the provider automatically indexes information uploaded to its service, that it has a search function or that it recommends information on the basis of the profiles or preferences of the recipients of the service is not a sufficient

- (23) 在服務接受者是依據託管服務提供者之授權或控制而行事的情況下，則不應適用責任豁免。例如，當允許消費者與企業經營者簽訂遠距契約的線上平臺提供者，決定了企業經營者提供之商品或服務的價格，則可認定企業經營者是在該線上平臺的授權或控制下行事。
- (24) 為了確保消費者在從事線上中介商業交易時得到有效保護，某些託管服務提供者，即允許消費者與企業經營者簽訂遠距契約的線上平臺，不應受益於本規則所訂定之託管服務提供者的責任豁免，只要這些線上平臺用以提供所涉交易相關資訊的方式，足以促使消費者相信，該資訊是由線上平臺本身或由在其授權或控制下行事的企業經營者所提供，且前開線上平臺從而知悉或控制該資訊，即使現實情況並非如此。此類行為諸如線上平臺未能依照本規則的要求清楚顯示企業經營者的身分；或線上平臺隱匿企業經營者之身分或聯絡方式，直到企業經營與消費者間簽訂契約之後；又或是線上平臺以自己的名義進行產品或服務的行銷，而非以供應產品或服務之企業經營者的名義。在這方面，應依據所有相關情況客觀地去認定，資訊之呈現方式是否可能讓一般的消費者相信，所涉資訊是由線上平臺本身或由在其授權或控制下行事的企業經營者所提供。

ground for considering that provider to have ‘specific’ knowledge of illegal activities carried out on that platform or of illegal content stored on it.

- (23) The exemption of liability should not apply where the recipient of the service is acting under the authority or the control of the provider of a hosting service. For example, where the provider of an online platform that allows consumers to conclude distance contracts with traders determines the price of the goods or services offered by the trader, it could be considered that the trader acts under the authority or control of that online platform.
- (24) In order to ensure the effective protection of consumers when engaging in intermediated commercial transactions online, certain providers of hosting services, namely online platforms that allow consumers to conclude distance contracts with traders, should not be able to benefit from the exemption from liability for hosting service providers established in this Regulation, in so far as those online platforms present the relevant information relating to the transactions at issue in such a way as to lead consumers to believe that that information was provided by those online platforms themselves or by traders acting under their authority or control, and that those online platforms thus have knowledge of or control over the information, even if that may in reality not be the case. Examples of such behaviour could be where an online platform fails to display clearly the identity of the trader, as required by this Regulation, where an online platform withholds the identity or contact details of the trader until after the conclusion of the contract concluded between the trader and the consumer, or where an online platform markets the product or service in its own name rather than in the name of the trader who will supply that product or service. In that regard, it should be determined objectively, on

- (25) 本規則所訂定之責任豁免規定，不應影響對中介服務提供者發出不同類型的禁制令之可能性，即使他們符合此處相關豁免條款規範之部分條件。此類禁制令尤其可能包含法院或行政機關依據歐盟法律所簽發之命令，要求終止或防止任何違法行為，包括刪除此類命令中明確指出的非法內容，或禁止該非法內容之存取。
- (26) 為了建立法律明確性，而不阻礙各類的中介服務提供者，自願去採取針對非法內容進行查明、識別、及採取行動的相關作為，需釐清若僅係服務提供者有進行此類作為之事實，不能使本規則所訂定之責任豁免無效，前提是這些活動是出於善意且盡職地執行。善意且盡職之作為，應包含以客觀、非歧視、與符合比例原則的行動方式，適當地考慮所有當事人的權利及合法利益，以及依據本規則之目標及要求，提供必要的保障措施，以防止不當刪除合法內容。為達成此一目的，相關提供者應採取合理措施，在使用自動化工具進行此類活動時，確保相關技術足夠可靠，能盡最大可能去限制錯誤率。此外，應適當闡明的是，僅以提供者為遵守歐盟法律的要求，包括本規則中關於實施相關條款與條件之要求，而善意地採取措施的事實，不應使本規則所訂定之責任豁免無效。因此，當決定提供者是否可以仰賴任一責任豁免條款時，特別是關於提供者是否中立地提供服務而可以納入相關條款的範疇，任何此類提供者可能已經採取的活動和措施皆不應考慮在內。自願行動不應用來規避本規則訂定之中介服務提供者義務。

the basis of all relevant circumstances, whether the presentation could lead an average consumer to believe that the information in question was provided by the online platform itself or by traders acting under its authority or control.

- (25) The exemptions from liability established in this Regulation should not affect the possibility of injunctions of different kinds against providers of intermediary services, even where they meet the conditions set out as part of those exemptions. Such injunctions could, in particular, consist of orders by courts or administrative authorities, issued in compliance with Union law, requiring the termination or prevention of any infringement, including the removal of illegal content specified in such orders, or the disabling of access to it.
- (26) In order to create legal certainty, and not to discourage activities that aim to detect, identify and act against illegal content that providers of all categories of intermediary services undertake on a voluntary basis, it should be clarified that the mere fact that providers undertake such activities does not render unavailable the exemptions from liability set out in this Regulation, provided those activities are carried out in good faith and in a diligent manner. The condition of acting in good faith and in a diligent manner should include acting in an objective, non-discriminatory and proportionate manner, with due regard to the rights and legitimate interests of all parties involved, and providing the necessary safeguards against unjustified removal of legal content, in accordance with the objective and requirements of this Regulation. To that aim, the providers concerned should, for example, take reasonable measures to ensure that, where automated tools are used to conduct such activities, the relevant technology is sufficiently reliable to limit to the maximum extent possible the rate of errors. In addition, it is appropriate

- (27) 雖然本規則對中介服務提供者的責任規定，著重於免除中介服務提供者的責任，但必須記得的是，儘管此類提供者普遍發揮重要的作用，線上非法內容及活動的問題不應僅聚焦於處理他們的責任和義務。在可能的情況下，受線上傳輸或儲存之非法內容影響的第三方，應嘗試以不涉及中介服務提供者之方式，解決與此類內容相關的衝突。於所適用之歐盟及國家法律有規範相關責任之情況下，服務接受者應對他們所提供且可能透過中介服務向公眾傳播的非法內容負擔責任。在適當的情況下，其他參與者，例如封閉式線上環境中的群組管理人，特別是就大型社群而言，也應依據所適用之法律，協助防範非法內容在線上散布。此外，在需要讓資訊社會服務提供者（包括中介服務提供者）參與的情況下，作為一般性之規定，對於此類參與行為之任何要求或命令，皆須向具備對於特定非法內容採取反制行動之技術及操作能力的特定提供者為之，從而防止並減少對於非屬非法內容之相關資訊的可用性及可及性，產生任何可能之負面效應。

to clarify that the mere fact that the providers take measures, in good faith, to comply with the requirements of Union law, including those set out in this Regulation as regards the implementation of their terms and conditions, should not render unavailable the exemptions from liability set out in this Regulation. Therefore, any such activities and measures that a provider may have taken should not be taken into account when determining whether the provider can rely on an exemption from liability, in particular as regards whether the provider provides its service neutrally and can therefore fall within the scope of the relevant provision, without this rule however implying that the provider can necessarily rely thereon. Voluntary actions should not be used to circumvent the obligations of providers of intermediary services under this Regulation.

- (27) Whilst the rules on liability of providers of intermediary services set out in this Regulation concentrate on the exemption from liability of providers of intermediary services, it is important to recall that, despite the generally important role played by such providers, the problem of illegal content and activities online should not be dealt with by solely focusing on their liability and responsibilities. Where possible, third parties affected by illegal content transmitted or stored online should attempt to resolve conflicts relating to such content without involving the providers of intermediary services in question. Recipients of the service should be held liable, where the applicable rules of Union and national law determining such liability so provide, for the illegal content that they provide and may disseminate to the public through intermediary services. Where appropriate, other actors, such as group moderators in closed online environments, in particular in the case of large groups, should also help to avoid the spread of illegal content online, in accordance with the applicable law. Furthermore, where it is necessary to involve information

- (28) 自 2000 年以來，新技術不斷湧現，改善了傳輸系統的可用性、效率、速度、可靠性、容量、和安全性，以及線上資料的「可尋性」及儲存，形成日益複雜的線上生態系。於這方面，必須特別留意，建立並促進網際網路的內部邏輯結構及正常運作（包括技術上的輔助功能）之服務提供者，亦可受益於本規則所訂定之責任豁免條款，只要他們的服務該當於「單純連線」、「快取」、或「託管」服務的範疇。依據具體情況，此類服務可能包含無線區域網路、網域名稱系統 (DNS) 服務、頂級網域名稱註冊管理機構、受理註冊機構、簽發數位憑證的憑證機構、虛擬專用網路、線上搜尋引擎、雲端基礎架構服務、或內容傳遞網路等，可以支援、定位或改善其他中介服務提供者之功能者。同樣地，用於通訊目的的服務及其傳遞的技術方法亦有顯著的發展，催生了例如網路電話、訊息服務與基於網路的電子郵件服務等線上服務，皆係透過網際網路存取服務來進行通訊的傳遞。這些服務亦可受益於責任之免除，只要他們是屬於「單純連線」、「快取」、或「託管」服務的範疇內。

society services providers, including providers of intermediary services, any requests or orders for such involvement should, as a general rule, be directed to the specific provider that has the technical and operational ability to act against specific items of illegal content, so as to prevent and minimise any possible negative effects on the availability and accessibility of information that is not illegal content.

- (28) Since 2000, new technologies have emerged that improve the availability, efficiency, speed, reliability, capacity and security of systems for the transmission, ‘findability’ and storage of data online, leading to an increasingly complex online ecosystem. In this regard, it should be recalled that providers of services establishing and facilitating the underlying logical architecture and proper functioning of the internet, including technical auxiliary functions, can also benefit from the exemptions from liability set out in this Regulation, to the extent that their services qualify as ‘mere conduit’, ‘caching’ or ‘hosting’ services. Such services include, as the case may be, wireless local area networks, domain name system (DNS) services, top-level domain name registries, registrars, certificate authorities that issue digital certificates, virtual private networks, online search engines, cloud infrastructure services, or content delivery networks, that enable, locate or improve the functions of other providers of intermediary services. Likewise, services used for communications purposes, and the technical means of their delivery, have also evolved considerably, giving rise to online services such as Voice over IP, messaging services and web-based email services, where the communication is delivered via an internet access service. Those services, too, can benefit from the exemptions from liability, to the extent that they qualify as ‘mere conduit’, ‘caching’ or ‘hosting’ services.

- (29) 中介服務涉及廣泛的經濟活動，這些經濟活動在線上進行且不斷發展，提供快速、安全、及可靠的資訊傳輸，並確保所有線上生態系參與者之便利。舉例而言，「單純連線」中介服務包含一般類別的服務，例如網際網路交換中心、無線基地台、虛擬專用網路、DNS 服務和解析器、頂級網域名稱註冊管理機構、受理註冊機構、簽發數位憑證的憑證機構、網路電話、與其他人際通訊服務。而「快取」中介服務的一般範例包含單獨提供之內容傳遞網路、反向代理、或內容適配代理。此類服務對於確保網路上資訊傳輸的順暢及效率至關重要。「託管服務」服務類別的範例包含雲端運算、網站託管、付費參考服務、或提供線上共享資訊和內容的服務，如檔案儲存和共享。中介服務可能是單獨提供，作為另一種中介服務的一部分，或與其他中介服務同時提供。特定服務是否構成「單純連線」、「快取」、或「託管」服務，僅取決於其技術上的功能，這可能會隨著時間推移逐步發展，應依據個別情況進行評估。
- (30) 中介服務提供者無論於法律上或事實上皆不應承擔一般性義務之監督義務。這不涉及特定案件中的監督義務，特別是不影響國家機關依據國家法制、歐盟法律、歐盟法院的解釋、並且符合本規則所訂定之條件所簽發的命令。本規則的任何內容，均不應被視為一般性監督義務或一般性積極調查事實義務的實施，或被解釋為使提供者針對非法內容採取主動措施的一般性義務。

- (29) Intermediary services span a wide range of economic activities which take place online and that develop continually to provide for transmission of information that is swift, safe and secure, and to ensure convenience of all participants of the online ecosystem. For example, ‘mere conduit’ intermediary services include generic categories of services, such as internet exchange points, wireless access points, virtual private networks, DNS services and resolvers, top-level domain name registries, registrars, certificate authorities that issue digital certificates, voice over IP and other interpersonal communication services, while generic examples of ‘caching’ intermediary services include the sole provision of content delivery networks, reverse proxies or content adaptation proxies. Such services are crucial to ensure the smooth and efficient transmission of information delivered on the internet. Examples of ‘hosting services’ include categories of services such as cloud computing, web hosting, paid referencing services or services enabling sharing information and content online, including file storage and sharing. Intermediary services may be provided in isolation, as a part of another type of intermediary service, or simultaneously with other intermediary services. Whether a specific service constitutes a ‘mere conduit’, ‘caching’ or ‘hosting’ service depends solely on its technical functionalities, which might evolve in time, and should be assessed on a case-by-case basis.
- (30) Providers of intermediary services should not be, neither de jure, nor de facto, subject to a monitoring obligation with respect to obligations of a general nature. This does not concern monitoring obligations in a specific case and, in particular, does not affect orders by national authorities in accordance with national legislation, in compliance with Union law, as interpreted by the Court of Justice of the European Union, and in accordance with the conditions established in this Regulation. Nothing

(31) 依據每個會員國的法律制度和所涉之法律領域，國家司法或行政機關，包含執法機關，可以命令中介服務提供者，針對一個或多個非法內容的具體項目採取行動，或提供特定資訊。作為核發此類命令依據的國家法律差異很大，且跨境執行的情況日益增加。為了確保能夠以有效及高效率的方式遵守這些命令，特別是在跨境背景下，使相關公務機構得以執行其任務，並讓服務提供者不致承擔任何不成比例的沉重負擔，且不會不當影響任何第三方的權利和合法利益，有必要設定這些命令應滿足的某些條件、及有關執行這些命令的某些補充要求。故本規則應將此類命令需滿足之特定最低條件加以協調一致，以使中介服務提供者有義務向相關單位通報這些命令的影響。因此，本規則並未對此類命令之簽發提供法律依據，亦不對其境內或跨境執行作出規範。

(32) 簽發這些命令所依據及適用的歐盟或國家法律，可能需要附加條件，並應作為實施相應之個別命令的基礎。倘不遵守此類命令，發出命令的會員國應得依據其國家法律強制執行這些命令。適用的國家法律應符合歐盟法律，包括《憲章》及 TFEU 中有關在歐盟內設立自

in this Regulation should be construed as an imposition of a general monitoring obligation or a general active fact-finding obligation, or as a general obligation for providers to take proactive measures in relation to illegal content.

- (31) Depending on the legal system of each Member State and the field of law at issue, national judicial or administrative authorities, including law enforcement authorities, may order providers of intermediary services to act against one or more specific items of illegal content or to provide certain specific information. The national laws on the basis of which such orders are issued differ considerably and the orders are increasingly addressed in cross-border situations. In order to ensure that those orders can be complied with in an effective and efficient manner, in particular in a cross-border context, so that the public authorities concerned can carry out their tasks and the providers are not subject to any disproportionate burdens, without unduly affecting the rights and legitimate interests of any third parties, it is necessary to set certain conditions that those orders should meet and certain complementary requirements relating to the processing of those orders. Consequently, this Regulation should harmonise only certain specific minimum conditions that such orders should fulfil in order to give rise to the obligation of providers of intermediary services to inform the relevant authorities about the effect given to those orders. Therefore, this Regulation does not provide the legal basis for the issuing of such orders, nor does it regulate their territorial scope or cross-border enforcement.
- (32) The applicable Union or national law on the basis of which those orders are issued might require additional conditions and should be the basis for the enforcement of the respective orders. In the event of non-compliance with such orders, the issuing Member State should be able to enforce

由及提供服務自由之條款，特別是線上博弈和投注服務方面。同樣，適用此類國家法律以執行相應之個別命令，並不影響適用的歐盟法律，或是歐盟或會員國間有關跨境承認、實施和強制執行這些命令所締結的國際協議，特別是在民事與刑事事件中。另一方面，與執行這些命令本身相反，履行向相關單位通報這些命令之效力的義務，應遵循本規則所訂定之規範。

- (33) 中介服務提供者應不可無故拖延，依照相關歐盟或國家法律規範的時限，向核發機構通報對此類命令的任何後續行動。
- (34) 相關國家機關應能針對被視為非法的內容核發此類命令，或依據歐盟法律或符合歐盟法律之國家法律作成要求提供資料之命令，以符合歐盟法律，尤其是《憲章》，並將其送達於中介服務提供者，包括於另一個會員國設立的中介服務提供者。然而，本規則應不影響民事與刑事之司法合作領域的歐盟法律，包括 (EU) 第 1215/2012 號規則，與歐洲刑事案件電子證據提供與保存請求規則，亦不妨礙國家刑事或民事訴訟法。因此，倘若在這些刑事或民事訴訟之相關法律，規定了關於對非法內容採取行動或提供資訊命令之附加條件，或有與本規則訂定之規範不相符合之條件，則本規則所建構之條件可能不適用或需進行調整以使其適用。尤其是，來自命令核發機關所屬會員國的數位服務協調員，須向所有其他數位服務協調員傳送命令副本的義務，於刑事訴訟法可能不適用，或可能於適用國家之

them in accordance with its national law. The applicable national law should be in compliance with Union law, including the Charter and the TFEU provisions on the freedom of establishment and the freedom to provide services within the Union, in particular with regard to online gambling and betting services. Similarly, the application of such national laws for the enforcement of the respective orders is without prejudice to applicable Union legal acts or international agreements concluded by the Union or by Member States relating to the cross-border recognition, execution and enforcement of those orders, in particular in civil and criminal matters. On the other hand, the enforcement of the obligation to inform the relevant authorities about the effect given to those orders, as opposed to the enforcement of the orders themselves, should be subject to the rules set out in this Regulation.

- (33) The provider of intermediary services should inform the issuing authority about any follow-up given to such orders without undue delay, in compliance with the time limits set out in relevant Union or national law.
- (34) Relevant national authorities should be able to issue such orders against content considered illegal or orders to provide information on the basis of Union law or national law in compliance with Union law, in particular the Charter, and to address them to providers of intermediary services, including those established in another Member State. However, this Regulation should be without prejudice to Union law in the field of judicial cooperation in civil or criminal matters, including Regulation (EU) No 1215/2012 and a Regulation on European production and preservation orders for electronic evidence in criminal matters, and to national criminal or civil procedural law. Therefore, where those laws in the context of criminal or civil proceedings provide for conditions that are additional to or incompatible with the conditions provided for in this Regulation in

刑事訴訟法規範下予以調整。

此外，必要時，應依照相關國家刑事訴訟法中關於預防、調查、偵查及起訴刑事犯罪之規定，對命令中包含說明資訊為何為非法內容之理由進行調整。最後，依據所適用的歐盟或國家法律，中介服務提供者通知服務接受者的義務可能會延遲，特別是在刑事、民事、或行政訴訟中。又這些命令的核發應符合 (EU) 第 2016/679 號規則，以及本規則所規範之禁止監督資訊或積極尋求顯示出非法活動的事實或情況之一般性義務。本規則中所定，適用於針對非法內容採取行動之命令的條件和要求，無損於為特定類型之非法內容採取行動而規定類似制度之其他歐盟法案，例如 (EU) 第 2021/784 號規則、(EU) 第 2019/ 1020 號規則、或 (EU) 第 2017/2394 號規則，賦予成員國特定權力，得以命令向會員國消費者執法機構提供資訊；同時，適用於提供資訊之命令的條件和要求，無損於為特定領域而規定類似相關規則之其他歐盟法案。這些條件和要求不影響應適用之國家法律規定的保留及保存規則，符合歐盟法律和執法機構關於不揭露資訊的保密請求。這些條件和要求亦不影響會員國依循包括本規則在內的歐盟法律，要求中介服務提供者防止違法行為發生之可能性，尤其禁止一般性之監督義務。

relation to orders to act against illegal content or to provide information, the conditions provided for in this Regulation might not apply or might be adapted. In particular, the obligation on the Digital Services Coordinator from the Member State of the issuing authority to transmit a copy of the orders to all other Digital Services Coordinators might not apply in the context of criminal proceedings or might be adapted, where the applicable national criminal procedural law so provides.

Furthermore, the obligation for the orders to contain a statement of reasons explaining why the information is illegal content should be adapted, where necessary, under the applicable national criminal procedural law for the prevention, investigation, detection and prosecution of criminal offences. Finally, the obligation on the providers of intermediary services to inform the recipient of the service might be delayed in accordance with applicable Union or national law, in particular in the context of criminal, civil or administrative proceedings. In addition, the orders should be issued in compliance with Regulation (EU) 2016/679 and the prohibition of general obligations to monitor information or to actively seek facts or circumstances indicating illegal activity laid down in this Regulation. The conditions and requirements laid down in this Regulation which apply to orders to act against illegal content are without prejudice to other Union acts providing for similar systems for acting against specific types of illegal content, such as Regulation (EU) 2021/784, Regulation (EU) 2019/1020, or Regulation (EU) 2017/2394 that confers specific powers to order the provision of information to Member State consumer law enforcement authorities, whilst the conditions and requirements that apply to orders to provide information are without prejudice to other Union acts providing for similar relevant rules for specific sectors. Those conditions and requirements should be without prejudice to retention

- (35) 本規則規定的條件和要求，最遲應在命令傳遞給相關提供者時予以滿足。因此，命令可以採用相關會員國所屬核發機關之其中一種官方語言簽發。然而，如果該語言與中介服務提供者所聲明的語言不同，或與簽發命令的機構及中介服務提供者之間協定的會員國之其他官方語言不同，則命令傳遞應附帶提供至少含有本規則中所規範之命令要素的翻譯。若中介服務提供者已與會員國主管機關達成協議使用某種語言，則應鼓勵其接受其他會員國主管機關以相同語言簽發之命令。命令應含有使收件人能夠識別核發機構的要素，包括在適當情況下該機構內部聯絡窗口的聯絡方式，且能夠核對命令的真實性。
- (36) 此類針對非法內容採取行動之命令的領域範圍，應於允許簽發命令所適用之歐盟或國家法律明確規定，並且不應超出實現其目標所嚴格必要之範圍。在這方面，簽發命令國家之司法或行政機關（可能是執法機關），應按命令簽發之法律依據所尋求實現的目標，與可能受到命令影響的所有第三方權利和合法利益之間取得平衡，尤其

and preservation rules under applicable national law, in compliance with Union law and confidentiality requests by law enforcement authorities related to the non- disclosure of information. Those conditions and requirements should not affect the possibility for Member States to require a provider of intermediary services to prevent an infringement, in compliance with Union law including this Regulation, and in particular with the prohibition of general monitoring obligations.

- (35) The conditions and requirements laid down in this Regulation should be fulfilled at the latest when the order is transmitted to the provider concerned. Therefore, the order may be issued in one of the official languages of the issuing authority of the Member State concerned. However, where that language is different from the language declared by the provider of intermediary services, or from another official language of the Member States agreed between the authority issuing the order and the provider of intermediary services, the transmission of the order should be accompanied by a translation of at least the elements of the order which are set out in this Regulation. Where a provider of intermediary services has agreed with the authorities of a Member State to use a certain language, it should be encouraged to accept orders in the same language issued by authorities in other Member States. The orders should include elements that enable the addressee to identify the issuing authority, including the contact details of a contact point within that authority where appropriate, and to verify the authenticity of the order.
- (36) The territorial scope of such orders to act against illegal content should be clearly set out on the basis of the applicable Union or national law enabling the issuance of the order and should not exceed what is strictly necessary to achieve its objectives. In that regard, the national judicial or administrative authority, which might be a law enforcement authority,

是《憲章》規範的基本權利。特別是在跨境背景下，命令的效力原則上應限於簽發命令之會員國領域內，除非內容的非法性直接源自於歐盟法律，或者簽發機關依照歐盟及國際法，同時斟酌國際禮讓原則之利益，認為所涉及的權利需要更寬的領域適用範圍。

(37) 本規則所規範之提供資訊的命令，涉及相關中介服務個別接受者之特定資訊的產出，這些接受者在這些命令中被識別，係為確定服務接受者是否遵守應適用的歐盟或國家規定。此類命令應要求提供資訊，以便能夠識別服務接受者的身分。因此，與未能被具體識別的一群服務接受者的資訊相關的命令，包括為統計目的或循證決策所需而提供匯集資訊之命令，不屬於本規則關於資訊提供的要求範圍內。

(38) 針對非法內容採取行動及提供資訊的命令，應遵守保護服務提供者所在之會員國權限相關規定，以及在某些情況下可能減損該權限的規定，如 2000/31/EC 指令第 3 條所述，僅當符合該條款的條件時。有鑑於上述的這些命令各自涉及非法內容及資訊的具體項目，當這些命令送交給在另一會員國設立據點的中介服務提供者時，它們原則上不會限制這些提供者跨境提供服務的自由。因此，2000/31/EC 指令第 3 條所述的規定，包括就基於某些具體說明的理由，減損服

issuing the order should balance the objective that the order seeks to achieve, in accordance with the legal basis enabling its issuance, with the rights and legitimate interests of all third parties that may be affected by the order, in particular their fundamental rights under the Charter. In particular in a cross-border context, the effect of the order should in principle be limited to the territory of the issuing Member State, unless the illegality of the content derives directly from Union law or the issuing authority considers that the rights at stake require a wider territorial scope, in accordance with Union and international law, while taking into account the interests of international comity.

- (37) The orders to provide information regulated by this Regulation concern the production of specific information about individual recipients of the intermediary service concerned who are identified in those orders for the purposes of determining compliance by the recipients of the service with applicable Union or national rules. Such orders should request information with the aim of enabling the identification of the recipients of the service concerned. Therefore, orders regarding information on a group of recipients of the service who are not specifically identified, including orders to provide aggregate information required for statistical purposes or evidence-based policy-making, are not covered by the requirements of this Regulation on the provision of information.
- (38) Orders to act against illegal content and to provide information are subject to the rules safeguarding the competence of the Member State in which the service provider addressed is established and the rules laying down possible derogations from that competence in certain cases, set out in Article 3 of Directive 2000/31/EC, only if the conditions of that Article are met. Given that the orders in question relate to specific items of illegal content and information, respectively, where they are

務提供者設立據點所在會員國的權限之措施，須證明其合理性，以及有關此類措施的通知等之規定，不適用於這些命令。

(39) 就中介服務提供者及提供內容的服務接受者提供可利用之補償機制資訊的要求，包含了提供有關行政爭議之處理機制以及司法救濟程序，包括對司法機關之決定提出上訴等。此外，數位服務協調員可以發展適用於其各自管轄領域之爭議處理及補償機制之國家工具與指引，以便服務接受者利用此類機制。最後，在實施本規則時，會員國應尊重《憲章》第 47 條規定的有效司法救濟及公平審判之基本權利。因此，本規則不應妨礙相關國家司法或行政機關，基於適用的歐盟或國家法律，在前述內容是與中介服務提供者的條款與條件一致，卻被該提供者錯誤地視為非法並已移除的情況下，簽發還原內容之命令。

(40) 為了實現本規則之目標，尤其是為了改善內部市場的運作且確保安全和透明的線上環境，有必要為中介服務提供者，建立一套清晰、有效、可預測及衡平之一致性盡職調查義務。這些義務應特別致力

addressed to providers of intermediary services established in another Member State they do not in principle restrict those providers' freedom to provide their services across borders. Therefore, the rules set out in Article 3 of Directive 2000/31/EC, including those regarding the need to justify measures derogating from the competence of the Member State in which the service provider is established on certain specified grounds and regarding the notification of such measures, do not apply in respect of those orders.

- (39) The requirements to provide information on redress mechanisms available to the provider of the intermediary service and to the recipient of the service who provided the content include a requirement to provide information about administrative complaint-handling mechanisms and judicial redress including appeals against orders issued by judicial authorities. Moreover, Digital Services Coordinators could develop national tools and guidance as regards complaint and redress mechanisms applicable in their respective territory, in order to facilitate access to such mechanisms by recipients of the service. Finally, when applying this Regulation Member States should respect the fundamental right to an effective judicial remedy and to a fair trial as provided for in Article 47 of the Charter. This Regulation should therefore not prevent the relevant national judicial or administrative authorities from issuing, on the basis of the applicable Union or national law, an order to restore content, where such content was in compliance with the terms and conditions of the provider of the intermediary service but has been erroneously considered as illegal by that provider and has been removed.
- (40) In order to achieve the objectives of this Regulation, and in particular to improve the functioning of the internal market and ensure a safe and transparent online environment, it is necessary to establish a clear,

於保證不同的公共政策目標，例如服務接受者（包括消費者、未成年人、以及具備遭受仇恨言論、性騷擾或其他歧視行為等特定風險的使用者）之安全與信任；又如保護《憲章》所載入之相關基本權利；再如對這些提供者之有意義的問責以及對接受者和其他受影響者之賦權。與此同時，促使主管機關進行必要的監督。

- (41) 在這方面重要的是，盡職調查義務需適合相關中介服務之類型、規模及性質。因此，本規則先闡明適用於所有中介服務提供者的基本義務，並規範託管服務提供者以及更具體之線上平臺、超大型線上平臺、及超大型線上搜尋引擎提供者之補充義務。由於中介服務提供者的服務性質及規模，分屬於多個不同類別，故應遵守本規則中與其服務相關之所有義務。這些一致性的盡職調查義務，應合理且非專斷，並解決已確定之公共政策問題，例如維護服務接受者的合法利益、處理非法行為、以及保護《憲章》所規範之基本權利。盡職調查義務是獨立於中介服務提供者的責任問題之外，故需與中介服務提供者的責任問題分開評估。

effective, predictable and balanced set of harmonised due diligence obligations for providers of intermediary services. Those obligations should aim in particular to guarantee different public policy objectives such as the safety and trust of the recipients of the service, including consumers, minors and users at particular risk of being subject to hate speech, sexual harassment or other discriminatory actions, the protection of relevant fundamental rights enshrined in the Charter, the meaningful accountability of those providers and the empowerment of recipients and other affected parties, whilst facilitating the necessary oversight by competent authorities.

- (41) In that regard, it is important that the due diligence obligations are adapted to the type, size and nature of the intermediary service concerned. This Regulation therefore sets out basic obligations applicable to all providers of intermediary services, as well as additional obligations for providers of hosting services and, more specifically, providers of online platforms and of very large online platforms and of very large online search engines. To the extent that providers of intermediary services fall within a number of different categories in view of the nature of their services and their size, they should comply with all the corresponding obligations of this Regulation in relation to those services. Those harmonised due diligence obligations, which should be reasonable and non-arbitrary, are needed to address the identified public policy concerns, such as safeguarding the legitimate interests of the recipients of the service, addressing illegal practices and protecting the fundamental rights enshrined in the Charter. The due diligence obligations are independent from the question of liability of providers of intermediary services which need therefore to be assessed separately.

(42) 為了促使順暢且高效率之雙向聯繫，包括在相關情況下確認收到與本規則所涉事項有關之聯繫，應要求中介服務提供者指定單一的電子聯絡窗口，並且公布及更新與該聯絡窗口有關的相關資訊，包括於此類聯繫使用的語言。電子聯絡窗口也可以由認證舉報者及與中介服務提供者有特定關係的專業組織使用。與法定代理人相比，電子聯絡窗口應依運作目的設置，而不應被要求有組織據點。中介服務提供者可以應本規則之要求與歐盟其他規範之目的，指定同一聯絡窗口。當擇定通訊之語言時，鼓勵中介服務提供者確保所選擇的語言本身不會構成溝通的障礙。在必要時，中介服務提供者及會員國機關應能夠就通訊語言達成單獨協議，或尋求替代方法來克服語言障礙，包括使用所有可利用的技術性手段、或內部及外部的人力資源。

(43) 中介服務提供者亦應為服務接受者指定單一聯絡窗口，以實現快速、直接、和高效率的溝通，特別是透過電話號碼、電子郵件地址、電子聯絡表單、聊天機器人、或即時通訊等易於使用的方式。當服務接受者係與聊天機器人通訊時，應清楚揭露。中介服務提供者應允許服務接受者選擇直接且高效率的溝通方式，不能只依賴自動化的工具。中介服務提供者應盡一切合理的努力，安排充足之人力與財務資源，以確保溝通能適時且有效率地進行。

- (42) In order to facilitate smooth and efficient two-way communications, including, where relevant, by acknowledging the receipt of such communications, relating to matters covered by this Regulation, providers of intermediary services should be required to designate a single electronic point of contact and to publish and update relevant information relating to that point of contact, including the languages to be used in such communications. The electronic point of contact can also be used by trusted flaggers and by professional entities which are under a specific relationship with the provider of intermediary services. In contrast to the legal representative, the electronic point of contact should serve operational purposes and should not be required to have a physical location. Providers of intermediary services can designate the same single point of contact for the requirements of this Regulation as well as for the purposes of other acts of Union law. When specifying the languages of communication, providers of intermediary services are encouraged to ensure that the languages chosen do not in themselves constitute an obstacle to communication. Where necessary, it should be possible for providers of intermediary services and Member States' authorities to reach a separate agreement on the language of communication, or to seek alternative means to overcome the language barrier, including by using all available technological means or internal and external human resources.
- (43) Providers of intermediary services should also be required to designate a single point of contact for recipients of services, enabling rapid, direct and efficient communication in particular by easily accessible means such as telephone numbers, email addresses, electronic contact forms, chatbots or instant messaging. It should be explicitly indicated when a recipient of the service communicates with chatbots. Providers of intermediary services should allow recipients of services to choose means of direct

(44) 在第三國設立並在歐盟境內提供服務的中介服務提供者，應在歐盟境內指定一名充分授權的法定代理人，向相關機關提供與其法定代理人有關的資訊並予以公開。為了履行該義務，此類中介服務提供者應確保指定的法定代理人，擁有與相關機關合作所需的權限和資源。舉例來說，中介服務提供者指定同一集團中設立於歐盟境內之附屬事業或母事業作為提供者，即屬於這種情況。然而，若指定之法定代理人面臨重整程序、破產、或個人或公司無償債能力時，情況可能並非如此。該義務應允許對這些提供者進行有效監督，且在必要時執行本規則。依據國家法律，法定代理人應可由超過一個中介服務提供者委任。假如符合本規則的相關要求，法定代理人亦可當作聯絡窗口。

(45) 雖然原則上應尊重中介服務提供者的契約自由，但為了透明度、保護服務接受者、及避免不公平或專斷的結果，針對這些提供者的條款與條件之內容、實施、及執行，建構某些規定是適當的。關於中

and efficient communication which do not solely rely on automated tools. Providers of intermediary services should make all reasonable efforts to guarantee that sufficient human and financial resources are allocated to ensure that this communication is performed in a timely and efficient manner.

- (44) Providers of intermediary services that are established in a third country and that offer services in the Union should designate a sufficiently mandated legal representative in the Union and provide information relating to their legal representatives to the relevant authorities and make it publicly available. In order to comply with that obligation, such providers of intermediary services should ensure that the designated legal representative has the necessary powers and resources to cooperate with the relevant authorities. This could be the case, for example, where a provider of intermediary services appoints a subsidiary undertaking of the same group as the provider, or its parent undertaking, if that subsidiary or parent undertaking is established in the Union. However, it might not be the case, for instance, when the legal representative is subject to reconstruction proceedings, bankruptcy, or personal or corporate insolvency. That obligation should allow for the effective oversight and, where necessary, enforcement of this Regulation in relation to those providers. It should be possible for a legal representative to be mandated, in accordance with national law, by more than one provider of intermediary services. It should be possible for the legal representative to also function as a point of contact, provided the relevant requirements of this Regulation are complied with.
- (45) Whilst the freedom of contract of providers of intermediary services should in principle be respected, it is appropriate to set certain rules on the content, application and enforcement of the terms and conditions

介服務提供者可能限制提供其服務的理由，應在其條款與條件中清楚述明，並保持最新的資訊。尤其，應囊括有關用於內容審查之任何政策、程序、措施和工具的資訊，包含演算法決策及人工審查，及有關其內部爭議處理機制之程序規則等相關資訊。他們也應提供易於取得的、有關終止使用服務權利的資訊。中介服務提供者可以在其服務條款中使用圖形元素，如圖示或圖像，來說明在本規則中所詳列資訊要求的主要元素。提供者應透過適當的方式，將其對條款與條件進行的重大變更，例如當他們修改其服務中許可的資訊之規定時，或可能會直接影響接受者使用服務的能力的其他此類變更，告知其服務接受者。

- (46) 主要針對未成年人的中介服務提供者，例如透過服務的設計或行銷，或大多數由未成年人使用的服務，應致力於使其對條款與條件的解釋，能夠讓未成年人易於理解。
- (47) 在設計、實施、和強制執行這些限制時，中介服務提供者應以非專斷及非歧視的方式行事，並且考慮服務接受者的權利和合法利益，包括《憲章》規範的基本權利。例如，超大型線上平臺的提供者應特別對表達和資訊自由有適當注意，包括媒體自由和多元化。所有中介服務提供者也應適當注意保護人權的相關國際標準，例如《聯

of those providers in the interests of transparency, the protection of recipients of the service and the avoidance of unfair or arbitrary outcomes. Providers of the intermediary services should clearly indicate and maintain up-to-date in their terms and conditions the information as to the grounds on the basis of which they may restrict the provision of their services. In particular, they should include information on any policies, procedures, measures and tools used for the purpose of content moderation, including algorithmic decision-making and human review, as well as the rules of procedure of their internal complaint-handling system. They should also provide easily accessible information on the right to terminate the use of the service. Providers of intermediary services may use graphical elements in their terms of service, such as icons or images, to illustrate the main elements of the information requirements set out in this Regulation. Providers should inform recipients of their service through appropriate means of significant changes made to terms and conditions, for instance when they modify the rules on information that is permitted on their service, or other such changes which could directly impact the ability of the recipients to make use of the service.

- (46) Providers of intermediary services that are primarily directed at minors, for example through the design or marketing of the service, or which are used predominantly by minors, should make particular efforts to render the explanation of their terms and conditions easily understandable to minors.
- (47) When designing, applying and enforcing those restrictions, providers of intermediary services should act in a non- arbitrary and non-discriminatory manner and take into account the rights and legitimate interests of the recipients of the service, including fundamental rights as enshrined in the Charter. For example, providers of very large online

合國工商企業與人權指導原則》。

(48) 有鑑於超大型線上平臺及超大型線上搜尋引擎的特殊角色與所及範圍，對其條款與條件的資訊和透明度施以額外之要求是適當的。因此，超大型線上平臺及超大型線上搜尋引擎服務的提供者，應以其供給服務所及之所有會員國的官方語言，提供其條款與條件，並應就條款與條件之主要要件，向服務接受者提供簡潔易讀的摘要。此類摘要應表明資訊要求的主要要件，包括易於自選擇性條款退出的可能性。

(49) 為確保足夠的透明度和可責性，中介服務提供者應依照本規則中之一致性要求，以機器可讀的格式，公開關於其執行之內容審查的年度報告，包括由於實施及強制執行其條款與條件而採取的措施。然而，為了避免不成比例之負擔，這些透明度報告義務不應適用於歐盟執行委員會第 2003/361/EC 號建議書中所定義之微型或小型企業及非本規則定義之超大型線上平臺的提供者。

platforms should in particular pay due regard to freedom of expression and of information, including media freedom and pluralism. All providers of intermediary services should also pay due regard to relevant international standards for the protection of human rights, such as the United Nations Guiding Principles on Business and Human Rights.

- (48) Given their special role and reach, it is appropriate to impose on very large online platforms and very large online search engines additional requirements regarding information and transparency of their terms and conditions. Consequently, providers of very large online platforms and very large online search engines should provide their terms and conditions in the official languages of all Member States in which they offer their services and should also provide recipients of the services with a concise and easily readable summary of the main elements of the terms and conditions. Such summaries should identify the main elements of the information requirements, including the possibility of easily opting out from optional clauses.
- (49) To ensure an adequate level of transparency and accountability, providers of intermediary services should make publicly available an annual report in a machine-readable format, in accordance with the harmonised requirements contained in this Regulation, on the content moderation in which they engage, including the measures taken as a result of the application and enforcement of their terms and conditions. However, in order to avoid disproportionate burdens, those transparency reporting obligations should not apply to providers that are micro or small enterprises as defined in Commission Recommendation 2003/361/EC and which are not very large online platforms within the meaning of this Regulation.

(50) 託管服務提供者在處理線上非法內容方面，發揮特別重要的作用，因為他們儲存由服務接受者提供並要求的資訊，而且通常允許其他接受者存取前述資訊，甚至有時是大規模的存取。重要的是，所有託管服務提供者，無論其規模如何，都應落實易於存取和使用者友善的通知及行動機制，以利於通知方就其認定為非法內容的資訊之具體項目，向相關的託管服務提供者通知（「通知」），而依據該通知，提供者可以決定是否同意該評估、並且希望刪除該內容或停止對該內容的存取（「行動」）。此類機制應清晰可辨、置放於爭議資訊之附近，並且至少與違反託管服務提供者之條款與條件的內容通知機制一樣容易找到及使用。假如應通知之條件已滿足，個人或組織應可透過單一通知，對涉嫌非法內容的多個具體項目進行通知，以確保通知及行動機制的有效運作。通知機制應允許（但不強制要求）對提交通知的個人或組織進行身分識別。對於某些類型的資訊項目，提交通知的個人或組織的身分，對於確認系爭資訊是否構成非法內容，可能有確認的必要。落實通知及行動機制的義務，應適用於檔案儲存與共享服務、網站託管服務、廣告伺服器、和純文字程式碼儲存分享網站，只要它們具備本規則涵蓋之託管服務的資格條件。

(51) 基於考慮需適切考量《憲章》所保障的當事人的基本權利，託管服務提供者在收到通知後所採取的任何行動都應嚴格鎖定目標，也就

- (50) Providers of hosting services play a particularly important role in tackling illegal content online, as they store information provided by and at the request of the recipients of the service and typically give other recipients access thereto, sometimes on a large scale. It is important that all providers of hosting services, regardless of their size, put in place easily accessible and user-friendly notice and action mechanisms that facilitate the notification of specific items of information that the notifying party considers to be illegal content to the provider of hosting services concerned ('notice'), pursuant to which that provider can decide whether or not it agrees with that assessment and wishes to remove or disable access to that content ('action'). Such mechanisms should be clearly identifiable, located close to the information in question and at least as easy to find and use as notification mechanisms for content that violates the terms and conditions of the hosting service provider. Provided the requirements on notices are met, it should be possible for individuals or entities to notify multiple specific items of allegedly illegal content through a single notice in order to ensure the effective operation of notice and action mechanisms. The notification mechanism should allow, but not require, the identification of the individual or the entity submitting a notice. For some types of items of information notified, the identity of the individual or the entity submitting a notice might be necessary to determine whether the information in question constitutes illegal content, as alleged. The obligation to put in place notice and action mechanisms should apply, for instance, to file storage and sharing services, web hosting services, advertising servers and paste bins, in so far as they qualify as hosting services covered by this Regulation.
- (51) Having regard to the need to take due account of the fundamental rights guaranteed under the Charter of all parties concerned, any action taken

是說，該行動應僅用於將被認定為構成非法內容之具體項目刪除或停止其存取，但不致對服務接受者之表達及資訊自由有不當影響。因此，作為一般規定，通知應直接發送給得被合理地預期具備對各該具體項目採取行動之技術及操作能力的託管服務提供者。收到通知的託管服務提供者，因技術或操作原因而無法刪除與該通知相關之資訊的具體項目，應告知提交該通知之個人或組織。

- (52) 關於此類通知及行動機制的規定應在歐盟層級予以統一，方能於一致、透明且明確之規則下，適時、盡職及非專斷的進行通知，並且提供健全的預防措施以保護所有受到影響之各方權利及合法利益，尤其是《憲章》所保障的基本權利，無論其於哪個會員國設立或居住，亦無論所涉之法律領域為何。這些基本權利包含但不限於：對於服務接受者而言，表達及資訊自由的權利、尊重私人及家庭生活的權利、個人資料保護的權利、不受歧視的權利、及有效救濟的權利；對於服務提供者來說，營運自由權，包括契約自由；對於受到非法內容影響的各方來說，人性尊嚴的權利、兒童權利、財產保護的權利，包括智慧財產、及不受歧視的權利。託管服務提供者應依據通知，適時地採取行動，特別是考慮到所通知之非法內容的類型與採取行動的迫切性。舉例說明，當收到所涉之非法內容是關乎生命威脅或人員安全的通知時，可期待提供者立即採取行動。託管服務提供者在決定是否依據通知採取行動後，應立即告知提出該具體內容通知之個人或組織，不可無故拖延。

by a provider of hosting services pursuant to receiving a notice should be strictly targeted, in the sense that it should serve to remove or disable access to the specific items of information considered to constitute illegal content, without unduly affecting the freedom of expression and of information of recipients of the service. Notices should therefore, as a general rule, be directed to the providers of hosting services that can reasonably be expected to have the technical and operational ability to act against such specific items. The providers of hosting services who receive a notice for which they cannot, for technical or operational reasons, remove the specific item of information should inform the person or entity who submitted the notice.

- (52) The rules on such notice and action mechanisms should be harmonised at Union level, so as to provide for the timely, diligent and non-arbitrary processing of notices on the basis of rules that are uniform, transparent and clear and that provide for robust safeguards to protect the right and legitimate interests of all affected parties, in particular their fundamental rights guaranteed by the Charter, irrespective of the Member State in which those parties are established or reside and of the field of law at issue. Those fundamental rights include but are not limited to: for the recipients of the service, the right to freedom of expression and of information, the right to respect for private and family life, the right to protection of personal data, the right to non-discrimination and the right to an effective remedy; for the service providers, the freedom to conduct a business, including the freedom of contract; for parties affected by illegal content, the right to human dignity, the rights of the child, the right to protection of property, including intellectual property, and the right to non-discrimination. Providers of hosting services should act upon notices in a timely manner, in particular by taking into account the type of illegal

- (53) 通知和行動機制應允許提交足夠確切且充分證實的通知，以使相關託管服務提供者能夠就該通知所涉及的内容，作成有根據且盡職的決定，兼顧表達及資訊自由，特別是該内容是否被認定為非法内容而將被刪除或被停止存取。這些機制應有助於通知的提供，包含提交通知的個人或組織認為該内容為非法内容之原因的解釋，也包含明確指示該内容之位置。當通知中含有足夠資訊，使盡職的託管服務提供者無需經過詳細的法律審查，即可辨識該内容顯然是非法的，則該通知應可被視為引發對非法行為之實際了解或認知。除了有關歐洲議會暨理事會 2011/93/EU 指令第 3 條至第 7 條所述犯罪通知的提交外，這些機制應要求提交通知的個人或組織揭露其身分，以避免誤用。
- (54) 託管服務提供者以接受者提供的資訊為非法内容或不符合其條款與條件為由，決定刪除服務接受者提供的資訊或停止該資訊之存取，或決定用其他方式限制其能見度或貨幣化，例如在收到通知或主動

content being notified and the urgency of taking action. For instance, such providers can be expected to act without delay when allegedly illegal content involving a threat to life or safety of persons is being notified. The provider of hosting services should inform the individual or entity notifying the specific content without undue delay after taking a decision whether or not to act upon the notice.

- (53) The notice and action mechanisms should allow for the submission of notices which are sufficiently precise and adequately substantiated to enable the provider of hosting services concerned to take an informed and diligent decision, compatible with the freedom of expression and of information, in respect of the content to which the notice relates, in particular whether or not that content is to be considered illegal content and is to be removed or access thereto is to be disabled. Those mechanisms should be such as to facilitate the provision of notices that contain an explanation of the reasons why the individual or the entity submitting a notice considers that content to be illegal content, and a clear indication of the location of that content. Where a notice contains sufficient information to enable a diligent provider of hosting services to identify, without a detailed legal examination, that it is clear that the content is illegal, the notice should be considered to give rise to actual knowledge or awareness of illegality. Except for the submission of notices relating to offences referred to in Articles 3 to 7 of Directive 2011/ 93/EU of the European Parliament and of the Council, those mechanisms should ask the individual or the entity submitting a notice to disclose its identity in order to avoid misuse.
- (54) Where a provider of hosting services decides, on the ground that the information provided by the recipients is illegal content or is incompatible with its terms and conditions, to remove or disable access to information

採取行動後，包括僅透過自動化工具的方式，提供者應以清晰且易於理解的方式，告知接受者其決定、決定的原因、及對其決定提出異議之可能可用的方式，此處係著眼於此類決定可能對接受者造成負面後果，包括在行使其表達自由的基本權利方面。無論決定的原因為何，尤其無論採取的行動是否歸因於通知的資訊被認定為非法內容或不符合適用的條款與條件，該義務都應適用。當收到通知後作成決定時，託管服務提供者僅應向服務接受者揭露提交通知的個人或組織的身分，且應於該等資訊對於辨識內容的非法性為必要的情況下，例如是否為侵犯智慧財產權的案例等。

- (55) 能見度之限制可能在於排序或推薦系統的調降，以及限制一個或多個服務接受者之存取可能性，或在使用者沒有察覺的情況下從線上社群封鎖使用者（「影子禁令」）。透過服務接受者提供資訊之廣告收入的貨幣化，則能夠以中斷或終止與該資訊相關的金錢支付或收入來限制。然而，提供原因說明的義務，不應適用於以故意操縱服務而傳播欺詐性的大量商業內容，特別是非真正的使用服務，例如使用機器人或假帳號、或其他欺詐性的服務利用。無論對託管服務提供者的決定提出質疑的其他可能性為何，依據國家法律，在法庭前，服務接受者應始終擁有有效救濟的權利。

provided by a recipient of the service or to otherwise restrict its visibility or monetisation, for instance following receipt of a notice or acting on its own initiative, including exclusively by automated means, that provider should inform in a clear and easily comprehensible way the recipient of its decision, the reasons for its decision and the available possibilities for redress to contest the decision, in view of the negative consequences that such decisions may have for the recipient, including as regards the exercise of its fundamental right to freedom of expression. That obligation should apply irrespective of the reasons for the decision, in particular whether the action has been taken because the information notified is considered to be illegal content or incompatible with the applicable terms and conditions. Where the decision was taken following receipt of a notice, the provider of hosting services should only reveal the identity of the person or entity who submitted the notice to the recipient of the service where this information is necessary to identify the illegality of the content, such as in cases of infringements of intellectual property rights.

- (55) Restriction of visibility may consist in demotion in ranking or in recommender systems, as well as in limiting accessibility by one or more recipients of the service or blocking the user from an online community without the user being aware ('shadow banning'). The monetisation via advertising revenue of information provided by the recipient of the service can be restricted by suspending or terminating the monetary payment or revenue associated to that information. The obligation to provide a statement of reasons should however not apply with respect to deceptive high-volume commercial content disseminated through intentional manipulation of the service, in particular inauthentic use of the service such as the use of bots or fake accounts or other deceptive uses

- (56) 在某些情況下，託管服務提供者可能會察覺到與服務接受者的某些活動相關的資訊（例如透過通知方的通知或透過其本身自發性的措施），像是提供某些類型的非法內容。而就託管服務提供者所知的所有相關情況，如此即合理地證明對於接受者可能已經實施、可能正在實施、或可能將實施涉及到生命威脅或人員安全的刑事犯罪—例如歐洲議會暨理事會 2011/36/EU 指令、歐洲議會暨理事會 2011/93/EU 指令或 (EU)2017/541 指令中具體說明的犯罪行為。舉例來說，特定的具體內容可能會引起對公眾威脅的懷疑，例如 (EU)2017/541 指令第 21 條規範下的煽動恐怖主義。在這種情況下，託管服務提供者應立即向主管的執法機關通報上述懷疑。託管服務提供者應提供針對該項懷疑可取得之所有相關資訊，包含所提及的內容（若是情況適用）與內容發布時間（若可取得），包括指定時區、對其懷疑的說明、以及對於定位和辨識相關的服務接受者所必要的資訊。本規則並未以託管服務提供者進行可能的刑事犯罪之確認為目的，而為服務接受者的剖繪分析提供法律依據。託管服務提供者在通報執法機關時，也應遵守歐盟或國家法律的其他適用規定，以保護個人的權利和自由。

of the service. Irrespective of other possibilities to challenge the decision of the provider of hosting services, the recipient of the service should always have a right to effective remedy before a court in accordance with the national law.

- (56) A provider of hosting services may in some instances become aware, such as through a notice by a notifying party or through its own voluntary measures, of information relating to certain activity of a recipient of the service, such as the provision of certain types of illegal content, that reasonably justify, having regard to all relevant circumstances of which the provider of hosting services is aware, the suspicion that that recipient may have committed, may be committing or is likely to commit a criminal offence involving a threat to the life or safety of person or persons, such as offences specified in Directive 2011/36/EU of the European Parliament and of the Council, Directive 2011/93/EU or Directive (EU) 2017/541 of the European Parliament and of the Council. For example, specific items of content could give rise to a suspicion of a threat to the public, such as incitement to terrorism within the meaning of Article 21 of Directive (EU) 2017/541. In such instances, the provider of hosting services should inform without delay the competent law enforcement authorities of such suspicion. The provider of hosting services should provide all relevant information available to it, including, where relevant, the content in question and, if available, the time when the content was published, including the designated time zone, an explanation of its suspicion and the information necessary to locate and identify the relevant recipient of the service. This Regulation does not provide the legal basis for profiling of recipients of the services with a view to the possible identification of criminal offences by providers of hosting services. Providers of hosting services should also respect other applicable rules of Union or national

(57) 為了避免不成比例的負擔，本規則對線上平臺提供者，包含允許消費者與企業經營者簽訂遠距契約的平臺，所施加之額外義務，不應適用於符合第 2003/361/EC 號建議書中定義的微型或小型企業之提供者。基於同樣的原因，這些額外義務也不應適用於先前符合微型或小型企業之條件而在喪失該資格後 12 個月期間內的線上平臺提供者。上述提供者就設立所在地數位服務協調員或執委會要求提供有關其服務之每月平均活躍接受者人數資訊的義務而言，則不應被排除在外。然而，考慮到超大型線上平臺或超大型線上搜尋引擎具有更大的可及範圍，以及對服務接受者如何獲取資訊及線上交流具有更大的影響力，此類提供者不應從這項排除中受益，無論他們是否符合或不久前曾符合微型或小型企業的資格條件。第 2003/361/EC 號建議書中立下的合併規定，有助於確保防止任何對這些附加義務的規避。本規則的任何內容均不妨礙適用於這項排除的線上平臺提供者，自發性建立遵守一項或多項這些義務的機制。

(58) 針對線上平臺提供者關於內容非法或不符合條款與條件的某些決定，可能對服務的接受者產生負面影響時，接受者應能夠輕易地、有效地提出異議。因此，應要求線上平臺提供者提供內部爭議處理機制，這些機制應滿足某些條件，以確保這些機制易於取得並帶來迅速、非歧視、非專斷、與公平之結果，並於使用自動化工具的情

law for the protection of the rights and freedoms of individuals when informing law enforcement authorities.

- (57) To avoid disproportionate burdens, the additional obligations imposed under this Regulation on providers of online platforms, including platforms allowing consumers to conclude distance contracts with traders, should not apply to providers that qualify as micro or small enterprises as defined in Recommendation 2003/361/EC. For the same reason, those additional obligations should also not apply to providers of online platforms that previously qualified as micro or small enterprises during a period of 12 months after they lose that status. Such providers should not be excluded from the obligation to provide information on the average monthly active recipients of the service at the request of the Digital Services Coordinator of establishment or the Commission. However, considering that very large online platforms or very large online search engines have a larger reach and a greater impact in influencing how recipients of the service obtain information and communicate online, such providers should not benefit from that exclusion, irrespective of whether they qualify or recently qualified as micro or small enterprises. The consolidation rules laid down in Recommendation 2003/361/EC help ensure that any circumvention of those additional obligations is prevented. Nothing in this Regulation precludes providers of online platforms that are covered by that exclusion from setting up, on a voluntary basis, a system that complies with one or more of those obligations.
- (58) Recipients of the service should be able to easily and effectively contest certain decisions of providers of online platforms concerning the illegality of content or its incompatibility with the terms and conditions that negatively affect them. Therefore, providers of online platforms should be required to provide for internal complaint-handling systems, which meet

況下得受到人工審查。此類機制應使所有服務接受者能夠提出申訴，並且不應設定形式性要求，例如需指涉具體相關之法律條款的參照來源或有關法律的詳盡解釋。透過本規則規定的通知及行動機制，或經由針對違反線上平臺提供者之條款與條件的內容的通知機制，而提交通知的服務接受者，應有權使用爭議處理機制，對線上平臺提供者就所涉通知內容的決定提出異議，包括當他們認為該提供者採取的行動不充分時。對撤銷有異議的決定提出申訴之可能期限應至少應持續六個月，時間自線上平臺提供者向服務接受者告知決定之日起算。

- (59) 此外，基於誠信原則，應建立相關規範條文促使此類爭議得透過訴訟外爭端解決機制處理，包括那些無法利用內部爭議處理機制以令人滿意的方式解決的爭端，得透過具備必要之獨立性、方法、及專業知識而受認證機構，以公平、迅速、且具有成本效益的方式進行相關作業。訴訟外爭端解決機構之獨立性，亦應自負責爭端解決任務之自然人層面得到確保，包括透過建構利益衝突之相關規定等。訴訟外爭端解決機構收取的費用應是合理、可以接受、有吸引力、對消費者而言花費不多、且相稱的，並依據個案進行評估。當訴訟外爭端解決機構獲得主管之數位服務協調員的認證，則該認證應在所有會員國中皆有效。當同一爭議，尤其是該爭議所涉之相關資訊、作出爭議決定的理由、該決定之影響、以及針對決定提出異議的理由等事項，已經由管轄法院或另一管轄之訴訟外爭端解決機構解決，

certain conditions that aim to ensure that the systems are easily accessible and lead to swift, non-discriminatory, non-arbitrary and fair outcomes, and are subject to human review where automated means are used. Such systems should enable all recipients of the service to lodge a complaint and should not set formal requirements, such as referral to specific, relevant legal provisions or elaborate legal explanations. Recipients of the service who submitted a notice through the notice and action mechanism provided for in this Regulation or through the notification mechanism for content that violate the terms and conditions of the provider of online platforms should be entitled to use the complaint mechanism to contest the decision of the provider of online platforms on their notices, including when they consider that the action taken by that provider was not adequate. The possibility to lodge a complaint for the reversal of the contested decisions should be available for at least six months, to be calculated from the moment at which the provider of online platforms informed the recipient of the service of the decision.

- (59) In addition, provision should be made for the possibility of engaging, in good faith, in the out-of-court dispute settlement of such disputes, including those that could not be resolved in a satisfactory manner through the internal complaint-handling systems, by certified bodies that have the requisite independence, means and expertise to carry out their activities in a fair, swift and cost-effective manner. The independence of the out-of-court dispute settlement bodies should be ensured also at the level of the natural persons in charge of resolving disputes, including through rules on conflict of interest. The fees charged by the out-of-court dispute settlement bodies should be reasonable, accessible, attractive, inexpensive for consumers and proportionate, and assessed on a case- by-case basis. Where an out-of-court dispute settlement body is certified by the competent Digital

或正處於進行中的程序時，線上平臺提供者應能拒絕進行以本規則為依據之訴訟外爭端解決程序。服務接受者應能自內部爭議機制、訴訟外爭端解決機制、及於任何階段啟動司法程序的可能性中作選擇。由於訴訟外爭端解決程序的結果不具約束力，當事人欲就同一爭議啟動司法訴訟不應受到妨礙。於此處所創設對線上平臺提供者的決定提出異議之可能性，於各方面皆不應影響依據相關會員國的法律尋求司法救濟的可能性，也因此不影響《憲章》第47條規範之行使有效司法救濟的權利。本規則關於訴訟外爭端解決之條款，不應要求會員國必須設立此類訴訟外爭端解決機構。

- (60) 就消費者與事業間有關購買商品或服務契約相關之爭端，2013/11/EU 指令確保歐盟消費者及歐盟事業得以利用經過品質認證的訴訟外爭端解決實體機構。在這方面，應闡明的是，本規則關於訴訟外爭端解決之規定並不影響該指令之適用，倘若消費者對程序的履行或運作不滿意，依據該指令，他們有權在任何階段退出程序。

Services Coordinator, that certification should be valid in all Member States. Providers of online platforms should be able to refuse to engage in out-of-court dispute settlement procedures under this Regulation when the same dispute, in particular as regards the information concerned and the grounds for taking the contested decision, the effects of the decision and the grounds raised for contesting the decision, has already been resolved by or is already subject to an ongoing procedure before the competent court or before another competent out-of-court dispute settlement body. Recipients of the service should be able to choose between the internal complaint mechanism, an out-of-court dispute settlement and the possibility to initiate, at any stage, judicial proceedings. Since the outcome of the out-of-court dispute settlement procedure is not binding, the parties should not be prevented from initiating judicial proceedings in relation to the same dispute. The possibilities to contest decisions of providers of online platforms thus created should leave unaffected in all respects the possibility to seek judicial redress in accordance with the laws of the Member State concerned, and therefore should not affect the exercise of the right to an effective judicial remedy under Article 47 of the Charter. The provisions in this Regulation on out-of-court dispute settlement should not require Member States to establish such out-of-court settlement bodies.

- (60) For contractual consumer-to-business disputes regarding the purchase of goods or services, Directive 2013/11/EU ensures that Union consumers and businesses in the Union have access to quality-certified alternative dispute resolution entities. In this regard, it should be clarified that the rules of this Regulation on out-of-court dispute settlement are without prejudice to that Directive, including the right of consumers under that Directive to withdraw from the procedure at any stage if they are dissatisfied with the performance or the operation of the procedure.

- (61) 若線上平臺提供者採取必要措施，確保在其指定的專業領域內之認證舉報者透過本規則要求之通知及行動機制所提交的通知，能得到優先處理，且不影響以適時、盡責和非專斷的方式，處理所有依據這些機制提交的通知時，將得以更迅速、更可靠地針對非法內容採取行動。這種認證舉報者的資格，應由申請者設立據點所在之會員國的數位服務協調員授予，並應得到本規則規範內之所有線上平臺提供者的認可。這種認證舉報者的資格只能授予組織，而非個人，除其他事項外，這些組織必須證明他們在處理非法內容方面具有特殊的專業知識及能力，且他們以盡責、準確和客觀的方式工作。此類組織可以是公共性質的，例如，針對涉及恐怖主義內容之國家執法機關或歐盟執法合作署（「歐洲刑警組織」）的網路偵查部門；或者他們也可以是非政府組織、私人或半公共團體，例如屬於通報兒童性虐待製品的國際網路兒童色情檢舉熱線聯盟（INHOPE）一部分的組織，與致力於通報線上非法種族主義和仇外言論的組織。為了避免降低此機制的附加價值，應限制依據本規則授予的認證舉報者的總數。特別是，鼓勵代表其成員利益的產業工會申請認證舉報者的資格，同時不損害私人組織或個人，與線上平臺提供者締結雙邊協議的權利。

(61) Action against illegal content can be taken more quickly and reliably where providers of online platforms take the necessary measures to ensure that notices submitted by trusted flaggers, acting within their designated area of expertise, through the notice and action mechanisms required by this Regulation are treated with priority, without prejudice to the requirement to process and decide upon all notices submitted under those mechanisms in a timely, diligent and non-arbitrary manner. Such trusted flagger status should be awarded by the Digital Services Coordinator of the Member State in which the applicant is established and should be recognised by all providers of online platforms within the scope of this Regulation. Such trusted flagger status should only be awarded to entities, and not individuals, that have demonstrated, among other things, that they have particular expertise and competence in tackling illegal content and that they work in a diligent, accurate and objective manner. Such entities can be public in nature, such as, for terrorist content, internet referral units of national law enforcement authorities or of the European Union Agency for Law Enforcement Cooperation (‘Europol’) or they can be non-governmental organisations and private or semi-public bodies such as the organisations part of the INHOPE network of hotlines for reporting child sexual abuse material and organisations committed to notifying illegal racist and xenophobic expressions online. To avoid diminishing the added value of such mechanism, the overall number of trusted flaggers awarded in accordance with this Regulation should be limited. In particular, industry associations representing their members’ interests are encouraged to apply for the status of trusted flaggers, without prejudice to the right of private entities or individuals to enter into bilateral agreements with the providers of online platforms.

- (62) 認證舉報者應就依據本規則提交的通知，發布易於理解及詳細的報告。這些報告應指出例如經託管服務提供者分類之通知數量、內容類型、以及提供者所採取之行動等資訊。有鑑於認證舉報者已證明其專業知識及能力，由認證舉報者提交之通知的處理，可預期處理之負擔較輕，因此相較於其他服務接受者提交的通知，處理之速度更快。然而，處理所需的平均時間仍可能有所不同，大致取決於非法內容的類型、通知的品質、以及提交此類通知所採用之實際技術程序等因素。

例如，雖然《2016年打擊線上非法仇恨言論行為守則》為參與之公司，於處理刪除非法仇恨言論之有效通知所需的時間，建立了基準，但是其他類型的非法內容，可能須視具體事實和情況、以及所涉及之非法內容類型而定，而需要相當差異之處理時間。為了避免濫用認證舉報者的資格，當設立所在地數位服務協調員基於合法理由展開調查時，應可暫停此資格。本規則關於認證舉報者的規定，不應被理解為妨礙線上平臺提供者，對未依照本規則而被授予認證舉報者資格的組織或個人所提交的通知，給予類似處置；或妨礙線上平臺提供者依據所適用之法律，包含本規則及歐洲議會暨理事會(EU)第2016/794號規則等，於其他方面與其他組織的合作。本規則的規定不應妨礙線上平臺提供者利用這種認證舉報者或類似機制，對不符合其條款與條件的內容，尤其是對弱勢的服務接受者（例如未成年人），有害的內容，採取快速又可靠的行動。

(62) Trusted flaggers should publish easily comprehensible and detailed reports on notices submitted in accordance with this Regulation. Those reports should indicate information such as the number of notices categorised by the provider of hosting services, the type of content, and the action taken by the provider. Given that trusted flaggers have demonstrated expertise and competence, the processing of notices submitted by trusted flaggers can be expected to be less burdensome and therefore faster compared to notices submitted by other recipients of the service. However, the average time taken to process may still vary depending on factors including the type of illegal content, the quality of notices, and the actual technical procedures put in place for the submission of such notices.

For example, while the Code of conduct on countering illegal hate speech online of 2016 sets a benchmark for the participating companies with respect to the time needed to process valid notifications for removal of illegal hate speech, other types of illegal content may take considerably different timelines for processing, depending on the specific facts and circumstances and types of illegal content at stake. In order to avoid abuses of the trusted flagger status, it should be possible to suspend such status when a Digital Services Coordinator of establishment opened an investigation based on legitimate reasons. The rules of this Regulation on trusted flaggers should not be understood to prevent providers of online platforms from giving similar treatment to notices submitted by entities or individuals that have not been awarded trusted flagger status under this Regulation, from otherwise cooperating with other entities, in accordance with the applicable law, including this Regulation and Regulation (EU) 2016/794 of the European Parliament and of the Council. The rules of this Regulation should not prevent the providers of online platforms from making use of such trusted flagger or similar mechanisms to take quick

(63) 透過經常提供明顯非法內容、或透過依據本規則所建立的機制與制度，頻繁提交顯然無事實依據的通知或申訴等方式濫用線上平臺，將會逐漸削弱信任，並損害當事人的權利與合法利益。因此，有必要落實適當、符合比例原則、及有效的保障措施，防止此類濫用，並需尊重所有當事人的權利及合法利益，包括《憲章》所載的基本權利與自由，特別是言論自由。倘若對於外行人而言顯而易見，無需任何實質分析，即可看出該內容是非法的、或者個案之通知或申訴沒有依據，則該資訊應被視為明顯非法之內容，且該通知或該申訴應被視為顯然無事實依據。

(64) 在某些情況下，線上平臺提供者應暫停涉及虐待行為者的相關活動。這不妨礙線上平臺提供者訂定其條款與條件，並就有關嚴重犯罪的明顯非法內容，例如涉及兒童性虐待之內容，訂定更嚴格之措施的自由。出於透明度的考量，這種可能性應在線上平臺的條款與條件中，清楚且足夠詳細地規定。對於補救措施之採行，應始終開放讓線上平臺提供者進行決定，且這些決定應受到主管之數位服務協調員的監督。線上平臺提供者在作成暫停決定之前，應發出預先警告，其中應包含可能暫停的原因、及針對線上平臺提供者決定之補救措施。當線上平臺提供者作成暫停決定時，應依照本規則之規範，提交理由說明。本規則關於濫用的規定，不應妨礙線上平臺提供者採取其他措施，以依據所適用的歐盟和國家法律，處理其服務接受者

and reliable action against content that is incompatible with their terms and conditions, in particular against content that is harmful for vulnerable recipients of the service, such as minors.

- (63) The misuse of online platforms by frequently providing manifestly illegal content or by frequently submitting manifestly unfounded notices or complaints under the mechanisms and systems, respectively, established under this Regulation undermines trust and harms the rights and legitimate interests of the parties concerned. Therefore, there is a need to put in place appropriate, proportionate and effective safeguards against such misuse, that need to respect the rights and legitimate interests of all parties involved, including the applicable fundamental rights and freedoms as enshrined in the Charter, in particular the freedom of expression. Information should be considered to be manifestly illegal content and notices or complaints should be considered manifestly unfounded where it is evident to a layperson, without any substantive analysis, that the content is illegal or, respectively, that the notices or complaints are unfounded.
- (64) Under certain conditions, providers of online platforms should temporarily suspend their relevant activities in respect of the person engaged in abusive behaviour. This is without prejudice to the freedom by providers of online platforms to determine their terms and conditions and establish stricter measures in the case of manifestly illegal content related to serious crimes, such as child sexual abuse material. For reasons of transparency, this possibility should be set out, clearly and in sufficient detail, in the terms and conditions of the online platforms. Redress should always be open to the decisions taken in this regard by providers of online platforms and they should be subject to oversight by the competent Digital Services Coordinator. Providers of online platforms should send

提供之非法內容、或對其服務之其他濫用行為，包括違反其條款與條件事宜。這些規則不影響歐盟或國家法律中涉及要求濫用者須負責（包含損害）的任何可能性。

(65) 有鑑於線上平臺提供者的特殊責任和義務，他們應承擔透明度報告義務，該義務是除本規則所規定適用於所有中介服務提供者之透明度報告義務以外實施的。為了確定線上平臺及線上搜尋引擎，是否可能分別是超大型線上平臺或超大型線上搜尋引擎，而須承擔本規則規定之某些附加義務，線上平臺和線上搜尋引擎的透明度報告義務，應含有關於歐盟境內每月平均活躍服務接受者人數的資訊公布及溝通之特定義務。

(66) 為了確保透明度，並且能夠監督線上平臺提供者的內容審查決定及監控線上非法內容的傳播，執委會應維護並公布一個資料庫，涵蓋線上平臺提供者刪除資訊或以其他方式限制資訊的可用性及存取時之決定及理由說明。為了保持資料庫持續更新，線上平臺提供者在作成決定後，須以標準格式提交其決定及理由說明，並不可無故拖

a prior warning before deciding on the suspension, which should include the reasons for the possible suspension and the means of redress against the decision of the providers of the online platform. When deciding on the suspension, providers of online platforms should send the statement of reasons in accordance with the rules set out in this Regulation. The rules of this Regulation on misuse should not prevent providers of online platforms from taking other measures to address the provision of illegal content by recipients of their service or other misuse of their services, including through the violation of their terms and conditions, in accordance with the applicable Union and national law. Those rules are without prejudice to any possibility to hold the persons engaged in misuse liable, including for damages, provided for in Union or national law.

- (65) In view of the particular responsibilities and obligations of providers of online platforms, they should be made subject to transparency reporting obligations, which apply in addition to the transparency reporting obligations applicable to all providers of intermediary services under this Regulation. For the purposes of determining whether online platforms and online search engines may be very large online platforms or very large online search engines, respectively, that are subject to certain additional obligations under this Regulation, the transparency reporting obligations for online platforms and online search engines should include certain obligations relating to the publication and communication of information on the average monthly active recipients of the service in the Union.
- (66) In order to ensure transparency and to enable scrutiny over the content moderation decisions of the providers of online platforms and monitoring the spread of illegal content online, the Commission should maintain and publish a database which contains the decisions and statements of reasons of the providers of online platforms when they remove or otherwise

延，以便在技術上可行、且與上述之線上平臺之手段相稱的情況下，進行即時更新。結構化的資料庫應允許存取及查詢相關資訊，特別是有關涉及非法內容的資訊類型。

- (67) 在線上平臺線上介面上的暗黑模式，無論是故意地或實際上，皆是嚴重扭曲或減損服務接受者作出自主及知情的選擇或決定之能力的作法。這些作法可能用於說服服務接受者涉入不恰當的行為或作成不想要的決定，從而對其造成負面後果。因此，應禁止線上平臺提供者欺騙或慫恿服務接受者，並且禁止其透過線上介面或其中一部分的結構、設計、或功能來扭曲或減損服務接受者的自主權、決策、或選擇。這應包括但不限於利用性的設計選擇，即以非中立的方式呈現選項，引導接受者採取有利於線上平臺提供者、但可能不符合接受者利益的行動，例如當要求服務接受者作成決定時，透過視覺、聽覺或其他的元件，使某些選擇佔據顯著位置。

這也應包含即使在已經作出上述選擇的情況下仍反覆請求服務接受者作出選擇；使取消服務的程序比註冊服務明顯更為繁瑣；或者讓作出某些選擇比其他的選擇更加困難或耗時；或讓使用者自允許消費者與企業經營者簽訂遠距契約的特定線上平臺上停止購買或登出

restrict availability of and access to information. In order to keep the database continuously updated, the providers of online platforms should submit, in a standard format, the decisions and statement of reasons without undue delay after taking a decision, to allow for real-time updates where technically possible and proportionate to the means of the online platform in question. The structured database should allow access to, and queries for, the relevant information, in particular as regards the type of alleged illegal content at stake.

- (67) Dark patterns on online interfaces of online platforms are practices that materially distort or impair, either on purpose or in effect, the ability of recipients of the service to make autonomous and informed choices or decisions. Those practices can be used to persuade the recipients of the service to engage in unwanted behaviours or into undesired decisions which have negative consequences for them. Providers of online platforms should therefore be prohibited from deceiving or nudging recipients of the service and from distorting or impairing the autonomy, decision-making, or choice of the recipients of the service via the structure, design or functionalities of an online interface or a part thereof. This should include, but not be limited to, exploitative design choices to direct the recipient to actions that benefit the provider of online platforms, but which may not be in the recipients' interests, presenting choices in a non-neutral manner, such as giving more prominence to certain choices through visual, auditory, or other components, when asking the recipient of the service for a decision.

It should also include repeatedly requesting a recipient of the service to make a choice where such a choice has already been made, making the procedure of cancelling a service significantly more cumbersome than signing up to it, or making certain choices more difficult or time-

變得異常困難；這還包括透過鼓吹或難以改變的預設設定使服務接受者作交易決定，藉此不合理地使服務接受者的決策產生偏見，從而扭曲及減損他們的自主權、決策、和選擇。然而，防止暗黑模式的規定，不應被理解為妨礙提供者直接與服務接受者互動，並向他們提供新的或附加的服務。符合歐盟法律的合法作法（例如廣告中的慣例）本身不應被視為構成暗黑模式。這些關於暗黑模式的規定，應解釋為涵蓋在本規則範圍內、而尚未涵蓋在 2005/29/EC 指令或 (EU) 第 2016/679 號規則中禁止的作法。

- (68) 線上廣告在線上環境中扮演重要的角色，包含在線上平臺方面，其提供的服務有時全部或部分透過廣告收入直接或間接獲取報酬。線上廣告可能會導致重大風險，從廣告本身就是非法內容，到為發布或擴大線上的非法或其他有害的內容及活動提供經濟上誘因，或以歧視性廣告導致對平等待遇和公民機會帶來影響。因此，除了 2000/31/EC 指令第 6 條的要求外，還應要求線上平臺提供者確保服務接受者擁有某些必要的個人化資訊，以讓他們了解何時為廣告，以及該展示之廣告係代表誰。線上平臺提供者並應該確保該資訊是顯著的，包含透過標準化的視覺或聽覺標記符號，對一般服務接受者而言可清楚辨識與明確，且該資訊應為適合個別服務線上介面之性質。此外，服務接受者應可從廣告呈現的線上介面直接獲取有關用於確定向其呈現特定廣告的主要參數之資訊，且對用於該目的之

consuming than others, making it unreasonably difficult to discontinue purchases or to sign out from a given online platform allowing consumers to conclude distance contracts with traders, and deceiving the recipients of the service by nudging them into decisions on transactions, or by default settings that are very difficult to change, and so unreasonably bias the decision making of the recipient of the service, in a way that distorts and impairs their autonomy, decision-making and choice. However, rules preventing dark patterns should not be understood as preventing providers to interact directly with recipients of the service and to offer new or additional services to them. Legitimate practices, for example in advertising, that are in compliance with Union law should not in themselves be regarded as constituting dark patterns. Those rules on dark patterns should be interpreted as covering prohibited practices falling within the scope of this Regulation to the extent that those practices are not already covered under Directive 2005/29/EC or Regulation (EU) 2016/679.

- (68) Online advertising plays an important role in the online environment, including in relation to the provision of online platforms, where the provision of the service is sometimes in whole or in part remunerated directly or indirectly, through advertising revenues. Online advertising can contribute to significant risks, ranging from advertisements that are themselves illegal content, to contributing to financial incentives for the publication or amplification of illegal or otherwise harmful content and activities online, or the discriminatory presentation of advertisements with an impact on the equal treatment and opportunities of citizens. In addition to the requirements resulting from Article 6 of Directive 2000/31/EC, providers of online platforms should therefore be required to ensure that the recipients of the service have certain individualised

邏輯提供有意義的解釋，包括當此係基於剖繪分析時。

上述的解釋應包含有關用於展示廣告的方法的資訊，例如是否是個人化內容或其他類型的廣告，以及在適用的情況下所使用的主要的剖繪分析條件；它還應告知接受者關於可供其用於更改上述條件的任何方法。本規則就提供與廣告相關的資訊之要求，不影響 (EU) 第 2016/679 號規則中相關條款的實施，尤其是關於異議權、自動化個人決策，包括個人剖繪、以及特別是在處理用於目標式廣告的個人資料前應取得資料主體同意之必要。同樣地，它也不妨礙 2002/58/EC 指令中的規定，尤其是有關終端設備中之資料儲存，及存取儲存於其中之資訊的規定。最後，本規則使 2010/13/EU 指令的適用更為完善，讓使用者能夠在使用者生成影片中採取得以聲明視聽商業通訊的措施。它亦補充了源於 2005/29/EC 指令之關於公開商業通訊的企業經營者義務。

information necessary for them to understand when and on whose behalf the advertisement is presented. They should ensure that the information is salient, including through standardised visual or audio marks, clearly identifiable and unambiguous for the average recipient of the service, and should be adapted to the nature of the individual service's online interface. In addition, recipients of the service should have information directly accessible from the online interface where the advertisement is presented, on the main parameters used for determining that a specific advertisement is presented to them, providing meaningful explanations of the logic used to that end, including when this is based on profiling.

Such explanations should include information on the method used for presenting the advertisement, for example whether it is contextual or other type of advertising, and, where applicable, the main profiling criteria used; it should also inform the recipient about any means available for them to change such criteria. The requirements of this Regulation on the provision of information relating to advertising is without prejudice to the application of the relevant provisions of Regulation (EU) 2016/679, in particular those regarding the right to object, automated individual decision-making, including profiling, and specifically the need to obtain consent of the data subject prior to the processing of personal data for targeted advertising. Similarly, it is without prejudice to the provisions laid down in Directive 2002/58/EC in particular those regarding the storage of information in terminal equipment and the access to information stored therein. Finally, this Regulation complements the application of the Directive 2010/13/EU which imposes measures to enable users to declare audiovisual commercial communications in user-generated videos. It also complements the obligations for traders regarding the disclosure of commercial communications deriving from Directive 2005/29/EC.

(69) 當服務接受者接收以優化之目標比對技術作為基礎，去迎合其興趣且潛在地針對其弱點吸引的廣告時，可能會產生特別嚴重的負面效應。在某些情況下，操縱式技巧可能會對整個群體產生負面影響並擴大對社會危害，例如助長惡意假訊息活動或歧視某些群體。線上平臺是對於上述作法特別敏感的環境，並且表現出更高的社會風險。因此，線上平臺提供者不應依據 (EU) 第 2016/679 號規則第 4 條第 (4) 點定義的剖繪分析及使用該規則第 9 條第 (1) 項中規定之特定個人資料來展示廣告，包括使用以此類特定資料為基礎的剖繪分析類型。這項禁止規定不影響適用於線上平臺提供者或涉及廣告傳播的任何其他服務提供者或廣告商，於歐盟法律關於個人資料保護的規範內所應承擔的義務。

(70) 線上平臺業務的核心部分是在其線上介面上把資訊區分優先順序及其呈現的方式，以促進與強化服務接受者對資訊的存取。舉例來說，上述作業之完成係透過演算法對透過文字或其他視覺表徵，將資訊予以建議、排序、與優先評估，或以其他方式選擇服務接受者提供的資訊來完成的。這樣的推薦系統可能對於服務接受者於線上檢索資訊及與資訊之互動能力有顯著的影響，包括助益服務接受者搜尋相關資訊且有助於改善使用者經驗。它們也對於某些訊息的放大、資訊病毒式的傳播、以及刺激某些線上行為等面向，發揮重要的作用。因此，線上平臺應一直確保其服務接受者被適當地告知推薦系統如何影響資訊的顯示方式，以及會如何影響向他們展示的資訊。他們應以易於理解的方式清楚地呈現上述推薦系統使用的參數，以確保服務接受者了解如何為他們區分資訊的優先次序。這些參數應

- (69) When recipients of the service are presented with advertisements based on targeting techniques optimised to match their interests and potentially appeal to their vulnerabilities, this can have particularly serious negative effects. In certain cases, manipulative techniques can negatively impact entire groups and amplify societal harms, for example by contributing to disinformation campaigns or by discriminating against certain groups. Online platforms are particularly sensitive environments for such practices and they present a higher societal risk. Consequently, providers of online platforms should not present advertisements based on profiling as defined in Article 4, point (4), of Regulation (EU) 2016/679, using special categories of personal data referred to in Article 9(1) of that Regulation, including by using profiling categories based on those special categories. This prohibition is without prejudice to the obligations applicable to providers of online platforms or any other service provider or advertiser involved in the dissemination of the advertisements under Union law on protection of personal data.
- (70) A core part of the online platform's business is the manner in which information is prioritised and presented on its online interface to facilitate and optimise access to information for the recipients of the service. This is done, for example, by algorithmically suggesting, ranking and prioritising information, distinguishing through text or other visual representations, or otherwise curating information provided by recipients. Such recommender systems can have a significant impact on the ability of recipients to retrieve and interact with information online, including to facilitate the search of relevant information for recipients of the service and contribute to an improved user experience. They also play an important role in the amplification of certain messages, the viral dissemination of information and the stimulation of online behaviour. Consequently, online platforms

至少包含在決定向服務接受者建議的資訊時所採用之最重要的條件與其各自重要性的原因，包括依據剖繪分析及他們的線上行為對資訊進行優先排序的情況。

- (71) 保護未成年人是歐盟的重要政策目標。當線上平臺的條款與條件允許未成年人使用其服務、其服務是針對或主要由未成年人使用、或當提供者以其他方式察覺到其服務的某些接受者是未成年人（例如其因為其他目的而處理了其服務接受者的個人資料且顯示了服務接受者的年齡），則可視其為可供未成年人使用的線上平臺。可供未成年人使用之線上平臺的提供者應採取適當且符合比例原則的措施來保護未成年人，例如，可透過採用得以替未成年人提供最高標準的隱私、安全和防護設計的方式，設計其線上介面或其中的部分，在適當的情況下採取預設或使用保護未成年人的通用模式；或者透過參與保護未成年人的行為守則。服務提供者應考量最佳實務作法及可用之指引，諸如由執委會發布之通訊文件中所提供的「兒童和青少年的數位十年：為兒童建立更好的網路環境之歐洲新政策（BIK+）」。當線上平臺提供者察覺服務接受者為未成年人時若有合理的確信，則不得展示以服務接受者個人資料的剖繪分析為依據的廣告。依據(EU)第2016/679號規則，特別是其中的第5條第(1)項第(c)點規定的資料最小化原則，這項禁令不應導致線上平臺提供者以評估服務接受者是否為未成年人為目的，而維護、獲取、或處理比其現有資料更多的個人資料。因此，這項義務不應鼓勵線上平

should consistently ensure that recipients of their service are appropriately informed about how recommender systems impact the way information is displayed, and can influence how information is presented to them. They should clearly present the parameters for such recommender systems in an easily comprehensible manner to ensure that the recipients of the service understand how information is prioritised for them. Those parameters should include at least the most important criteria in determining the information suggested to the recipient of the service and the reasons for their respective importance, including where information is prioritised based on profiling and their online behaviour.

- (71) The protection of minors is an important policy objective of the Union. An online platform can be considered to be accessible to minors when its terms and conditions permit minors to use the service, when its service is directed at or predominantly used by minors, or where the provider is otherwise aware that some of the recipients of its service are minors, for example because it already processes personal data of the recipients of its service revealing their age for other purposes. Providers of online platforms used by minors should take appropriate and proportionate measures to protect minors, for example by designing their online interfaces or parts thereof with the highest level of privacy, safety and security for minors by default where appropriate or adopting standards for protection of minors, or participating in codes of conduct for protecting minors. They should consider best practices and available guidance, such as that provided by the communication of the Commission on A Digital Decade for children and youth: the new European strategy for a better internet for kids (BIK+). Providers of online platforms should not present advertisements based on profiling using personal data of the recipient of the service when they are aware with reasonable certainty

臺提供者在服務接受者使用服務之前蒐集他們的年齡。它也不應妨礙有關個人資料保護的歐盟法律。

- (72) 為了為消費者及其他利害關係人（例如競爭的企業經營者及智慧財產權人），促進安全、值得信賴、及透明之線上環境，並且遏止企業經營者違反適用的規則銷售產品或服務，允許消費者與企業經營者簽訂遠距契約的線上平臺，應確保此類企業經營者是可追蹤的。因此，應要求企業經營者向允許消費者與企業經營者簽訂遠距契約的線上平臺提供者，提供某些必要的資訊，包含基於宣傳產品訊息或提供產品的目的。該要求也應適用於依據優先的協議而代表品牌宣傳或服務產品訊息的企業經營者。這些線上平臺提供者應在與企業經營者的契約關係期間及其後 6 個月內，以安全的方式儲存所有資訊，以使針對各該企業經營者提出的任何主張或與其相關的訂單得以被遵循處理。

這項義務是必要且符合比例原則的，以使公務機構和具有合法利益的私人，可依據所適用的法律（包括有關個人資料保護的法律）取得資訊，包含本規則所提及關於提供資訊的命令等。這項義務並不

that the recipient of the service is a minor. In accordance with Regulation (EU) 2016/679, notably the principle of data minimisation as provided for in Article 5(1), point (c), thereof, this prohibition should not lead the provider of the online platform to maintain, acquire or process more personal data than it already has in order to assess if the recipient of the service is a minor. Thus, this obligation should not incentivize providers of online platforms to collect the age of the recipient of the service prior to their use. It should be without prejudice to Union law on protection of personal data.

- (72) In order to contribute to a safe, trustworthy and transparent online environment for consumers, as well as for other interested parties such as competing traders and holders of intellectual property rights, and to deter traders from selling products or services in violation of the applicable rules, online platforms allowing consumers to conclude distance contracts with traders should ensure that such traders are traceable. The trader should therefore be required to provide certain essential information to the providers of online platforms allowing consumers to conclude distance contracts with traders, including for purposes of promoting messages on or offering products. That requirement should also be applicable to traders that promote messages on products or services on behalf of brands, based on underlying agreements. Those providers of online platforms should store all information in a secure manner for the duration of their contractual relationship with the trader and 6 months thereafter, to allow any claims to be filed against the trader or orders related to the trader to be complied with.

This obligation is necessary and proportionate, so that the information can be accessed, in accordance with the applicable law, including on the protection of personal data, by public authorities and private parties with

影響以其他歐盟法律或國家法律為基礎，且符合歐盟法律情形下，將某些內容保留更長時間的潛在義務。在不影響本規則中規定之定義的情況下，基於 2011/83/EU 指令第 6a 條第 (1) 項第 (b) 點與 2005/29/EC 指令第 7 條第 (4) 項第 (f) 點認定之任何企業經營者，無論係自然人或是法人，於透過線上平臺提供產品或服務時，應可追溯。2000/31/EC 指令責成所有資訊社會服務提供者，應使允許辨識所有提供者的某些資訊，得以讓服務接受者及主管機關可容易地、直接地、且永久地存取。於本規則中闡述之針對允許消費者與企業經營者簽訂遠距契約的線上平臺提供者之可追溯性要求，不影響理事會 (EU)2021/514 指令的實施，該指令係以追求其他合法公共利益為目標。

- (73) 為了確保有效及適當地履行該義務，同時不施加任何不成比例的責任，允許消費者與企業經營者簽訂遠距契約的線上平臺提供者，應盡最大努力評估相關企業經營者所提供之資訊的可信度，特別是透過利用可自由使用的官方線上資料庫及線上介面，例如國家商業登記及加值型營業稅資訊交換系統；或者要求相關企業經營者提供可信賴的證明文件，例如身分證明文件副本、經認證的支付帳戶證明、公司證明、與商業登記證明等。他們亦可使用能遠距存取之其他資料來源，以為符合此義務提供相似程度的可信度。然而，不應要求相關線上平臺提供者參與過度或成本高昂的線上事實查核活動或進行不成比例的現場核實。已盡本規則要求之最大努力的此類提供者，也不應被理解為其保證對消費者或其他利害關係人提供之資訊的可信度。

a legitimate interest, including through the orders to provide information referred to in this Regulation. This obligation leaves unaffected potential obligations to preserve certain content for longer periods of time, on the basis of other Union law or national laws, in compliance with Union law. Without prejudice to the definition provided for in this Regulation, any trader, irrespective of whether it is a natural or legal person, identified on the basis of Article 6a(1), point (b), of Directive 2011/83/EU and Article 7(4), point (f), of Directive 2005/29/EC should be traceable when offering a product or service through an online platform. Directive 2000/31/EC obliges all information society services providers to render easily, directly and permanently accessible to the recipients of the service and competent authorities certain information allowing the identification of all providers. The traceability requirements for providers of online platforms allowing consumers to conclude distance contracts with traders set out in this Regulation do not affect the application of Council Directive (EU) 2021/514, which pursues other legitimate public interest objectives.

- (73) To ensure an efficient and adequate application of that obligation, without imposing any disproportionate burdens, providers of online platforms allowing consumers to conclude distance contracts with traders should make best efforts to assess the reliability of the information provided by the traders concerned, in particular by using freely available official online databases and online interfaces, such as national trade registers and the VAT Information Exchange System, or request the traders concerned to provide trustworthy supporting documents, such as copies of identity documents, certified payment accounts' statements, company certificates and trade register certificates. They may also use other sources, available for use at a distance, which offer a similar degree of reliability for the purpose of complying with this obligation. However, the providers of

- (74) 允許消費者與企業經營者簽訂遠距契約的線上平臺提供者，應以使企業經營者能夠遵守相關歐盟法律規定的義務，尤其是於歐洲議會暨理事會 2011/83/EU 指令第 6 條和第 8 條、2005/29/EC 指令第 7 條、2000/31/EC 指令第 5 條和第 6 條、以及 98/6/EC 指令第 3 條所闡述之要求的方式，以設計及安排其線上介面。為此，相關線上平臺提供者應盡最大努力評估使用其服務的企業經營者是否依照相關適用的歐盟法律，在其線上介面上傳了完整的資訊。線上平臺提供者應確保若所需資訊不完整，即不得提供產品或服務。這不應構成相關線上平臺提供者通常性監控企業經營者透過其服務提供產品或服務的義務，亦不構成一般性事實查核義務，特別是去評估企業經營者提供之資訊的準確性。線上介面應對企業經營者和消費者而言，是使用者友善且易於操作的。此外，在允許企業經營者提供產品或服務後，相關線上平臺提供者應盡適當的努力，隨機查對所提供的產品或服務是否已被任何在會員國或歐盟內可使用之官方、可自由存取、與機器可讀的線上資料庫或線上介面，認定為非法。執委會還應鼓勵透過技術解決方案，諸如數位簽章的快速回應圖碼（或「QR 碼」）或非同質化代幣（NFT），以達成產品的可追溯性。執委會應推動標準的制定，以及缺乏標準的情況下，推動當事人各方，於可接受之市場導向解決方案之方向訂定。

online platforms concerned should not be required to engage in excessive or costly online fact-finding exercises or to carry out disproportionate verifications on the spot. Nor should such providers, which have made the best efforts required by this Regulation, be understood as guaranteeing the reliability of the information towards consumer or other interested parties.

- (74) Providers of online platforms allowing consumers to conclude distance contracts with traders should design and organise their online interface in a way that enables traders to comply with their obligations under relevant Union law, in particular the requirements set out in Articles 6 and 8 of Directive 2011/83/EU, Article 7 of Directive 2005/ 29/EC, Articles 5 and 6 of Directive 2000/31/EC and Article 3 of Directive 98/6/EC of the European Parliament and of the Council. For that purpose, the providers of online platforms concerned should make best efforts to assess whether the traders using their services have uploaded complete information on their online interfaces, in line with relevant applicable Union law. The providers of online platforms should ensure that products or services are not offered as long as such information is not complete. This should not amount to an obligation for the providers of online platforms concerned to generally monitor the products or services offered by traders through their services nor a general fact-finding obligation, in particular to assess the accuracy of the information provided by traders. The online interfaces should be user-friendly and easily accessible for traders and consumers. Additionally and after allowing the offering of the product or service by the trader, the providers of online platforms concerned should make reasonable efforts to randomly check whether the products or services offered have been identified as being illegal in any official, freely accessible and machine-readable online databases or online interfaces

(75) 有鑑於超大型線上平臺，基於其可及範圍，特別是表現在其服務接受者的數量層面，於促進公共辯論、經濟交易、及向公眾傳播資訊、意見和想法方面，以及在影響接受者如何在線上獲取及交流資訊方面的重要性，除了適用於所有線上平臺的義務外，有必要對這些平臺的提供者施加特定的義務。由於超大型線上搜尋引擎在線上定位，及使資訊可線上檢索方面發揮關鍵作用，因此有必要在適用範圍內對超大型線上搜尋引擎的提供者施加這些義務。為了解決這些公共政策事務，這些超大型線上平臺及超大型線上搜尋引擎的提供者應承擔的附加義務是必要的，因為沒有其他可替代且限制較小的措施可以有效地達到相同的結果。

(76) 超大型線上平臺及超大型線上搜尋引擎可能會造成社會風險，其範圍和影響與小型平臺所引發的社會風險不同。因此，此類超大型線上平臺及超大型線上搜尋引擎的提供者應承擔與其對社會的影響力比例相當的最高標準之盡職調查義務。一旦線上平臺或線上搜尋引擎的活躍接受者人數（以六個月的平均值計算）佔歐盟人口的很大一部分，由線上平臺或線上搜尋引擎所導致的系統性風險，可能會在歐盟內產生不成比例的影響。如果上述人數超過所設定的 4500 萬之操作門檻，即相當於歐盟人口的 10%，則應視為如此重大影響之

available in a Member State or in the Union. The Commission should also encourage traceability of products through technology solutions such as digitally signed Quick Response codes (or ‘QR codes’) or non-fungible tokens. The Commission should promote the development of standards and, in the absence of them, of market led solutions which can be acceptable to the parties concerned.

- (75) Given the importance of very large online platforms, due to their reach, in particular as expressed in the number of recipients of the service, in facilitating public debate, economic transactions and the dissemination to the public of information, opinions and ideas and in influencing how recipients obtain and communicate information online, it is necessary to impose specific obligations on the providers of those platforms, in addition to the obligations applicable to all online platforms. Due to their critical role in locating and making information retrievable online, it is also necessary to impose those obligations, to the extent they are applicable, on the providers of very large online search engines. Those additional obligations on providers of very large online platforms and of very large online search engines are necessary to address those public policy concerns, there being no alternative and less restrictive measures that would effectively achieve the same result.
- (76) Very large online platforms and very large online search engines may cause societal risks, different in scope and impact from those caused by smaller platforms. Providers of such very large online platforms and of very large online search engines should therefore bear the highest standard of due diligence obligations, proportionate to their societal impact. Once the number of active recipients of an online platform or of active recipients of an online search engine, calculated as an average over a period of six months, reaches a significant share of the Union

範圍係存在的。此操作門檻應保持在最新狀態，因此執委會應有權在必要時透過採用授權法案以補充本規則之條款。

- (77) 為了確定一特定的線上平臺或線上搜尋引擎之影響所及範圍，有必要個別查明每項服務的活躍接受者的平均人數。因此，線上平臺的每月平均活躍接受者人數，應顯示於特定的一段時間內實際參與該服務至少一次的所有接受者。實際參與係指透過接觸在線上平臺的線上介面上傳播的資訊，例如觀看資訊或收聽資訊；或是透過提供資訊，例如在允許消費者與企業經營者簽訂遠距契約的線上平臺上的企業經營者。

為了實現本規則之目的，參與不限於透過在線上平臺上點選、留言、連結、分享、購買、或進行交易等方式與資訊互動。因此，活躍的服務接受者的概念不必然與服務的註冊使用者的概念一致。對於線上搜尋引擎，活躍的服務接受者的概念應涵蓋那些在其線上介面上查看資訊的人，但不包括以線上搜尋引擎索引連結之網站的擁有者，因為他們沒有活躍地參與服務。活躍的服務接受者的人數應包含參與特定服務所有的單一服務接受者。在此部分，使用不同線上介面（例如網站或應用程式）的服務接受者，包括經由不同的全球資源定位器（URLs，通常稱為「網址」）或網域名稱存取服務，在可能的情況下，應僅能計算一次。然而，活躍的服務接受者的概念不應包含其他中介服務提供者之服務接受者偶然使用服務的情形，即透

population, the systemic risks the online platform or online search engine poses may have a disproportionate impact in the Union. Such significant reach should be considered to exist where such number exceeds an operational threshold set at 45 million, that is, a number equivalent to 10 % of the Union population. This operational threshold should be kept up to date and therefore the Commission should be empowered to supplement the provisions of this Regulation by adopting delegated acts, where necessary.

- (77) In order to determine the reach of a given online platform or online search engine, it is necessary to establish the average number of active recipients of each service individually. Accordingly, the number of average monthly active recipients of an online platform should reflect all the recipients actually engaging with the service at least once in a given period of time, by being exposed to information disseminated on the online interface of the online platform, such as viewing it or listening to it, or by providing information, such as traders on an online platforms allowing consumers to conclude distance contracts with traders.

For the purposes of this Regulation, engagement is not limited to interacting with information by clicking on, commenting, linking, sharing, purchasing or carrying out transactions on an online platform. Consequently, the concept of active recipient of the service does not necessarily coincide with that of a registered user of a service. As regards online search engines, the concept of active recipients of the service should cover those who view information on their online interface, but not, for example, the owners of the websites indexed by an online search engine, as they do not actively engage with the service. The number of active recipients of a service should include all unique recipients of the service that engage with the specific service. To this effect, a recipient

過線上搜尋引擎提供者的連結或索引，間接地使用線上平臺提供者所託管的資訊。此外，本規則並未要求線上平臺或線上搜尋引擎的提供者在線上對個人進行特定的追蹤。倘若此類提供者能夠排除自動化使用者（例如機器人或抓取工具）而不用進一步處理個人資料及追蹤，則是可被允許的。活躍的服務接受者人數之確定可能會受到市場和技術發展的影響，因此執委會應有權在必要時透過採取授權法案方式，以訂定如何確定線上平臺或線上搜尋引擎之活躍接受者的方法，並反映服務的性質與服務接受者與其互動的方式，以補充本規則之條款。

- (78) 有鑑於網路效應是平臺經濟的特徵，線上平臺或線上搜尋引擎的使用者之基礎可能會迅速擴大，而達到超大型線上平臺或超大型線上搜尋引擎的規模，並伴隨著對內部市場的相關影響力。在短時間內呈現指數級增長的情況下，或是有很大的全球市占率和交易額，使線上平臺或線上搜尋引擎得以充分發揮網路效應以及規模與範疇經濟，即可能會形成此類情況。高的年營業額或市場價值尤其可顯示使用者觸及範圍之快速擴增。在此類情況下，所在地的數位服務協調員或執委會應能夠要求線上平臺或線上搜尋引擎的提供者更頻繁地回報活躍的服務接受者人數，以便為達成本規則之目的，能適時

of the service that uses different online interfaces, such as websites or applications, including where the services are accessed through different uniform resource locators (URLs) or domain names, should, where possible, be counted only once. However, the concept of active recipient of the service should not include incidental use of the service by recipients of other providers of intermediary services that indirectly make available information hosted by the provider of online platforms through linking or indexing by a provider of online search engine. Further, this Regulation does not require providers of online platforms or of online search engines to perform specific tracking of individuals online. Where such providers are able to discount automated users such as bots or scrapers without further processing of personal data and tracking, they may do so. The determination of the number of active recipients of the service can be impacted by market and technical developments and therefore the Commission should be empowered to supplement the provisions of this Regulation by adopting delegated acts laying down the methodology to determine the active recipients of an online platform or of an online search engine, where necessary, reflecting the nature of the service and the way recipients of the service interact with it.

- (78) In view of the network effects characterising the platform economy, the user base of an online platform or an online search engine may quickly expand and reach the dimension of a very large online platform or a very large online search engine, with the related impact on the internal market. This may be the case in the event of exponential growth experienced in short periods of time, or by a large global presence and turnover allowing the online platform or the online search engine to fully exploit network effects and economies of scale and of scope. A high annual turnover or market capitalisation can in particular be an indication of fast scalability

確定該平臺或該搜尋引擎應被指定為超大型線上平臺或超大型線上搜尋引擎的時機。

(79) 超大型線上平臺及超大型線上搜尋引擎可能會被使用者以嚴重影響線上安全、民意與輿論的形成、及線上交易的方式使用。他們設計服務的方式於通常情況下會被優化，以利其採取廣告驅動的商業模式，並且可能引起社會之關注。為了有效辨識和減輕可能發生之風險，以及對社會和經濟的損害，有效的規範與執法是必要的。因此，依據本規則，超大型線上平臺及超大型線上搜尋引擎的提供者應針對來自其服務的設計、運作及使用，以及服務接受者潛在的濫用所造成的系統性風險加以評估，並應採取適當之減輕措施，同時尊重基本權利。在確定潛在負面效應及影響的嚴重性時，提供者應考慮潛在影響的嚴重程度以及所有此類系統性風險發生的可能性。例如，他們可以評估潛在的負面影響是否會波及大量人員、其潛在的不可逆性，或者在潛在的影響之前補救和回復現有的情況有多困難。

(80) 超大型線上平臺及超大型線上搜尋引擎的提供者應深入評估四類系統性風險。第一類風險與傳播非法內容相關：例如傳播兒童性虐待製品或非法仇恨言論，或其他濫用其服務進行之刑事犯罪；以及與

in terms of user reach. In those cases, the Digital Services Coordinator of establishment or the Commission should be able to request more frequent reporting from the provider of the online platform or of the online search engine on the number of active recipients of the service to be able to timely identify the moment at which that platform or that search engine should be designated as a very large online platform or very large online search engine, respectively, for the purposes of this Regulation.

- (79) Very large online platforms and very large online search engines can be used in a way that strongly influences safety online, the shaping of public opinion and discourse, as well as online trade. The way they design their services is generally optimised to benefit their often advertising-driven business models and can cause societal concerns. Effective regulation and enforcement is necessary in order to effectively identify and mitigate the risks and the societal and economic harm that may arise. Under this Regulation, providers of very large online platforms and of very large online search engines should therefore assess the systemic risks stemming from the design, functioning and use of their services, as well as from potential misuses by the recipients of the service, and should take appropriate mitigating measures in observance of fundamental rights. In determining the significance of potential negative effects and impacts, providers should consider the severity of the potential impact and the probability of all such systemic risks. For example, they could assess whether the potential negative impact can affect a large number of persons, its potential irreversibility, or how difficult it is to remedy and restore the situation prevailing prior to the potential impact.
- (80) Four categories of systemic risks should be assessed in-depth by the providers of very large online platforms and of very large online search engines. A first category concerns the risks associated with the

進行非法活動相關之作為：例如銷售歐盟或國家法律禁止的產品或服務，包括危險或仿冒品、或非法交易的動物。舉例來說，上述傳播或活動可能構成重大系統性風險，即非法內容的存取可能透過影響範圍特別廣大的帳戶或其他擴大的手段迅速且廣泛地散布。超大型線上平臺及超大型線上搜尋引擎的提供者應評估傳播非法內容的風險，無論該資訊是否亦不符合其條款與條件。此評估不影響超大型線上平臺的服務接受者或由超大型線上搜尋引擎索引其網站的擁有者，依據所適用的法律對其活動之可能存在之違法行為承受應承擔的個人責任。

- (81) 第二類風險涉及服務對行使《憲章》所保護之基本權利產生的實際或可預見的影响，包含但不限於人性尊嚴、表達和資訊自由（包括媒體自由和多元化）、私人生活的權利、資料保護、不受歧視的權利、兒童權利、及消費者保護。舉例來說，此類風險的出現可能與超大型線上平臺或超大型線上搜尋引擎所使用的演算法系統設計有關，或與透過提交濫用通知或其他抑制言論或妨礙競爭的方法，而濫用其服務有關。於評估兒童權利面臨的風險時，超大型線上平臺及超大型線上搜尋引擎的提供者應考慮諸如讓未成年人了解服務的設計及運作的難易程度，以及未成年人如何透過他們的服務可能接觸到損害未成年人相關之健康的、身體的、心理的、及道德發展的內容。舉例來說，此類風險的出現可能與線上介面的設計有關，這些線上介面可能有意或無意地利用了未成年人的弱點及缺乏經驗，

dissemination of illegal content, such as the dissemination of child sexual abuse material or illegal hate speech or other types of misuse of their services for criminal offences, and the conduct of illegal activities, such as the sale of products or services prohibited by Union or national law, including dangerous or counterfeit products, or illegally-traded animals. For example, such dissemination or activities may constitute a significant systemic risk where access to illegal content may spread rapidly and widely through accounts with a particularly wide reach or other means of amplification. Providers of very large online platforms and of very large online search engines should assess the risk of dissemination of illegal content irrespective of whether or not the information is also incompatible with their terms and conditions. This assessment is without prejudice to the personal responsibility of the recipient of the service of very large online platforms or of the owners of websites indexed by very large online search engines for possible illegality of their activity under the applicable law.

- (81) A second category concerns the actual or foreseeable impact of the service on the exercise of fundamental rights, as protected by the Charter, including but not limited to human dignity, freedom of expression and of information, including media freedom and pluralism, the right to private life, data protection, the right to non-discrimination, the rights of the child and consumer protection. Such risks may arise, for example, in relation to the design of the algorithmic systems used by the very large online platform or by the very large online search engine or the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition. When assessing risks to the rights of the child, providers of very large online platforms and of very large online search engines should consider for example how easy it is

或可能導致成癮行為。

- (82) 第三類風險涉及對民主進程、公民對話、選舉程序、以及公共安全的實際或可預見的負面效應。
- (83) 第四類風險源自於與超大型線上平臺及超大型線上搜尋引擎的設計、運作或使用（包括透過操縱）相關之擔憂，對於保護公共衛生及未成年人，或基於個人身心健康或性別暴力可能導致之嚴重負面結果等事宜，可能產生之實際或可預見的負面影響。此類風險也可能源於與公共衛生相關之互相配合的惡意假訊息活動，或源自於可能會刺激服務接受者之行為成癮的線上介面設計。
- (84) 在評估上述之系統性風險時，超大型線上平臺及超大型線上搜尋引擎的提供者應專注於其系統或其他可能導致風險的要素，包含所有可能相關的演算法系統，特別是其推薦系統和廣告系統。同時注意相關的資料收集和使用實務。他們也應評估其條款、條件及執行是否適當，以及他們的內容審查程序、技術工具、以及分配的資源。於評估本規則所辨別之系統性風險時，此類提供者亦應特別注意那些雖不違法但會導致本規則所辨別之系統性風險的資訊。因此，此類提供者尤其應注意其服務如何被用來傳播或擴大使人誤解的或欺詐性的內容，包括惡意假資訊。倘若演算法的資訊擴大導致系統性風險，這些提供者應以適當方式在其風險評估中反映這一點。倘若

for minors to understand the design and functioning of the service, as well as how minors can be exposed through their service to content that may impair minors' health, physical, mental and moral development. Such risks may arise, for example, in relation to the design of online interfaces which intentionally or unintentionally exploit the weaknesses and inexperience of minors or which may cause addictive behaviour.

- (82) A third category of risks concerns the actual or foreseeable negative effects on democratic processes, civic discourse and electoral processes, as well as public security.
- (83) A fourth category of risks stems from similar concerns relating to the design, functioning or use, including through manipulation, of very large online platforms and of very large online search engines with an actual or foreseeable negative effect on the protection of public health, minors and serious negative consequences to a person's physical and mental well-being, or on gender-based violence. Such risks may also stem from coordinated disinformation campaigns related to public health, or from online interface design that may stimulate behavioural addictions of recipients of the service.
- (84) When assessing such systemic risks, providers of very large online platforms and of very large online search engines should focus on the systems or other elements that may contribute to the risks, including all the algorithmic systems that may be relevant, in particular their recommender systems and advertising systems, paying attention to the related data collection and use practices. They should also assess whether their terms and conditions and the enforcement thereof are appropriate, as well as their content moderation processes, technical tools and allocated resources. When assessing the systemic risks identified in this Regulation, those providers should also focus on the information which is not illegal, but contributes to the

風險是在地化的或存在語言上的差異，這些提供者也應在其風險評估中解釋這一點。超大型線上平臺及超大型線上搜尋引擎的提供者尤其應評估其服務的設計和運作、以及對其服務有意且（在許多情況下）互相配合的操縱和使用、或對其服務條款的系統性違反，會如何導致此類風險。舉例來說，此類風險可能是由於非真正的使用服務而產生的一像是建立假帳號、使用機器人、或欺詐性地利用服務，以及其他自動化或部分自動化的行為，這可能會導致迅速且廣泛地向公眾傳播屬於非法內容或不符合線上平臺或線上搜尋引擎的條款與條件的資訊，這樣的資訊助長了惡意假訊息活動。

- (85) 為了使後續的風險評估能夠以彼此為基礎且能夠顯示所辨別之風險的演變，並且為有利於調查及執法行動，超大型線上平臺及超大型線上搜尋引擎的提供者應保留所有與他們曾經進行之風險評估相關的證明文件，例如有關其中的準備工作、基礎資料、和測試其演算法系統的資料等資訊。
- (86) 超大型線上平臺及超大型線上搜尋引擎的提供者應有效運用必要的措施，以盡責地減輕於風險評估中發現的系統性風險，同時尊重基本權利。所採取的任何措施均應遵守本規則的盡職調查要求，並且

systemic risks identified in this Regulation. Such providers should therefore pay particular attention on how their services are used to disseminate or amplify misleading or deceptive content, including disinformation. Where the algorithmic amplification of information contributes to the systemic risks, those providers should duly reflect this in their risk assessments. Where risks are localised or there are linguistic differences, those providers should also account for this in their risk assessments. Providers of very large online platforms and of very large online search engines should, in particular, assess how the design and functioning of their service, as well as the intentional and, oftentimes, coordinated manipulation and use of their services, or the systemic infringement of their terms of service, contribute to such risks. Such risks may arise, for example, through the inauthentic use of the service, such as the creation of fake accounts, the use of bots or deceptive use of a service, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination to the public of information that is illegal content or incompatible with an online platform's or online search engine's terms and conditions and that contributes to disinformation campaigns.

- (85) In order to make it possible that subsequent risk assessments build on each other and show the evolution of the risks identified, as well as to facilitate investigations and enforcement actions, providers of very large online platforms and of very large online search engines should preserve all supporting documents relating to the risk assessments that they carried out, such as information regarding the preparation thereof, underlying data and data on the testing of their algorithmic systems.
- (86) Providers of very large online platforms and of very large online search engines should deploy the necessary means to diligently mitigate the systemic risks identified in the risk assessments, in observance

應合理又有效地減輕已發現之特定系統性風險。同時，須依據超大型線上平臺或超大型線上搜尋引擎提供者的經濟能力，以及避免對其服務的使用施以不必要限制，而採取符合比例之作為，且應適當考慮對這些基本權利的潛在負面效應。這些提供者應特別考慮對表達自由的影響。

- (87) 超大型線上平臺及超大型線上搜尋引擎的提供者應考慮在上述減輕風險的措施下，例如，調整其服務之任何必要的設計、特點、或運作，如線上介面設計。且其應依據本規則有關條款與條件的規定，於必要時調整並實施其條款與條件。其他適當的措施可能包含調整其內容審查系統及內部程序，或調整其決策過程和資源，包括內容審查人員、對審查人員之訓練及在地專業知識。這尤其涉及通知處理的速度和品質。在這方面，舉例來說，《2016年打擊線上非法仇恨言論行為守則》設定了一個基準，即在24小時內處理刪除非法仇恨言論的有效通知。超大型線上平臺提供者，特別是那些原先用於向公眾傳播色情內容者，應盡職地履行他們在本規則規定下就非法內容構成網路暴力（包括非法色情內容）面向所應承擔之所有義務，尤其是關於確保受害者可以透過快速地處理通知，並毫無拖延地刪除未經同意分享之私密或受操縱之素材所代表的內容，而有效行使其與該內容相關的權利。其他類型的非法內容可能需要更長或更短的通知處理時間表，這將取決於目前有的非法內容之事實、情況、和類型。這些提供者還可以開始或增加與認證舉報者的合作，並與認證舉報者組織一起安排培訓課程和交流。

of fundamental rights. Any measures adopted should respect the due diligence requirements of this Regulation and be reasonable and effective in mitigating the specific systemic risks identified. They should be proportionate in light of the economic capacity of the provider of the very large online platform or of the very large online search engine and the need to avoid unnecessary restrictions on the use of their service, taking due account of potential negative effects on those fundamental rights. Those providers should give particular consideration to the impact on freedom of expression.

- (87) Providers of very large online platforms and of very large online search engines should consider under such mitigating measures, for example, adapting any necessary design, feature or functioning of their service, such as the online interface design. They should adapt and apply their terms and conditions, as necessary, and in accordance with the rules of this Regulation on terms and conditions. Other appropriate measures could include adapting their content moderation systems and internal processes or adapting their decision-making processes and resources, including the content moderation personnel, their training and local expertise. This concerns in particular the speed and quality of processing of notices. In this regard, for example, the Code of conduct on countering illegal hate speech online of 2016 sets a benchmark to process valid notifications for removal of illegal hate speech in less than 24 hours. Providers of very large online platforms, in particular those primarily used for the dissemination to the public of pornographic content, should diligently meet all their obligations under this Regulation in respect of illegal content constituting cyber violence, including illegal pornographic content, especially with regard to ensuring that victims can effectively exercise their rights in relation to content representing non-consensual

- (88) 超大型線上平臺及超大型線上搜尋引擎的提供者也應盡責地採取措施，以測試且在必要時調整其演算法系統，尤其是其推薦系統。他們可能必須降低個人化建議的負面效應，並且修正其在推薦中使用的條件。超大型線上平臺及超大型線上搜尋引擎提供者所使用的廣告系統也可能成為系統性風險的催化劑。此類提供者應考慮採取修正的措施，諸如中斷特定資訊的廣告收入，或採取其他行動，例如提高權威資訊來源的可預見性，或更結構性地調整其廣告系統。超大型線上平臺及超大型線上搜尋引擎的提供者可能必須強化其內部程序或對其任何活動的監督，特別是在察覺系統性風險方面，並且必須進行更為頻繁或有針對性的、與新功能相關的風險評估。尤其當風險由不同的線上平臺或線上搜尋引擎分擔時，他們應與其他服務提供者合作，包括開始實施或參與現有的行為守則或其他自律措施。其亦應考慮採取認知提升之行動，特別是在風險是與惡意假訊息活動相關之情況下。

sharing of intimate or manipulated material through the rapid processing of notices and removal of such content without undue delay. Other types of illegal content may require longer or shorter timelines for processing of notices, which will depend on the facts, circumstances and types of illegal content at hand. Those providers may also initiate or increase cooperation with trusted flaggers and organise training sessions and exchanges with trusted flagger organisations.

- (88) Providers of very large online platforms and of very large online search engines should also be diligent in the measures they take to test and, where necessary, adapt their algorithmic systems, not least their recommender systems. They may need to mitigate the negative effects of personalised recommendations and correct the criteria used in their recommendations. The advertising systems used by providers of very large online platforms and of very large online search engines can also be a catalyser for the systemic risks. Those providers should consider corrective measures, such as discontinuing advertising revenue for specific information, or other actions, such as improving the visibility of authoritative information sources, or more structurally adapting their advertising systems. Providers of very large online platforms and of very large online search engines may need to reinforce their internal processes or supervision of any of their activities, in particular as regards the detection of systemic risks, and conduct more frequent or targeted risk assessments related to new functionalities. In particular, where risks are shared across different online platforms or online search engines, they should cooperate with other service providers, including by initiating or joining existing codes of conduct or other self-regulatory measures. They should also consider awareness-raising actions, in particular where risks relate to disinformation campaigns.

(89) 超大型線上平臺及超大型線上搜尋引擎的提供者在採取措施，例如調整其服務設計及其線上介面時，應考慮未成年人的最大利益，特別當其服務是針對未成年人或大多數由未成年人使用時。他們應確保其服務規劃方式能讓未成年人易於使用本規則所規定之機制（在適用的情況下），包含通知及行動機制與爭議機制。其亦應採取措施以保護未成年人免於遭受可能損害其身體的、心理的、及道德發展之內容的影響，並且提供得以有條件存取此類資訊的工具。在選擇適當的減輕風險措施時，提供者在適當情況下可以考慮產業最佳實務作法，包含透過自律合作建立的最佳實務，例如行為守則，並應將執委會的相關指引納入評估。

(90) 超大型線上平臺及超大型線上搜尋引擎的提供者應確保其風險評估和減輕的方法是以最佳的可用資訊及科學見解為基礎，並且應確保其係以受影響最大之群體為測試對象，以測試其假設及所採取之措施。為此，他們應在適當情況下，讓服務接受者的代表、可能受其服務影響的群體代表、獨立專家、和公民社會組織一起參與，以進行其風險評估與設計其風險減輕措施。他們應尋求將上述諮詢納入其評估風險與設計減輕措施的方法中，包括酌情採取調查、焦點小組、圓桌會議、以及其他諮詢和設計方法。於評估一項措施是否合理、符合比例、及有效時，應特別考慮言論自由的權利。

- (89) Providers of very large online platforms and of very large online search engines should take into account the best interests of minors in taking measures such as adapting the design of their service and their online interface, especially when their services are aimed at minors or predominantly used by them. They should ensure that their services are organised in a way that allows minors to access easily mechanisms provided for in this Regulation, where applicable, including notice and action and complaint mechanisms. They should also take measures to protect minors from content that may impair their physical, mental or moral development and provide tools that enable conditional access to such information. In selecting the appropriate mitigation measures, providers can consider, where appropriate, industry best practices, including as established through self-regulatory cooperation, such as codes of conduct, and should take into account the guidelines from the Commission.
- (90) Providers of very large online platforms and of very large online search engines should ensure that their approach to risk assessment and mitigation is based on the best available information and scientific insights and that they test their assumptions with the groups most impacted by the risks and the measures they take. To this end, they should, where appropriate, conduct their risk assessments and design their risk mitigation measures with the involvement of representatives of the recipients of the service, representatives of groups potentially impacted by their services, independent experts and civil society organisations. They should seek to embed such consultations into their methodologies for assessing the risks and designing mitigation measures, including, as appropriate, surveys, focus groups, round tables, and other consultation and design methods. In the assessment on whether a measure is

- (91) 在危機時，超大型線上平臺提供者除了因本規則規定須由他們承擔的其他義務而採取的措施外，可能必須緊急採取某些特定措施。於此方面，當發生可能對歐盟或其重要部分的公共安全或公共衛生造成嚴重威脅之異常情況時，應視為發生危機。這樣的危機可能源自於武裝衝突或恐怖主義行為，包含新興的衝突或恐怖主義行為、自然災害（如地震和颶風）、以及全球大流行疫情，或其他對公共衛生產生嚴重跨國威脅之情形。依據歐洲數位服務委員會（「委員會」）的建議，執委會應能要求超大型線上平臺提供及和超大型搜尋引擎提供者進行緊急危機應變。上開提供者可能確定且考慮實施的措施包括諸如調整內容審查程序與增加專門用於內容審查的資源；調整條款與條件、相關演算法及廣告系統；進一步加強與認證舉報者的合作；採取提升認知之措施與推廣可信任資訊；以及調整其線上介面的設計。應規定必要的要求，以確保在很短的時間內採取上述措施，並只有在絕對必要之情形，且依據該機制所採取的任何措施皆為有效及符合比例的情況下，才使用危機應變機制。同時應適當考量所有當事人的權利及合法利益。此機制的使用不應妨礙本規則的其他條款之實施，例如有關風險評估及減輕措施、其實施之規定，以及有關危機協議的規定。

reasonable, proportionate and effective, special consideration should be given to the right to freedom of expression.

- (91) In times of crisis, there might be a need for certain specific measures to be taken urgently by providers of very large online platforms, in addition to measures they would be taking in view of their other obligations under this Regulation. In that regard, a crisis should be considered to occur when extraordinary circumstances occur that can lead to a serious threat to public security or public health in the Union or significant parts thereof. Such crises could result from armed conflicts or acts of terrorism, including emerging conflicts or acts of terrorism, natural disasters such as earthquakes and hurricanes, as well as from pandemics and other serious cross-border threats to public health. The Commission should be able to require, upon recommendation by the European Board for Digital Services ('the Board'), providers of very large online platforms and providers of very large search engines to initiate a crisis response as a matter of urgency. Measures that those providers may identify and consider applying may include, for example, adapting content moderation processes and increasing the resources dedicated to content moderation, adapting terms and conditions, relevant algorithmic systems and advertising systems, further intensifying cooperation with trusted flaggers, taking awareness-raising measures and promoting trusted information and adapting the design of their online interfaces. The necessary requirements should be provided for to ensure that such measures are taken within a very short time frame and that the crisis response mechanism is only used where, and to the extent that, this is strictly necessary and any measures taken under this mechanism are effective and proportionate, taking due account of the rights and legitimate interests of all parties concerned. The use of the mechanism should be without prejudice to the other provisions

- (92) 有鑑於須確保由獨立專家進行驗證，超大型線上平臺及超大型線上搜尋引擎的提供者應透過獨立稽核，對其遵守本規則所制定之義務、以及在相關情況下依據行為守則及危機處理協議而承諾的任何補充保證，負起責任。為確保稽核係有效、有效率且適時地進行，超大型線上平臺及超大型線上搜尋引擎的提供者應向執行稽核的組織提供必要的合作和協助，包含透過授予稽核人員得以存取所有相關資料的權限、以及正確地辦理稽核所需之資料及場所，包括（在適當情況下）與演算法系統相關的資料，並回答口頭或書面問題。稽核人員也應能利用客觀資訊的其他來源，包含經過審查之研究人員的研究。超大型線上平臺及超大型線上搜尋引擎的提供者不應阻礙稽核的辦理。稽核應依據最佳產業實務與高度的職業道德及客觀性來進行之，（視情況而定）對稽核準則與實務守則應有注意。稽核人員應保證其在辦理所任事務時所獲得的資訊（例如營業秘密）之機密性、安全性及完整性。此保證不應作為規避本規則中稽核義務之適用的手段。稽核人員應具備風險管理領域必要的專業知識及稽核演算法的技術能力。他們應該是獨立的，以便能夠以適當且可信賴的方式辦理所任事務。他們應遵守已禁止的非稽核服務、事務所輪調、與非條件性費用的核心獨立性要求。如果他們的獨立性及技術能力並非毫無疑問，則應懇辭或迴避參與稽核。

of this Regulation, such as those on risk assessments and mitigation measures and the enforcement thereof and those on crisis protocols.

- (92) Given the need to ensure verification by independent experts, providers of very large online platforms and of very large online search engines should be accountable, through independent auditing, for their compliance with the obligations laid down by this Regulation and, where relevant, any complementary commitments undertaken pursuant to codes of conduct and crises protocols. In order to ensure that audits are carried out in an effective, efficient and timely manner, providers of very large online platforms and of very large online search engines should provide the necessary cooperation and assistance to the organisations carrying out the audits, including by giving the auditor access to all relevant data and premises necessary to perform the audit properly, including, where appropriate, to data related to algorithmic systems, and by answering oral or written questions. Auditors should also be able to make use of other sources of objective information, including studies by vetted researchers. Providers of very large online platforms and of very large online search engines should not undermine the performance of the audit. Audits should be performed according to best industry practices and high professional ethics and objectivity, with due regard, as appropriate, to auditing standards and codes of practice. Auditors should guarantee the confidentiality, security and integrity of the information, such as trade secrets, that they obtain when performing their tasks. This guarantee should not be a means to circumvent the applicability of audit obligations in this Regulation. Auditors should have the necessary expertise in the area of risk management and technical competence to audit algorithms. They should be independent, in order to be able to perform their tasks in an adequate and trustworthy manner. They should comply with core

- (93) 稽核報告應得到證實，以便對所進行之行動及得到的結論作出有意義的說明。它應有助於告知且於適當的情況下，建議改進超大型線上平臺及超大型線上搜尋引擎提供者所採取的措施，以遵守本規則所要求之義務。於收到稽核報告後，稽核報告應轉交給設立所在地數位服務協調員、執委會、及委員會。提供者還應在完成後立即提交有關風險評估與減輕措施的每份報告，與超大型線上平臺或超大型線上搜尋引擎提供者的稽核執行報告，以說明其如何處理稽核建議，不得無故拖延。稽核報告應包含以取得之稽核證據為基礎而得出結論的稽核意見。當所有證據表明超大型線上平臺或超大型線上搜尋引擎的提供者已遵守本規則要求之義務，或者在適用的情況下遵守了依據行為守則及危機處理協議而承諾的任何保證，特別是透過辨識、評估、及減輕自其系統及服務所造成的系統性風險，則應給予「積極意見」。倘若稽核人員希望包含對稽核結果沒有實質影響的評論，則「積極意見」應附上評論。倘若稽核人員認為超大型線上平臺或超大型線上搜尋引擎的提供者不遵守本規則或所承諾的保證，則應給予「負面意見」。當稽核意見未能針對屬於稽核範圍內的特定項目得出結論時，應在稽核意見中說明未能得出上述結論的原因。在適用的情況下，報告應包括對無法稽核之特定項目的描述，以及對這些項目無法稽核之原因的解釋。

independence requirements for prohibited non-auditing services, firm rotation and non-contingent fees. If their independence and technical competence is not beyond doubt, they should resign or abstain from the audit engagement.

- (93) The audit report should be substantiated, in order to give a meaningful account of the activities undertaken and the conclusions reached. It should help inform, and where appropriate suggest improvements to the measures taken by the providers of the very large online platform and of the very large online search engine to comply with their obligations under this Regulation. The audit report should be transmitted to the Digital Services Coordinator of establishment, the Commission and the Board following the receipt of the audit report. Providers should also transmit upon completion without undue delay each of the reports on the risk assessment and the mitigation measures, as well as the audit implementation report of the provider of the very large online platform or of the very large online search engine showing how they have addressed the audit's recommendations. The audit report should include an audit opinion based on the conclusions drawn from the audit evidence obtained. A 'positive opinion' should be given where all evidence shows that the provider of the very large online platform or of the very large online search engine complies with the obligations laid down by this Regulation or, where applicable, any commitments it has undertaken pursuant to a code of conduct or crisis protocol, in particular by identifying, evaluating and mitigating the systemic risks posed by its system and services. A 'positive opinion' should be accompanied by comments where the auditor wishes to include remarks that do not have a substantial effect on the outcome of the audit. A 'negative opinion' should be given where the auditor considers that the provider of the very large online platform or of

(94) 評估及減輕風險的義務應係基於個別情況，促使超大型線上平臺及超大型線上搜尋引擎的提供者去評估，並在必要時調整其推薦系統之設計，例如，採取措施防止或盡量減少導致弱勢群體受到歧視的偏見，特別在此類調整係依據資料保護法的情況下，以及當資料是依據 (EU) 第 2016/679 號規則第 9 條所提及之特種個人資料進行個人化時。此外，為了補充適用於線上平臺之推薦系統的透明度義務，超大型線上平臺及超大型線上搜尋引擎的提供者，應始終確保其服務接受者享有不是以剖繪分析〔在 (EU) 第 2016 /679 號規則的定義下〕為基礎而作為其推薦系統之主要參數的其他替代選擇。取上開選擇應可從呈現推薦結果之線上介面直接操作。

(95) 由於超大型線上平臺及超大型線上搜尋引擎所使用之廣告系統，會帶來特定之風險，且基於其具備之規模與能力，會依據服務接受者於平臺或搜尋引擎的線上介面上所為之內部或外部行為，以指向並觸及服務接受者，因此，需要進一步的公眾及規範面之監督。超大

the very large online search engine does not comply with this Regulation or the commitments undertaken. Where the audit opinion could not reach a conclusion for specific elements that fall within the scope of the audit, an explanation of reasons for the failure to reach such a conclusion should be included in the audit opinion. Where applicable, the report should include a description of specific elements that could not be audited, and an explanation of why these could not be audited.

- (94) The obligations on assessment and mitigation of risks should trigger, on a case-by-case basis, the need for providers of very large online platforms and of very large online search engines to assess and, where necessary, adjust the design of their recommender systems, for example by taking measures to prevent or minimise biases that lead to the discrimination of persons in vulnerable situations, in particular where such adjustment is in accordance with data protection law and when the information is personalised on the basis of special categories of personal data referred to in Article 9 of the Regulation (EU) 2016/679. In addition, and complementing the transparency obligations applicable to online platforms as regards their recommender systems, providers of very large online platforms and of very large online search engines should consistently ensure that recipients of their service enjoy alternative options which are not based on profiling, within the meaning of Regulation (EU) 2016/679, for the main parameters of their recommender systems. Such choices should be directly accessible from the online interface where the recommendations are presented.
- (95) Advertising systems used by very large online platforms and very large online search engines pose particular risks and require further public and regulatory supervision on account of their scale and ability to target and reach recipients of the service based on their behaviour within and outside

型線上平臺或超大型線上搜尋引擎應確保公眾能存取其線上介面所呈現的廣告儲存庫，以利監督及研究線上廣告的傳遞所帶來的新興風險。例如與非法廣告相關，或涉及公共衛生、公共安全、公民對話、政治參與、及平等議題所造成之真實及可預見之負面影響的操縱技術或惡意傳遞假訊息相關的風險。儲存庫應含有廣告內容，包括產品、服務、或品牌的名稱與廣告主題，以及廣告商與（假如情況不同）支付廣告費用的自然人或法人的相關資料；還應含有廣告的投放，特別在涉及目標廣告的情況下。這項資訊應包含有關目標條件及投放條件的資訊，尤其當廣告是向弱勢群體（例如未成年人）投放時。

- (96) 為了適當監控及評估超大型線上平臺及超大型線上搜尋引擎是否遵守本規則規定的義務，設立所在地數位服務協調員或執委會可能會要求存取或回報特定資料，包含與演算法相關的資料。舉例來說，上述要求也許包括評估超大型線上平臺或超大型線上搜尋引擎的系統所帶來的風險及可能的危害所需的資料；有關內容審查、推薦系統、或廣告系統等的演算法系統之準確性、運作、及測試的資料，包括（在適當情況下）訓練資料及演算法；或有關在本規則定義下之內容審查或內部爭議處理機制的程序及輸出的資料。上述資料的存取要求不應包含為了確定個別的服務接受者是否遵守其他適用的歐盟或國家法律的目的，而提供關於上述接受者之特定資訊的要求。研究人員針對線上系統性風險的演變及嚴重性的調查，對於減少資訊不對稱及建立有彈性的風險減輕系統尤為重要。此作為同時也為

that platform's or search engine's online interface. Very large online platforms or very large online search engines should ensure public access to repositories of advertisements presented on their online interfaces to facilitate supervision and research into emerging risks brought about by the distribution of advertising online, for example in relation to illegal advertisements or manipulative techniques and disinformation with a real and foreseeable negative impact on public health, public security, civil discourse, political participation and equality. Repositories should include the content of advertisements, including the name of the product, service or brand and the subject matter of the advertisement, and related data on the advertiser, and, if different, the natural or legal person who paid for the advertisement, and the delivery of the advertisement, in particular where targeted advertising is concerned. This information should include both information about targeting criteria and delivery criteria, in particular when advertisements are delivered to persons in vulnerable situations, such as minors.

- (96) In order to appropriately monitor and assess the compliance of very large online platforms and of very large online search engines with the obligations laid down by this Regulation, the Digital Services Coordinator of establishment or the Commission may require access to or reporting of specific data, including data related to algorithms. Such a requirement may include, for example, the data necessary to assess the risks and possible harms brought about by the very large online platform's or the very large online search engine's systems, data on the accuracy, functioning and testing of algorithmic systems for content moderation, recommender systems or advertising systems, including, where appropriate, training data and algorithms, or data on processes and outputs of content moderation or of internal complaint-handling systems within the meaning of this

線上平臺提供者、線上搜尋引擎提供者、數位服務協調員、其他主管機關、執委會、及公眾提供了資訊。

- (97) 因此，本規則提供了一個框架，強制在 (EU)2019/790 指令第 2 條之定義下，隸屬於研究組織且經過審查的研究人員，從超大型線上平臺及超大型線上搜索引擎獲取資料，其中可能包括依據本規則的目的，以支持其公共利益的使命為首要目標而進行科學研究的民間社會組織。於此框架下的所有資料存取要求，都應符合比例原則，並且適當地保護超大型線上平臺或超大型線上搜尋引擎、以及任何其他當事人（包括服務接受者）的權利及合法利益，包括對個人資料、營業秘密、和其他機密資訊之保護。然而，為了確保實現本規則的目標，提供者之商業利益的考量，不應導致拒絕提供依據本規則的要求之特定研究目標所需的資料的存取權限。就此方面而言，在不影響歐洲議會暨理事會 (EU)2016/943 指令的情況下，提供者應確保研究人員得以適當存取，包括在必要時採取技術性的保護，例如透過資料儲存庫 (data vaults)。舉例來說，資料存取的要求可以涵蓋被超大型線上平臺或超大型線上搜尋引擎的提供者刪除前之服務接受者瀏覽次數，或（在相關情況下）其他類型的內容存取次數。

Regulation. Such data access requests should not include requests to produce specific information about individual recipients of the service for the purpose of determining compliance of such recipients with other applicable Union or national law. Investigations by researchers on the evolution and severity of online systemic risks are particularly important for bridging information asymmetries and establishing a resilient system of risk mitigation, informing providers of online platforms, providers of online search engines, Digital Services Coordinators, other competent authorities, the Commission and the public.

- (97) This Regulation therefore provides a framework for compelling access to data from very large online platforms and very large online search engines to vetted researchers affiliated to a research organisation within the meaning of Article 2 of Directive (EU) 2019/790, which may include, for the purpose of this Regulation, civil society organisations that are conducting scientific research with the primary goal of supporting their public interest mission. All requests for access to data under that framework should be proportionate and appropriately protect the rights and legitimate interests, including the protection of personal data, trade secrets and other confidential information, of the very large online platform or of the very large online search engine and any other parties concerned, including the recipients of the service. However, to ensure that the objective of this Regulation is achieved, consideration of the commercial interests of providers should not lead to a refusal to provide access to data necessary for the specific research objective pursuant to a request under this Regulation. In this regard, whilst without prejudice to Directive (EU) 2016/943 of the European Parliament and of the Council, providers should ensure appropriate access for researchers, including, where necessary, by taking technical protections such as through data

- (98) 此外，於資料可公開存取的情況下，此類提供者不應阻礙符合適當條件的研究人員將這些資料應用在有助於察覺、辨識、及理解系統性風險的研究目的。他們應為這些研究人員提供權限以存取（包括在技術上可行的情況下、即時地）可公開存取的資料，例如關於與公共網頁、公共團體、或公眾人物的內容整合之互動資料，包含曝光量及參與數的資料，諸如來自服務接受者的回應、分享、及留言的數量。應鼓勵超大型線上平臺或超大型線上搜尋引擎的提供者與研究人員合作，並鼓勵其提供更廣泛的資訊存取權限，以透過自發性的努力來監控社會的擔憂，包括透過依據行為守則或危機處理協議所合意之保證及程序。這些提供者和研究人員應特別注意個人資料的保護，並且確保對個人資料的任何處理均符合(EU) 第 2016/679 號規則。提供者應將個人資料進行匿名化或假名化之處理，除非如此作為會使得所欲達成的研究目的無法實現。
- (99) 有鑑於所運用之系統運作的複雜性及其對社會帶來的系統性風險，超大型線上平臺及超大型線上搜尋引擎的提供者應建立法令遵循制度，且該制度應獨立於此類提供者之營運。法令遵循單位主管應直接向此類提供者之管理階層報告，包括對不遵守本規則的擔憂。作為法令遵循制度一部分的法令遵循人員應具備必要的資格、知識、經驗、及能力，以在超大型線上平臺或超大型線上搜尋引擎提供者

vaults. Data access requests could cover, for example, the number of views or, where relevant, other types of access to content by recipients of the service prior to its removal by the providers of very large online platforms or of very large online search engines.

- (98) In addition, where data is publicly accessible, such providers should not prevent researchers meeting an appropriate subset of criteria from using this data for research purposes that contribute to the detection, identification and understanding of systemic risks. They should provide access to such researchers including, where technically possible, in real-time, to the publicly accessible data, for example on aggregated interactions with content from public pages, public groups, or public figures, including impression and engagement data such as the number of reactions, shares, comments from recipients of the service. Providers of very large online platforms or of very large online search engines should be encouraged to cooperate with researchers and provide broader access to data for monitoring societal concerns through voluntary efforts, including through commitments and procedures agreed under codes of conduct or crisis protocols. Those providers and researchers should pay particular attention to the protection of personal data, and ensure that any processing of personal data complies with Regulation (EU) 2016/ 679. Providers should anonymise or pseudonymise personal data except in those cases that would render impossible the research purpose pursued.
- (99) Given the complexity of the functioning of the systems deployed and the systemic risks they present to society, providers of very large online platforms and of very large online search engines should establish a compliance function, which should be independent from the operational functions of those providers. The head of the compliance function should report directly to the management of those providers, including

的組織內實施措施且監督本規則的遵循情形。超大型線上平臺及超大型線上搜尋引擎的提供者應確保法令遵循制度適當且適時地處理涉及與本規則相關的所有議題，包含風險評估、減輕策略及相關具體措施，以及在適用的情況下評估提供者依據其所簽署的行為守則及危機處理協議之保證的遵守情形。

- (100) 由於與超大型線上平臺及超大型線上搜尋引擎之活動相關的額外風險，以及其在本規則規定下的附加義務，透明度要求應特別適用於超大型線上平臺及超大型線上搜尋引擎，尤其是依本規則規定，全面地報告所執行的風險評估與所採取的後續措施。
- (101) 執委會應擁有足以執行本規則規範任務所需之必要資源，包括人員配置、專業知識、及財務工具等。為了確保所需的資源以進行依據本規則於歐盟層級之充分監督，並考慮到會員國應有權向在其境內設立的提供者，就其機關執行之監督及執行任務收取監理費用，執委會應對超大型線上平臺及超大型線上搜尋引擎收取監理費用，其標準應每年設定。每年收取的監理費用總額應基於執委會依據本規則執行其監督任務所產生的費用總額，於事前進行合理的估計後確立。上述金額應包含對超大型線上平臺及超大型線上搜尋引擎的提供者行使監督、調查、實施、及監控之特定權力與任務有關的費用，含指定超大型線上平臺及超大型線上搜尋引擎相關的費用，或與建

for concerns of non-compliance with this Regulation. The compliance officers that are part of the compliance function should have the necessary qualifications, knowledge, experience and ability to operationalise measures and monitor the compliance with this Regulation within the organisation of the providers of very large online platform or of very large online search engine. Providers of very large online platforms and of very large online search engines should ensure that the compliance function is involved, properly and in a timely manner, in all issues which relate to this Regulation including in the risk assessment and mitigation strategy and specific measures, as well as assessing compliance, where applicable, with commitments made by those providers under the codes of conduct and crisis protocols they subscribe to.

- (100) In view of the additional risks relating to their activities and their additional obligations under this Regulation, additional transparency requirements should apply specifically to very large online platforms and very large online search engines, notably to report comprehensively on the risk assessments performed and subsequent measures adopted as provided by this Regulation.
- (101) The Commission should be in possession of all the necessary resources, in terms of staffing, expertise, and financial means, for the performance of its tasks under this Regulation. In order to ensure the availability of the resources necessary for the adequate supervision at Union level under this Regulation, and considering that Member States should be entitled to charge providers established in their territory a supervisory fee to in respect of the supervisory and enforcement tasks exercised by their authorities, the Commission should charge a supervisory fee, the level of which should be established on an annual basis, on very large online platforms and very large online search engines. The overall amount of

立、維護、及運作依據本規則所規定之資料庫相關的費用。

相關費用還應包括促進與數位服務協調員、委員會及執委會間的合作，而建立、維護、及運行之基本資訊及機構基礎設施建構之相關費用，同時應考慮超大型線上平臺及超大型線上搜尋引擎之規模及影響範圍，對支持上述基礎設施所需的資源有顯著影響。費用總額的估計應考量上一年度所產生的監理費用，在適用的情況下，包含超過上一年收取的個別年度監理費用的支出。年度監理費用產生的外部指定收入可用於為額外的人力資源提供資金，例如契約之代理人及借調之國家專家，以及用於與履行本規則委託給執委會的任務相關的其他支出。向超大型線上平臺及超大型線上搜尋引擎的提供者收取的年度監理費用應與服務的規模成正比，如同其在歐盟內的活躍服務接受者之人數所反映的。此外，考慮到指定服務或服務提供者的經濟能力，個別年度監理費用不應超過超大型線上平臺或超大型線上搜尋引擎個別提供者之總體上限。

the annual supervisory fee charged should be established on the basis of the overall amount of the costs incurred by the Commission to exercise its supervisory tasks under this Regulation, as reasonably estimated beforehand. Such amount should include costs relating to the exercise of the specific powers and tasks of supervision, investigation, enforcement and monitoring in respect of providers of very large online platforms and of very large online search engines, including costs related to the designation of very large online platforms and of very large online search engines or to the set up, maintenance and operation of the databases envisaged under this Regulation.

It should also include costs relating to the set-up, maintenance and operation of the basic information and institutional infrastructure for the cooperation among Digital Services Coordinators, the Board and the Commission, taking into account the fact that in view of their size and reach very large online platforms and very large online search engines have a significant impact on the resources needed to support such infrastructure. The estimation of the overall costs should take into account the supervisory costs incurred in the previous year including, where applicable, those costs exceeding the individual annual supervisory fee charged in the previous year. The external assigned revenues resulting from the annual supervisory fee could be used to finance additional human resources, such as contractual agents and seconded national experts, and other expenditure related to the fulfilment of the tasks entrusted to the Commission by this Regulation. The annual supervisory fee to be charged on providers of very large online platforms and of very large online search engines should be proportionate to the size of the service as reflected by the number of its active recipients of the service in the Union. Moreover, the individual annual supervisory fee should not ex-

- (102) 為了促進有效且一致地履行本規則中可能需要透過科技工具實施的義務，推動涵蓋某些技術程序之自發性標準，有重要性。產業界可以幫助開發標準化工具來支持中介服務提供者遵守本規則，例如允許透過應用程式介面提交通知；或推廣與條款及條件相關的標準或與稽核相關的標準；或推廣與廣告儲存庫相互可操作性相關的標準。此外，此類標準還可以包含與線上廣告、推薦系統、可存取性、以及未成年人線上保護相關的標準。中介服務提供者可以自由採用這些標準，但採用這些標準無法直接被推定為已遵守本規則。同時，透過提供最佳實務，此類標準對於相對較小的中介服務提供者尤其有用。視情況而定，這些標準可區分為不同類型的非法內容或為不同類型的中介服務。
- (103) 執委會及委員會應鼓勵自發性行為守則的訂立以及上述守則條款之執行，以促進本規則的實施。委員會及理事會之目的係透過行為守則明確界定所涉及之公共利益目標的本質；行為守則包含對這些目標實現的情況進行獨立評估的機制；以及明確界定相關機關的功能。應特別注意避免對安全、隱私及個人資料保護產生負面效應，並且特別注意對施加一般性監督義務的禁止。雖然行為守則的執行應係可衡量且受公眾監督，但這不應損害此類守則的自發性本質，以及利害關係人決定是否參與的自由。在某些情況下，超大型線上

ceed an overall ceiling for each provider of very large online platforms or of very large online search engines taking into account the economic capacity of the provider of the designated service or services.

- (102) To facilitate the effective and consistent application of the obligations in this Regulation that may require implementation through technological means, it is important to promote voluntary standards covering certain technical procedures, where the industry can help develop standardised means to support providers of intermediary services in complying with this Regulation, such as allowing the submission of notices, including through application programming interfaces, or standards related to terms and conditions or standards relating to audits, or standards related to the interoperability of advertisement repositories. In addition, such standards could include standards related to online advertising, recommender systems, accessibility and the protection of minors online. Providers of intermediary services are free to adopt the standards, but their adoption does not presume compliance with this Regulation. At the same time, by providing best practices, such standards could in particular be useful for relatively small providers of intermediary services. The standards could distinguish between different types of illegal content or different types of intermediary services, as appropriate.
- (103) The Commission and the Board should encourage the drawing-up of voluntary codes of conduct, as well as the implementation of the provisions of those codes in order to contribute to the application of this Regulation. The Commission and the Board should aim that the codes of conduct clearly define the nature of the public interest objectives being addressed, that they contain mechanisms for independent evaluation of the achievement of those objectives and that the role of relevant authorities is clearly defined. Particular attention should be given to

平臺間合作並遵循特定的行為守則是非常重要的。本規則中的任何內容均不妨礙其他服務提供者經由參與相同的行為守則，而遵循相同的盡職調查標準、採用最佳實務、且受益於由執委會及委員會提供的指引。

- (104) 本規則確認此類行為準則需要考慮的某些領域是適當的。特別是，關於特定類型非法內容之風險減輕措施，應透過自律及共同管理的協議加以探討。另一個需要考慮的領域是系統性風險對社會和民主可能產生的負面影響，例如惡意假訊息、或操縱及濫用的活動、或任何對未成年人的不良影響。包含目的在於擴大訊息之協調操作（包括惡意假訊息），例如使用機器人或假帳號故意製作不正確的或誤導式的訊息，有時是為了獲取經濟上的收益；這對弱勢的服務接受者（例如未成年人）尤其有害。就這些領域而言，超大型線上平臺或超大型線上搜尋引擎遵循及遵守特定的行為守則可被視為適當的風險減輕措施。當在決定線上平臺或線上搜尋引擎是否違反了本規則所規範的義務時，線上平臺或線上搜尋引擎的提供者在沒有適當解釋的情況下，拒絕執委會之邀請參與此類行為守則的實施之情況，可納入考量。僅就參與及執行特定行為守則的事實本身，不應推定為已遵守本規則。

avoiding negative effects on security, the protection of privacy and personal data, as well as to the prohibition on imposing general monitoring obligations. While the implementation of codes of conduct should be measurable and subject to public oversight, this should not impair the voluntary nature of such codes and the freedom of interested parties to decide whether to participate. In certain circumstances, it is important that very large online platforms cooperate in the drawing-up and adhere to specific codes of conduct. Nothing in this Regulation prevents other service providers from adhering to the same standards of due diligence, adopting best practices and benefitting from the guidelines provided by the Commission and the Board, by participating in the same codes of conduct.

- (104) It is appropriate that this Regulation identify certain areas of consideration for such codes of conduct. In particular, risk mitigation measures concerning specific types of illegal content should be explored via self- and co-regulatory agreements. Another area for consideration is the possible negative impacts of systemic risks on society and democracy, such as disinformation or manipulative and abusive activities or any adverse effects on minors. This includes coordinated operations aimed at amplifying information, including disinformation, such as the use of bots or fake accounts for the creation of intentionally inaccurate or misleading information, sometimes with a purpose of obtaining economic gain, which are particularly harmful for vulnerable recipients of the service, such as minors. In relation to such areas, adherence to and compliance with a given code of conduct by a very large online platform or a very large online search engine may be considered as an appropriate risk mitigating measure. The refusal without proper explanations by a provider of an online platform or of an online search engine of the Commission's

- (105) 行為守則應依據歐盟及國家法律，促進超大型線上平臺及超大型線上搜尋引擎的近用可能性，以利身心障礙者的可預見使用。特別是，行為守則可確保資訊係以可感知、可操作、可理解、與穩固的方式呈現，並且以身心障礙者易於尋找及存取的方式，提供依據本規則要求之表單及措施。
- (106) 於本規則規範下之行為守則的規定，可作為於歐盟層面已建立自律之努力成果的基礎，包含《產品安全承諾》、《打擊網路販售仿冒品合作備忘錄》、《打擊線上非法仇恨言論行為守則》、以及《不實資訊行為守則》。尤其是對於後者，在遵循執委會的指導下，《不實資訊行為守則》透過納入《歐洲民主行動計畫》之宣告而強化。
- (107) 線上廣告的提供通常涉及多個參與者，包含聯繫廣告發布者與廣告商的中介服務。行為守則應支持及補充本規則中所規範之與線上平臺、超大型線上平臺、及超大型線上搜尋引擎提供者的廣告相關的透明度義務，以便提供有彈性又有效的機制，以促進及加強對此類義務的遵從，特別是關於相關資訊的傳播模式。這應包含促進有關支付廣告費用之廣告主的訊息傳播，當他們不同於在線上平臺的線

invitation to participate in the application of such a code of conduct could be taken into account, where relevant, when determining whether the online platform or the online search engine has infringed the obligations laid down by this Regulation. The mere fact of participating in and implementing a given code of conduct should not in itself presume compliance with this Regulation.

- (105) The codes of conduct should facilitate the accessibility of very large online platforms and very large online search engines, in compliance with Union and national law, in order to facilitate their foreseeable use by persons with disabilities. In particular, the codes of conduct could ensure that the information is presented in a perceivable, operable, understandable and robust way and that forms and measures provided pursuant to this Regulation are made available in a manner that is easy to find and accessible to persons with disabilities.
- (106) The rules on codes of conduct under this Regulation could serve as a basis for already established self-regulatory efforts at Union level, including the Product Safety Pledge, the Memorandum of understanding on the sale of counterfeit goods on the internet, the Code of conduct on countering illegal hate speech online, as well as the Code of Practice on Disinformation. In particular for the latter, following the Commission's guidance, the Code of Practice on Disinformation has been strengthened as announced in the European Democracy Action Plan.
- (107) The provision of online advertising generally involves several actors, including intermediary services that connect publishers of advertisements with advertisers. Codes of conduct should support and complement the transparency obligations relating to advertising for providers of online platforms, of very large online platforms and of very large online search engines set out in this Regulation in order to provide for flexible and ef-

上介面上呈現的廣告所代表的自然人或法人時。行為守則還應包含確保在整個價值鏈中適當共享有關資訊貨幣化之有意義資訊的相關措施。廣泛之利害關係人的參與，尚應確保這些行為守則是受到廣泛支持的、技術上健全的、有效的，並提供最高標準的使用者友善性，以確保透明度義務得以實現其目標。為了確保行為守則的有效性，執委會應在訂立行為守則時納入評估機制。在適當的情況下，執委會可邀請基本權利署（局）或歐洲資料保護監管機關就各個行為守則發表意見。

- (108) 除了針對超大型線上平臺及超大型線上搜尋引擎的危機應變機制外，執委會還可發起自發性危機處理協議之訂立，以協調線上環境中快速的、共同的、及跨境的應變。上述的情況可能是，舉例來說，當線上平臺被濫用於快速散布非法內容或惡意假訊息時，或快速傳播可靠資訊的需求出現時。有鑑於超大型線上平臺在我們的社會及跨境傳播資訊層面具備之重要作用，應鼓勵此類平臺的提供者訂立及實施特定的危機處理協議。此類危機處理協議應僅在有限的時間內啟用，所採取的措施也應僅限於解決特殊情況所必要的。這些措施應與本規則一致，且不應構成參與超大型線上平臺及超大型線上搜尋引擎之提供者監控其傳輸或儲存的資訊之義務，亦不應構成積極主動尋求發現非法活動的事實或情況的一般性義務。

fective mechanisms to facilitate and enhance the compliance with those obligations, notably as concerns the modalities of the transmission of the relevant information. This should include facilitating the transmission of the information on the advertiser who pays for the advertisement when they differ from the natural or legal person on whose behalf the advertisement is presented on the online interface of an online platform. The codes of conduct should also include measures to ensure that meaningful information about the monetisation of data is appropriately shared throughout the value chain. The involvement of a wide range of stakeholders should ensure that those codes of conduct are widely supported, technically sound, effective and offer the highest levels of user-friendliness to ensure that the transparency obligations achieve their objectives. In order to ensure the effectiveness of codes of conduct, the Commission should include evaluation mechanisms in drawing up the codes of conduct. Where appropriate, the Commission may invite the Fundamental Rights Agency or the European Data Protection Supervisor to express their opinions on the respective code of conduct.

- (108) In addition to the crisis response mechanism for very large online platforms and very large online search engines, the Commission may initiate the drawing up of voluntary crisis protocols to coordinate a rapid, collective and cross-border response in the online environment. Such can be the case, for example, where online platforms are misused for the rapid spread of illegal content or disinformation or where the need arises for rapid dissemination of reliable information. In light of the important role of very large online platforms in disseminating information in our societies and across borders, providers of such platforms should be encouraged in drawing up and applying specific crisis protocols. Such crisis protocols should be activated only for a limited period of time and

- (109) 為了確保充分監督及執行本規則所規範的義務，會員國應指定至少一個機關負責監督本規則之落實與執行，但不影響指定現行機關的可能性，亦不影響其依據國家法律所要求之法律形式。然而，會員國得委託多個主管機關承擔涉及落實本規則之特定監管或執法的任務及權限，例如現行機關可能已針對特定領域獲得授權，諸如電子通訊監理機關、媒體監理機關、或消費者保護機關等，以反映其國內憲法、組織、及行政結構。於履行其任務時，所有主管機關應致力於實現本規則之目標，即促進中介服務之內部市場的正常運作，建立安全、可預測、及值得信賴之線上環境的一致性規則，以促進創新。尤其讓適用於不同類別的中介服務提供者之盡職調查義務，得以受到有效監督及執行，以確保《憲章》所載之基本權利，包括消費者保護原則等，得到有效保護。本規則不要求會員國授予主管機關得以裁決內容的具體項目是否具備合法性的任務。

the measures adopted should also be limited to what is strictly necessary to address the extraordinary circumstance. Those measures should be consistent with this Regulation, and should not amount to a general obligation for the participating providers of very large online platforms and of very large online search engines to monitor the information which they transmit or store, nor actively to seek facts or circumstances indicating illegal content.

- (109) In order to ensure adequate oversight and enforcement of the obligations laid down in this Regulation, Member States should designate at least one authority with the task to supervise the application and enforce this Regulation, without prejudice to the possibility to designate an existing authority and to its legal form in accordance with national law. Member States should, however, be able to entrust more than one competent authority, with specific supervisory or enforcement tasks and competences concerning the application of this Regulation, for example for specific sectors where existing authorities may also be empowered, such as electronic communications' regulators, media regulators or consumer protection authorities, reflecting their domestic constitutional, organisational and administrative structure. In the exercise of their tasks, all competent authorities should contribute to the achievement of the objectives of this Regulation, namely to the proper functioning of the internal market for intermediary services where the harmonised rules for a safe, predictable and trusted online environment that facilitates innovation, and in particular the due diligence obligations applicable to different categories of providers of intermediary services, are effectively supervised and enforced, with a view to ensure that fundamental rights, as enshrined in the Charter, including the principle of consumer protection, are effectively protected. This Regulation does not require Member

- (110) 有鑑於所涉服務的跨境性質及本規則引入義務的水平範圍，每個會員國中須有一個負責監管本規則落實情形，以及在必要時進行任務執行之機關，須被指定為數位服務協調員。倘若超過一個主管機關被賦予監督本規則之落實及任務執行的職責，則該會員國應僅指定其中一個機關為數位服務協調員。數位服務協調員應就本規則之實施的所有相關事宜，作為執委會、委員會、其他會員國的數位服務協調員、以及上述的會員國其他主管機關的單一聯絡窗口。特別是倘若在一個已知的會員國，多個主管機關被委託了依據本規則的任務，數位服務協調員應依據規範上開機關各自任務的國家法律，與之協調及合作，並且不妨礙其他主管機關的獨立評估。雖然數位服務協調員在履行其任務時，不需處於在任何層級上皆比其他主管機關更高的級別，但應確保所有相關主管機關的有效參與，且在歐盟層級之監督及執法合作背景下，應適時回報其評估。此外，除了本規則中規定的有關歐盟層級之合作的具體機制外，會員國還應確保數位服務協調員與其他國家層級的指定主管機關（在適用的情況下）透過適當工具的合作，例如透過資源整合、聯合任務小組、聯合調查、及互助機制。

States to confer on competent authorities the task to adjudicate on the lawfulness of specific items of content.

- (110) Given the cross-border nature of the services at stake and the horizontal range of obligations introduced by this Regulation, one authority appointed with the task of supervising the application and, where necessary, enforcing this Regulation should be identified as a Digital Services Coordinator in each Member State. Where more than one competent authority is appointed to supervise the application of, and enforce, this Regulation, only one authority in that Member State should be designated as a Digital Services Coordinator. The Digital Services Coordinator should act as the single contact point with regard to all matters related to the application of this Regulation for the Commission, the Board, the Digital Services Coordinators of other Member States, as well as for other competent authorities of the Member State in question. In particular, where several competent authorities are entrusted with tasks under this Regulation in a given Member State, the Digital Services Coordinator should coordinate and cooperate with those authorities in accordance with the national law setting their respective tasks and without prejudice to the independent assessment of the other competent authorities. While not entailing any hierarchical supraordination over other competent authorities in the exercise of their tasks, the Digital Services Coordinator should ensure effective involvement of all relevant competent authorities and should timely report their assessment in the context of cooperation on supervision and enforcement at Union level. Moreover, in addition to the specific mechanisms provided for in this Regulation as regards cooperation at Union level, Member State should also ensure cooperation among the Digital Services Coordinator and other competent authorities designated at national level, where applicable, through

- (111) 數位服務協調員與依據本規則指定的其他主管機關，在確保本規則所制定之權利及義務之有效性以及其目標之實現，發揮著至關重要的作用。因此，有必要確保這些機關擁有必要的工具，包括財務及人力資源，以為所有歐盟公民的利益，監督其職權範圍內的所有中介服務提供者。有鑑於中介服務提供者的多樣性，以及他們在提供服務時使用之先進技術，數位服務協調員及相關主管機關也必須配備必要且具有專業技能及先進技術方法的工作人員及專家人數，並且自主管理財務資源以執行任務。此外，資源的多寡應考量其職權範圍內的中介服務提供者之規模、複雜性、和潛在社會影響，還有他們的服務在整個歐盟中的所及範圍。本規則不妨礙會員國在依據國家法律且符合歐盟法律，得向中介服務提供者收取監理費用的基礎上，建立籌資機制的可能性，前提是該監理費用是向主要設立據點涉及之會員國內的中介服務提供者徵收，同時嚴格限制於支付為了履行依據本規則而授予主管機關之任務所需，並符合比例原則的費用，但不包括授予執委會的任務，也要確保上述監理費用的徵收和運用具有足夠的透明度。

appropriate tools, such as by pooling of resources, joint task forces, joint investigations and mutual assistance mechanisms.

- (111) The Digital Services Coordinator, as well as other competent authorities designated under this Regulation, play a crucial role in ensuring the effectiveness of the rights and obligations laid down in this Regulation and the achievement of its objectives. Accordingly, it is necessary to ensure that those authorities have the necessary means, including financial and human resources, to supervise all the providers of intermediary services falling within their competence, in the interest of all Union citizens. Given the variety of providers of intermediary services and their use of advanced technology in providing their services, it is also essential that the Digital Services Coordinator and the relevant competent authorities are equipped with the necessary number of staff and experts with specialised skills and advanced technical means, and that they autonomously manage financial resources to carry out their tasks. Furthermore, the level of resources should take into account the size, complexity and potential societal impact of the providers of intermediary services falling within their competence, as well as the reach of their services across the Union. This Regulation is without prejudice to the possibility for Member States to establish funding mechanisms based on a supervisory fee charged to providers of intermediary services under national law in compliance with Union law, to the extent that it is levied on providers of intermediary services having their main establishment in the Member State in question, that it is strictly limited to what is necessary and proportionate to cover the costs for the fulfilment of the tasks conferred upon the competent authorities pursuant to this Regulation, with the exclusion of the tasks conferred upon the Commission, and that adequate transparency is ensured regarding the levying and the use of

- (112) 依據本規則指定的主管機關也應完全獨立於私人與公共團體以外行事，不具任何義務及或可能性尋求或接收指示，包括來自政府的指示，並且不影響與其他主管機關、數位服務協調員、委員會、及執委會合作的特定職責。另一方面，這些機關的獨立性不應代表其不能於符合國家憲法且不妨礙本規則目標實現的情況下，接受所屬數位服務協調員一般性且符合比例原則之問責制度的約束，例如他們的財務支出或向國民議會報告。獨立性要求也不應妨礙司法審查之行使，或在適當的情況下，與其他國家機關（包括執法機關、危機管理機關、或消費者保護機關）磋商或定期交換意見的可能性，以針對進行中的調查互相提供資訊，同時不影響其各自權力之行使。
- (113) 會員國可以指定一個目前已存在之國家機關承擔數位服務協調員的職責，或透過特別任務以監管本規則之實施及執行，前提是所有被指定之這類機關均符合本規則之要求，例如其獨立性。此外，依據歐盟法律，原則上不禁止會員國整併現行機關的職權。這方面的措施，可能包括但不限於禁止僅以進行了一項就一個現行機關不同職權整併之體制改革，而將該機關的合議制組織的主席或委員會成員於任期屆滿前解職，而缺少任何規則保證上述的解職不會損害這些成員的獨立性及公正性。

- such a supervisory fee.
- (112) The competent authorities designated under this Regulation should also act in complete independence from private and public bodies, without the obligation or possibility to seek or receive instructions, including from the government, and without prejudice to the specific duties to cooperate with other competent authorities, the Digital Services Coordinators, the Board and the Commission. On the other hand, the independence of those authorities should not mean that they cannot be subject, in accordance with national constitutions and without endangering the achievement of the objectives of this Regulation, to proportionate accountability mechanisms regarding the general activities of the Digital Services Coordinators, such as their financial expenditure or reporting to the national parliaments. The requirement of independence should also not prevent the exercise of judicial review, or the possibility to consult or regularly exchange views with other national authorities, including law enforcement authorities, crisis management authorities or consumer protection authorities, where appropriate, in order to inform each other about ongoing investigations, without affecting the exercise of their respective powers.
- (113) Member States can designate an existing national authority with the function of the Digital Services Coordinator, or with specific tasks to supervise the application and enforce this Regulation, provided that any such appointed authority complies with the requirements laid down in this Regulation, such as in relation to its independence. Moreover, Member States are in principle not precluded from merging functions within an existing authority, in accordance with Union law. The measures to that effect may include, inter alia, the preclusion to dismiss the president or a board member of a collegiate body of an existing author-

- (114) 會員國應向數位服務協調員與依據本規則指定的任何其他主管機關，按照授予他們的任務，提供足夠的權力及方法，以確保有效的調查及執法。這包括主管機關有權在發生嚴重危害風險時，依據國家法律採取臨時措施。此類臨時措施（可能包括終止或補救特定被指控之違法行為的命令）不應超出確保於最終決定作成前，防止該嚴重危害所需之必要範圍。數位服務協調員尤其應能搜尋及取得位於其領土範圍內的資訊，包含在聯合調查的情境下，並且適當考慮到關於涉及另一會員國或執委會管轄權下的提供者之監督及執行的措施，應由該其他會員國的數位服務協調員在相關情況下依據跨境合作相關程序予以採用，或在適用的情況下由執委會為之。
- (115) 會員國應依據歐盟法律，特別是本規則和《憲章》，在其國家法律中規範其數位服務協調員及其他相關主管機關，行使調查及執行權力的詳細條件和限制。
- (116) 在行使這些權力的過程中，主管機關應遵守所適用之國家規則規範

ity before the expiry of their terms of office, on the sole ground that an institutional reform has taken place involving the merger of different functions within one authority, in the absence of any rules guaranteeing that such dismissals do not jeopardise the independence and impartiality of such members.

- (114) Member States should provide the Digital Services Coordinator, and any other competent authority designated under this Regulation, with sufficient powers and means to ensure effective investigation and enforcement, in accordance with the tasks conferred on them. This includes the power of competent authorities to adopt interim measures in accordance with national law in case of risk of serious harm. Such interim measures, which may include orders to terminate or remedy a given alleged infringement, should not go beyond what is necessary to ensure that serious harm is prevented pending the final decision. The Digital Services Coordinators should in particular be able to search for and obtain information which is located in its territory, including in the context of joint investigations, with due regard to the fact that oversight and enforcement measures concerning a provider under the jurisdiction of another Member State or the Commission should be adopted by the Digital Services Coordinator of that other Member State, where relevant in accordance with the procedures relating to cross-border cooperation, or, where applicable, by the Commission.
- (115) Member States should set out in their national law, in accordance with Union law and in particular this Regulation and the Charter, the detailed conditions and limits for the exercise of the investigatory and enforcement powers of their Digital Services Coordinators, and other competent authorities where relevant, under this Regulation.
- (116) In the course of the exercise of those powers, the competent authorities

的相關程序和事項，例如進入某些營業場所所需事前的司法授權，以及法律職業之特權。這些條款尤其應確保有效救濟與公平審判的基本權利（包括辯護權）及尊重私人生活的權利。在這方面，依據本規則所提供之與執委會的程序有關的保證可以作為適當的參照依據。在作成任何最終決定之前，應確保預先的、公平的、和公正的程序，包括，聽取相關人員意見的權利與閱卷權，同時尊重機密性、專業及營業秘密，以及為決策提出有意義的理由的義務。然而，這不應妨礙在經過適當證實的緊急情況下且依照適當之條件與程序而採取措施。權力的行使亦須與各該違法或疑似違法行為所造成損害之性質，或於整體面之實際或潛在損害相稱。主管機關應考慮案件的所有相關事實和情況，包括由其他會員國的主管機關所收集的資訊。

- (117) 會員國應確保違反本規則規範之義務的行為，會以有效、符合比例原則、且具有勸誡性的方式受到制裁，同時斟酌違反行為的本質、嚴重性、重複發生、及持續時間，並考量所追求的公共利益、所進行活動的規模和種類，以及違法行為人的經濟能力。特別是，處罰應考量相關中介服務提供者是否系統性地或反覆地未能遵守於本規則規範之義務，以及考量在相關的情況下受影響的服務接受者人數、違法行為的故意或過失之特質、以及提供者是否在多個會員國活躍。倘若本規則規定了罰款或分期繳納罰款（連續處罰）的最高

should comply with the applicable national rules regarding procedures and matters such as the need for a prior judicial authorisation to enter certain premises and legal professional privilege. Those provisions should in particular ensure respect for the fundamental rights to an effective remedy and to a fair trial, including the rights of defence, and, the right to respect for private life. In this regard, the guarantees provided for in relation to the proceedings of the Commission pursuant to this Regulation could serve as an appropriate point of reference. A prior, fair and impartial procedure should be guaranteed before taking any final decision, including the right to be heard of the persons concerned, and the right to have access to the file, while respecting confidentiality and professional and business secrecy, as well as the obligation to give meaningful reasons for the decisions. This should not preclude the taking of measures, however, in duly substantiated cases of urgency and subject to appropriate conditions and procedural arrangements. The exercise of powers should also be proportionate to, *inter alia* the nature and the overall actual or potential harm caused by the infringement or suspected infringement. The competent authorities should take all relevant facts and circumstances of the case into account, including information gathered by competent authorities in other Member States.

- (117) Member States should ensure that violations of the obligations laid down in this Regulation can be sanctioned in a manner that is effective, proportionate and dissuasive, taking into account the nature, gravity, recurrence and duration of the violation, in view of the public interest pursued, the scope and kind of activities carried out, as well as the economic capacity of the infringer. In particular, penalties should take into account whether the provider of intermediary services concerned systematically or recurrently fails to comply with its obligations stem-

金額，則該最高金額應對於每一個案皆是如此，並且不影響針對特定違法行為的罰款或分期繳納罰款的調整。會員國應藉由建立以本規則為依據之國家規範及程序，並且評估有關處以罰款或分期繳納罰款之一般性條件的所有標準，來確保就違規行為之罰款或分期繳納罰款的實施，在每個案件中都是有效、符合比例原則、並具有勸誡性。

- (118) 為了確保有效執行本規則所規範之義務，個人或代表組織應能向其接受服務所在地區的數位服務協調員提出與遵守這些義務有關的任何申訴，但不影響本規則關於權限劃分的規定，亦不影響針對申訴處理所適用之符合國家良好行政原則規定。申訴可針對特定中介服務提供者之相關合規性顧慮提供忠實的概述，也可向數位服務協調員就任何更具跨域性的議題提供資訊。如果該議題需要跨國合作，數位服務協調員應讓其他國家主管機關與另一會員國的數位服務協調員參與，特別是相關中介服務提供者所在會員國的數位服務協調員。

ming from this Regulation, as well as, where relevant, the number of recipients of the service affected, the intentional or negligent character of the infringement and whether the provider is active in several Member States. Where this Regulation provides for a maximum amount of fines or of a periodic penalty payment, this maximum amount should apply per infringement of this Regulation and without prejudice to the modulation of the fines or periodic penalty payments for specific infringements. Member States should ensure that the imposition of fines or periodic penalty payments in respect of infringements should in each individual case be effective, proportionate and dissuasive by setting up national rules and procedures in accordance with this Regulation, taking into account all the criteria concerning the general conditions for imposing the fines or periodic penalty payments.

- (118) In order to ensure effective enforcement of the obligations laid down in this Regulation, individuals or representative organisations should be able to lodge any complaint related to compliance with those obligations with the Digital Services Coordinator in the territory where they received the service, without prejudice to this Regulation’s rules on allocation of competences and to the applicable rules on handling of complaints in accordance with national principles of good administration. Complaints could provide a faithful overview of concerns related to a particular intermediary service provider’s compliance and could also inform the Digital Services Coordinator of any more cross-cutting issues. The Digital Services Coordinator should involve other national competent authorities as well as the Digital Services Coordinator of another Member State, and in particular the one of the Member State where the provider of intermediary services concerned is established, if the issue requires cross-border cooperation.

- (119) 會員國應確保數位服務協調員可針對某些特別嚴重且持續違反本規則的行為，採取能有效解決且符合比例原則之措施。尤其在這些措施會影響第三方權利及利益的情況下，尤其可能是在線上介面的存取遭受限制時，要求這些措施受到額外保障是適當的。特別是應給予可能受影響的第三方表達意見的機會，並且只有於無法合理獲得權力去採取歐盟法律的其他法案或國家法律所規定的措施（例如保護消費者共同利益、確保及時刪除含有或傳播兒童色情資訊的網頁、或停用正由第三方使用之侵害智慧財產權的服務介面）時才會下達此類命令。
- (120) 上述限制存取的命令不應超出實現其目標所需的範圍。為此目的，該命令應係暫時性的，原則上應對中介服務提供者下達，例如相關的託管服務提供者、網際網路服務提供者、或者網域註冊管理機構或受理註冊機構，因這些提供者居於得以實現該目標的合理地位，而不會過於限制合法資訊的存取。
- (121) 於不影響本規則中所規範，關於應服務接受者的請求而傳輸或儲存資訊之責任豁免條款的前提下，中介服務提供者應就其違反本規則規範之義務，而造成服務接受者遭受的損害，負擔損害賠償責任。此類賠償應符合適用的國家法律之規定和程序，且不妨礙依據消費者保護規定而尋求補償的其他可能性。

- (119) Member States should ensure that Digital Services Coordinators can take measures that are effective in addressing and proportionate to certain particularly serious and persistent infringements of this Regulation. Especially where those measures can affect the rights and interests of third parties, as may be the case in particular where the access to online interfaces is restricted, it is appropriate to require that the measures are subject to additional safeguards. In particular, third parties potentially affected should be afforded the opportunity to be heard and such orders should only be issued when powers to take such measures as provided by other acts of Union law or by national law, for instance to protect collective interests of consumers, to ensure the prompt removal of web pages containing or disseminating child pornography, or to disable access to services that are being used by a third party to infringe an intellectual property right, are not reasonably available.
- (120) Such an order to restrict access should not go beyond what is necessary to achieve its objective. For that purpose, it should be temporary and be addressed in principle to a provider of intermediary services, such as the relevant hosting service provider, internet service provider or domain registry or registrar, which is in a reasonable position to achieve that objective without unduly restricting access to lawful information.
- (121) Without prejudice to the provisions on the exemption from liability provided for in this Regulation as regards the information transmitted or stored at the request of a recipient of the service, a provider of intermediary services should be liable for the damages suffered by recipients of the service that are caused by an infringement of the obligations set out in this Regulation by that provider. Such compensation should be in accordance with the rules and procedures set out in the applicable national

(122) 數位服務協調員應定期發布（例如在其網站上）其依據本規則執行相關活動的報告。尤其該報告應以機器可讀的格式發布，並且包含收到的申訴及其後續行動的概述，諸如收到的申訴總數及形成正式調查或轉交給其他數位服務協調員的申訴數量，而不提及任何個人資料。有鑑於數位服務協調員亦知曉針對非法內容採取行動的命令、或透過資訊共享系統提供受本規則規範之資訊的命令，故數位服務協調員應將由其代表會員國之司法及行政機關所發布並且下達給中介服務提供者此類命令之數量與類別，收錄於其年度報告中。

(123) 為了確保清晰、簡明、及有效，應授予中介服務提供者主要設立據點（即提供者設有企業總部或登記辦事處以行使主要財務職責及營運控制之處）所在會員國的主管機關，監督和執行本規則規範之義務的權力。對於不在歐盟內設立但在歐盟內提供服務而因此屬於本規則範圍內的提供者，考慮到本規則規定之法定代理人的職責，此類提供者指定之法定代理人的所在會員國應具有權限。然而，為了有效實施本規則，在適用的情況下，就未能指定法定代理人的提供者而言，所有會員國或執委會應擁有權限。該權限可由任何主管機關或執委會行使，前提是提供者沒有因為相同事實而正面臨另一個主管機關或執委會的執法程序。為了確保一事不二罰原則得到尊重，特別是避免同一違反本規則規範義務的行為受到多次制裁，有意行使上述對於提供者的權限之每個會員國，應透過基於本規則目

law and without prejudice to other possibilities for redress available under consumer protection rules.

- (122) The Digital Services Coordinator should regularly publish, for example on its website, a report on the activities carried out under this Regulation. In particular, the report should be published in a machine-readable format and include an overview of complaints received and of their follow-up, such as the overall number of complaints received and the number of complaints that led to the opening of a formal investigation or to the transmission to other Digital Services Coordinators, without referring to any personal data. Given that the Digital Services Coordinator is also made aware of orders to take action against illegal content or to provide information regulated by this Regulation through the information sharing system, the Digital Services Coordinator should include in its annual report the number and categories of such orders addressed to providers of intermediary services issued by judicial and administrative authorities in its Member State.
- (123) In the interest of clarity, simplicity and effectiveness, the powers to supervise and enforce the obligations under this Regulation should be conferred to the competent authorities in the Member State where the main establishment of the provider of intermediary services is located, that is, where the provider has its head office or registered office within which the principal financial functions and operational control are exercised. In respect of providers that are not established in the Union, but that offer services in the Union and therefore fall within the scope of this Regulation, the Member State where those providers appointed their legal representative should have competence, considering the function of legal representatives under this Regulation. In the interest of the effective application of this Regulation, all Member States or the

的而建立之資訊共享系統，通知所有其他機關，包括執委會，不可無故拖延。

(124) 有鑑於超大型線上平臺及超大型線上搜尋引擎提供者的潛在影響，以及對其有效監管所涉及的挑戰，需對其建立特殊之規則以進行監管及執法。執委會應在相關國家主管機關的支持下，負責對系統性問題（例如對服務接受者的共同利益產生廣泛影響的問題）進行監督及公開之執行。因此，執委會應具備監管及執行本規則對超大型線上平臺及超大型線上搜尋引擎提供者所施加，關於管理系統性風險的附加義務的專屬權力。執委會的專屬權力不應影響本規則分配予所在地會員國主管機關之特定行政任務，例如對研究人員的審查。

(125) 監管及執行盡職調查義務的權力，除了本規則對超大型線上平臺及超大型線上搜尋引擎提供者施加之管理系統性風險的附加義務外，

Commission, where applicable, should, however, have competence in respect of providers that failed to designate a legal representative. That competence may be exercised by any of the competent authorities or the Commission, provided that the provider is not subject to enforcement proceedings for the same facts by another competent authority or the Commission. In order to ensure that the principle of *ne bis in idem* is respected, and in particular to avoid that the same infringement of the obligations laid down in this Regulation is sanctioned more than once, each Member State that intends to exercise its competence in respect of such providers should, without undue delay, inform all other authorities, including the Commission, through the information sharing system established for the purpose of this Regulation.

- (124) In view of their potential impact and the challenges involved in effectively supervising them, special rules are needed regarding the supervision and enforcement in respect of providers of very large online platforms and of very large online search engines. The Commission should be responsible, with the support of national competent authorities where relevant, for oversight and public enforcement of systemic issues, such as issues with a wide impact on collective interests of recipients of the service. Therefore, the Commission should have exclusive powers of supervision and enforcement of the additional obligations to manage systemic risks imposed on providers of very large online platforms and of very large online search engines by this Regulation. The exclusive powers of the Commission should be without prejudice to certain administrative tasks assigned by this Regulation to the competent authorities of the Member State of establishment, such as the vetting of researchers.
- (125) The powers of supervision and enforcement of due diligence obligations, other than the additional obligations to manage systemic risks

應由執委會和國家主管機關共同分擔。一方面，在許多情況下，執委會可處於更適當的位置去處理由這些提供者所犯下的系統性違法行為，例如影響多個會員國的違法行為、嚴重的反覆違法行為或關於未能建立本規則所要求之有效機制。另一方面，超大型線上平臺或超大型線上搜尋引擎提供者的主要設立據點的所在會員國之主管機關，可處於更適當的位置去處理這些提供者所犯下的個別違法行為，這些違法行為不會引起任何系統性或跨境問題。為了效率、避免重複並且確保遵守一事不二罰原則，執委會應評估其認為在特定案件中行使這些共同權限是否適當，以及一旦其啟動程序，會員國不應再有能力這樣做。會員國應彼此之間以及與執委會之間密切合作，執委會也應與會員國密切合作，以確保本規則所建立之監管及執行系統順利且有效地運作。

- (126) 本規則關於權限劃分的規定，不應妨礙歐盟法律及國家對國際私法有關民商事管轄權與適用法律的規定，例如消費者依據歐盟法律的相關條款向其所定居會員國之法院提起的訴訟。就本規則賦予中介服務提供者，向下達命令之機關通報其對非法內容採取行動之命令以及提供資訊命令之效力的義務而言，權限分配的規定應僅適用於監管這些義務的執行，而不適用於與命令相關的其他事項，例如下達命令的權限。

imposed on providers of very large online platforms and of very large online search engines by this Regulation, should be shared by the Commission and by the national competent authorities. On the one hand, the Commission could in many instances be better placed to address systemic infringements committed by those providers, such as those affecting multiple Member States or serious repeated infringements or concerning a failure to establish effective mechanisms required by this Regulation. On the other hand, the competent authorities in the Member State where the main establishment of a provider of very large online platform or of very large online search engine is located could be better placed to address individual infringements committed by those providers, that do not raise any systemic or cross-border issues. In the interest of efficiency, to avoid duplication and to ensure compliance with the principle of *ne bis in idem*, it should be for the Commission to assess whether it deems it appropriate to exercise those shared competences in a given case and, once it has initiated proceedings, Member States should no longer have the ability to do so. Member States should cooperate closely both with each other and with the Commission, and the Commission should cooperate closely with the Member States, in order to ensure that the system of supervision and enforcement set up by this Regulation functions smoothly and effectively.

- (126) The rules of this Regulation on the allocation of competence should be without prejudice to the provisions of Union law and national rules on private international law concerning jurisdiction and applicable law in civil and commercial matters, such as proceedings brought by consumers in the courts of the Member State where they are domiciled in accordance with relevant provisions of Union law. Regarding the obligations imposed by this Regulation on providers of intermediary services to in-

- (127) 有鑑於中介服務具有跨境及跨領域的相關性，需要高度合作，以確保本規則一致的適用，並確保透過資訊共享系統對於執法任務所需相關資訊的可用性。合作可依照所涉及之議題而採取不同的形式，但不得影響特定聯合調查之實施。在任何情況下，中介服務提供者所在地之數位服務協調員，都必須向其他數位服務協調員通知有關該提供者涉及之問題、調查、與即將對其採取的行動。此外，當會員國的主管機關掌握了由設立所在地之會員國主管機關所進行之調查的相關資訊，或能收集位於其領土範圍內，而設立據點所在會員國的主管機關沒有存取權限的此類資訊時，該目標地之數位服務協調員應適時地協助設立所在地之數位服務協調員，包括依據適用的國家程序和《憲章》行使其調查權。此類調查措施的對象應遵守這些措施，並且在未為遵守時承擔責任，設立據點所在會員國的主管機關應信任透過相互協助所收集的資訊，以確保本規則之遵循。

form the issuing authority of the effect given to the orders to act against illegal content and orders to provide information, the rules on allocation of competence should only apply to the supervision of enforcement of those obligations, but not to other matters related to the order, such as the competence to issue the order.

- (127) Given the cross-border and cross-sectoral relevance of intermediary services, a high level of cooperation is necessary to ensure the consistent application of this Regulation and the availability of relevant information for the exercise of enforcement tasks through the information sharing system. Cooperation may take different forms depending on the issues at stake, without prejudice to specific joint investigation exercises. It is in any case necessary that the Digital Services Coordinator of establishment of a provider of intermediary services informs other Digital Services Coordinators about issues, investigations and actions which are going to be taken vis à vis such a provider. Moreover, when a competent authority in a Member State holds relevant information for an investigation carried out by the competent authorities in the Member State of establishment, or is able to gather such information located in its territory to which the competent authorities in the Member State of establishment do not have access, the Digital Services Coordinator of destination should assist the Digital Services Coordinator of establishment in a timely manner, including through the exercise of its powers of investigation in accordance with the applicable national procedures and the Charter. The addressee of such investigatory measures should comply with them and be liable in case of failure to comply, and the competent authorities in the Member State of establishment should be able to rely on the information gathered through mutual assistance, in order to ensure compliance with this Regulation.

- (128) 目標地數位服務協調員，尤其是以收到的申訴、或者以其他國家主管機關（在適當情況下）或委員會（在問題涉及至少三個會員國的情況下）的意見為基礎，應能要求設立所在地數位服務協調員就其權限範圍內的提供者採取調查或執法行動。這樣的行動請求應基於充分證實的證據，顯示確實有對該會員國內的服務接受者之共同利益產生負面影響之違法行為存在，或證明其具有負面之社會影響。假使需要進一步資訊才能作成決定，設立所在地數位服務協調員應能仰賴相互合作或邀請提出請求的數位服務協調員進行聯合調查，但若是合理懷疑可能涉及超大型線上平臺或超大型線上搜尋引擎的系統性違法行為，則不影響請求執委會評估事件的可能性。
- (129) 一旦對評估或者採取或提議的措施發生任何分歧，又或在跨境合作請求或聯合調查後未能依據本規則採取任何措施，則委員會應能夠將事件送交給執委會。倘若執委會基於相關機關提供的資訊，認為所提議的措施（包括所提議的罰款標準）無法確保有效執行本規則所要求之義務，則應能據此表達其重大疑慮，並且要求主管數位服務協調員重新評估該事件，再採取必要的措施，以確保在界定之期限內遵守本規則。這種可能性不妨礙執委會依據《條約》在歐盟法院的控制下監督歐盟法律的實施並在必要時施以強制執行的一般職責。

- (128) The Digital Services Coordinator of destination, in particular on the basis of complaints received or of the input of other national competent authorities where appropriate, or the Board in case of issues involving at least three Member States, should be able to ask the Digital Services Coordinator of establishment to take investigatory or enforcement actions with regard to a provider under its competence. Such requests for action should be based on well-substantiated evidence showing the existence of an alleged infringement with negative impact on collective interests of the recipients of the service in its Member State or having a negative societal impact. The Digital Services Coordinator of establishment should be able to rely on mutual assistance or invite the requesting Digital Services Coordinator to a joint investigation in case further information is needed to take a decision, without prejudice to the possibility to request the Commission to assess the matter if it has reason to suspect that a systemic infringement by a very large online platform or a very large online search engine may be at stake.
- (129) The Board should be able to refer the matter to the Commission in case of any disagreement as to the assessments or the measures taken or proposed or of a failure to adopt any measures in accordance with this Regulation following a cross-border cooperation request or a joint investigation. Where the Commission, on the basis of the information made available by the concerned authorities, considers that the proposed measures, including the proposed level of fines, cannot ensure the effective enforcement of the obligations laid down in this Regulation, it should accordingly be able to express its serious doubts and request the competent Digital Services Coordinator to re-assess the matter and take the necessary measures to ensure compliance with this Regulation within a defined period. This possibility is without prejudice to the Commis-

- (130) 為利於多個會員國就本規則所制定之義務進行跨境監管及調查，設立所在地之數位服務協調員應能透過資訊共享系統邀請其他數位服務協調員參與關於涉嫌違反本規則適宜之聯合調查。其他數位服務協調員與其他主管機關（在適當情況下）應能參加設立所在地數位服務協調員所提出之調查，除非後者考量涉嫌違法行為的特徵以及對這些會員國的服務接受者沒有直接影響，而認為過多的參與機關可能會影響調查的有效性。聯合調查活動可能包含由數位服務協調員依據參與機關可得之情形，而協調各種行動，例如協調資料收集行動、整合資源、設置任務編組、協調資訊之請求或場所之共同檢查。參與聯合調查的所有主管機關應依據所適用的國家程序與設立所在地之數位服務協調員合作，包括在他們的領土範圍內行使調查權。聯合調查應在規定的時限內作出結論，並提出一份考慮到所有參與主管機關貢獻的最終報告。此外，倘若至少三個目標地之數位服務協調員提出要求，則委員會可建議設立所在地數位服務協調員啟動此類聯合調查，並且就其組織工作給予指示。為了避免陷入僵局，委員會應能在特定情況下將事件送交給執委會，包括設立所在地數位服務協調員拒絕啟動調查，而委員會不同意其所提出之理由的情況。

sion's general duty to oversee the application of, and where necessary enforce, Union law under the control of the Court of Justice of the European Union in accordance with the Treaties.

- (130) In order to facilitate cross-border supervision and investigations of obligations laid down in this Regulation involving several Member States, the Digital Services Coordinators of establishment should be able, through the information sharing system, to invite other Digital Services Coordinators to a joint investigation concerning an alleged infringement of this Regulation. Other Digital Services Coordinators, and other competent authorities, where appropriate, should be able to join the investigation proposed by the Digital Services Coordinator of establishment, unless the latter considers that an excessive number of participating authorities may affect the effectiveness of the investigation taking into account the features of the alleged infringement and the lack of direct effects on the recipients of the service in those Member States. Joint investigation activities may include a variety of actions to be coordinated by the Digital Services Coordinator of establishment in accordance with the availabilities of the participating authorities, such as coordinated data gathering exercises, pooling of resources, task forces, coordinated requests for information or common inspections of premises. All competent authorities participating in a joint investigation should cooperate with the Digital Services Coordinator of establishment, including by exercising their powers of investigation within their territory, in accordance with the applicable national procedures. The joint investigation should be concluded within a given timeframe with a final report taking into account the contribution of all participating competent authorities. Also the Board, where this is requested by at least three Digital Services Coordinators of destination, may recommend to a Digital Services Co-

- (131) 為了確保本規則一致之適用，有必要在歐盟層級成立一個獨立的諮詢小組，即歐洲數位服務委員會。該小組應支援執委會並且協助協調數位服務協調員的行動。委員會應由已任命的數位服務協調員組成，但不影響數位服務協調員依據其國家的任務與權限劃分所需，邀請受託本規則規定之具體任務的其他主管機關參加會議或任命特別代表的可能性。在一個會員國有多名參與者的情況下，投票權仍應限於每個會員國一名代表。
- (132) 委員會應致力於就本規則一致之適用達成歐盟之共識，以及促進主管機關間的合作，包括在適當的調查與執法措施方面，向執委會及數位服務協調員提供意見，特別是關於超大型線上平臺或超大型線上搜尋引擎服務提供者，尤其須考慮到中介服務提供者在整個歐盟內提供服務的自由。委員會還應致力於相關範本與行為守則的擬訂，並且為分析歐盟數位服務發展的新興整體趨勢作出貢獻，包括針對與標準相關的事項發表意見或建議。

ordinator of establishment to launch such joint investigation and give indications on its organisation. In order to avoid deadlocks, the Board should be able to refer the matter to the Commission in specific cases, including where the Digital Services Coordinator of establishment refuses to launch the investigation and the Board does not agree with the justification given.

- (131) In order to ensure a consistent application of this Regulation, it is necessary to set up an independent advisory group at Union level, a European Board for Digital Services, which should support the Commission and help coordinate the actions of Digital Services Coordinators. The Board should consist of the Digital Services Coordinators, where these have been appointed, without prejudice to the possibility for Digital Services Coordinators to invite in its meetings or appoint ad hoc delegates from other competent authorities entrusted with specific tasks under this Regulation, where that is required pursuant to their national allocation of tasks and competences. In case of multiple participants from one Member State, the voting right should remain limited to one representative per Member State.
- (132) The Board should contribute to achieving a common Union perspective on the consistent application of this Regulation and to the cooperation among competent authorities, including by advising the Commission and the Digital Services Coordinators about appropriate investigation and enforcement measures, in particular vis à vis the providers of very large online platforms or of very large online search engines and having regard, in particular, to the freedom of the providers of intermediary services to provide services across the Union. The Board should also contribute to the drafting of relevant templates and codes of conduct and to the analysis of emerging general trends in the development of digital

- (133) 為此，委員會應能採納向數位服務協調員或其他國家主管機關提出的意見、請求、及建議。雖然不具有法律約束力，但偏離規範的決定應作適當解釋，並且在執委會評估會員國與本規則有關的遵循情形時納入考慮。
- (134) 委員會應召集數位服務協調員與可能的其他主管機關代表，由執委會擔任主席，以確保其對所提交之事項，得以全歐洲的面向進行評估。有鑑於與其他歐盟層面監管架構可能相關的之跨域要素，應允許委員會為履行其任務之所需，與其他在平等（包括性別平等）及不歧視、資料保護、電子通訊、視聽服務、關稅方面對歐盟預算之欺詐行為的偵查及調查、消費者保護、或競爭法等領域負有責任的歐盟團體、辦事處、機構、及諮詢小組合作。
- (135) 執委會應透過主席參與委員會，但無投票權。執委會應透過主席確保會議議程之設定符合議事規則所規定之委員會成員的要求，並且遵守本規則所規範之委員會職責。
- (136) 有鑑於確保支持委員會活動之需要，委員會應能信任執委會和國家主管機關的專業知識與人力資源。委員會內部運作之具體操作安排應在委員會議事規則中進一步明確規定。

services in the Union, including by issuing opinions or recommendations on matters related to standards.

- (133) For that purpose, the Board should be able to adopt opinions, requests and recommendations addressed to Digital Services Coordinators or other competent national authorities. While not legally binding, the decision to deviate therefrom should be properly explained and could be taken into account by the Commission in assessing the compliance of the Member State concerned with this Regulation.
- (134) The Board should bring together the representatives of the Digital Services Coordinators and possible other competent authorities under the chairmanship of the Commission, with a view to ensuring an assessment of matters submitted to it in a fully European dimension. In view of possible cross-cutting elements that may be of relevance for other regulatory frameworks at Union level, the Board should be allowed to cooperate with other Union bodies, offices, agencies and advisory groups with responsibilities in fields such as equality, including gender equality, and non-discrimination, data protection, electronic communications, audiovisual services, detection and investigation of frauds against the Union budget as regards custom duties, consumer protection, or competition law, as necessary for the performance of its tasks.
- (135) The Commission, through the Chair, should participate in the Board without voting rights. Through the Chair, the Commission should ensure that the agenda of the meetings is set in accordance with the requests of the members of the Board as laid down in the rules of procedure and in compliance with the duties of the Board laid down in this Regulation.
- (136) In view of the need to ensure support for the Board's activities, the Board should be able to rely on the expertise and human resources of the Commission and of the competent national authorities. The specif-

- (137) 有鑑於超大型線上平臺或超大型線上搜尋引擎的重要性，考慮到其可及範圍與影響力，若其未能遵守屬於其所應適用之特定義務，可能會影響來自不同會員國的大量服務接受者，並且可能造成巨大的社會危害，而去辨識及處理這樣的違反義務之行為，亦可能特別複雜。為此，執委會應與數位服務協調員和委員會合作，發展歐盟在監管超大型線上平臺或超大型線上搜尋引擎方面的專業知識與能力。因此，執委會應能協調且信任這些機關的專業知識與資源，例如經由長久地或短暫地分析關於一個或多個超大型線上平臺或超大型線上搜尋引擎新興的具體趨勢或問題。會員國應與執委會合作發展上述能力（包括在適當情況下借調人員），並且促進創造共同的歐盟監管能力。為了發展歐盟的專業知識與能力，執委會還可以利用依據 2018 年 4 月 26 日執委會關於成立線上平臺經濟觀測站專家小組、相關專家團體、及卓越中心之決定而設立線上平臺經濟觀測站，所具備的專業知識與能力。執委會可邀請具有特定專業知識的專家，尤其包含經過審查的研究人員、歐盟機構與團體的代表、產業代表、代表使用者或公民社會的組織、國際組織、來自私部門的專家、以及其他利害關係人。

ic operational arrangements for the internal functioning of the Board should be further specified in the rules of procedure of the Board.

- (137) Given the importance of very large online platforms or very large online search engines, in view of their reach and impact, their failure to comply with the specific obligations applicable to them may affect a substantial number of recipients of the services across different Member States and may cause large societal harms, while such failures may also be particularly complex to identify and address. For this reason the Commission, in cooperation with the Digital Services Coordinators and the Board, should develop the Union expertise and capabilities as regards the supervision of very large online platforms or very large online search engines. The Commission should therefore be able to coordinate and rely on the expertise and resources of such authorities, for example by analysing, on a permanent or temporary basis, specific trends or issues emerging with regard to one or more very large online platforms or very large online search engines. Member States should cooperate with the Commission in developing such capabilities, including through secondment of personnel where appropriate, and contributing to the creation of a common Union supervisory capacity. In order to develop the Union expertise and capabilities, the Commission may also draw on the expertise and capabilities of the Observatory on the Online Platform Economy as set up in Commission Decision of 26 April 2018 on setting up the group of experts for the Observatory on the Online Platform Economy, relevant expert bodies, as well as centres of excellence. The Commission may invite experts with specific expertise, including in particular vetted researchers, representatives of Union agencies and bodies, industry representatives, associations representing users or civil society, international organisations, experts from the private sector, as well as other stakeholders.

(138) 執委會應能夠依據本規則賦予之權力自行調查違法行為，包括透過要求資訊存取權、索取資訊、或進行檢查，以及仰賴數位服務協調員的支援。倘若國家主管機關對於超大型線上平臺或超大型線上搜尋引擎提供者個別的涉嫌違法行為之監管，指向系統性問題，例如對服務接受者的共同利益造成廣泛影響的問題，則數位服務協調員應能基於有正當理由的請求將上述問題提交執委會。這樣的請求應至少含有可證實涉嫌侵權行為及其系統性本質的所有必要事實和情形。視其本身評估的結果，執委會應能夠依據本規則之規定，採取必要的調查及執法措施，包括在相關情況下啟動調查或採取臨時措施。

(139) 為了有效地履行其任務，執委會在決定對超大型線上平臺或超大型線上搜尋引擎的提供者進行調查處分相關程序時，應保留一定程度之自主裁量空間。一旦執委會啟動程序，就應排除設立所在地相關數位服務協調員，針對超大型線上平臺或超大型線上搜尋引擎提供者的相關行為行使調查及執法之權力，以從一事不二罰原則的角度避免重複、不一致及風險。然而，執委會應能要求數位服務協調員個別或共同為調查作出貢獻。依據真誠合作之義務，數位服務協調員應盡其最大努力達到執委會於調查的情境下所提出之有正當理由，且符合比例原則的要求。此外，設立所在地數位服務協調員、以及委員會和任何其他相關的數位服務協調員應向執委會提供所有必要的資訊及協助，以使其能夠有效地執行其任務，包括在資訊收集或資料存取行動的情境下所取得的資訊，前提是該收集資訊行為

- (138) The Commission should be able to investigate infringements on its own initiative in accordance with the powers provided for in this Regulation, including by asking access to data, by requesting information or by performing inspections, as well as by relying on the support of the Digital Services Coordinators. Where supervision by the competent national authorities of individual alleged infringements by providers of very large online platforms or very large online search engines points to systemic issues, such as issues with a wide impact on collective interests of recipients of the service, the Digital Services Coordinators should be able to, on the basis of a duly reasoned request, refer such issues to the Commission. Such a request should contain, at least, all the necessary facts and circumstances supporting the alleged infringement and its systemic nature. Depending on the outcome of its own assessment, the Commission should be able to take the necessary investigative and enforcement measures pursuant to this Regulation, including, where relevant, launching an investigation or adopting interim measures.
- (139) In order to effectively perform its tasks, the Commission should maintain a margin of discretion as to the decision to initiate proceedings against providers of very large online platforms or of very large online search engine. Once the Commission initiated the proceedings, the Digital Services Coordinators of establishment concerned should be precluded from exercising their investigative and enforcement powers in respect of the concerned conduct of the provider of the very large online platform or of very large online search engine, so as to avoid duplication, inconsistencies and risks from the viewpoint of the principle of *ne bis in idem*. The Commission, however, should be able to ask for the individual or joint contribution of the Digital Services Coordinators to the investigation. In accordance with the duty of sincere cooperation,

的法律依據不排除這種情況。相反地，執委會應讓設立所在地數位服務協調員和及委員會了解其權力行使的情況，特別是當其欲啟動處分程序及行使調查權時。此外，當執委會向相關超大型線上平臺或超大型線上搜尋引擎的提供者傳達其初步的決定（包括其反對的任何事項）時，也應將其傳達給委員會。委員會應就執委會所作出之異議與評估提出見解，執委會應在支持其決定之論據中將此意見納入考量。

- (140) 有鑑於在尋求確保超大型線上平臺或超大型線上搜尋引擎提供者之法令遵循時可能出現之特殊挑戰，以及採用有效的方式執法之重要性，同時考慮到各該提供者之規模與影響力、及其可能造成的危害，執委會應具有強大的調查及執法權力，使其能夠調查、執行、與監督本規則所訂定規則的遵守情況，並且充分尊重在執法程序中表達意見及存取檔案的基本權利、比例原則、及受影響方的權力與利益。

the Digital Services Coordinator should make its best efforts in fulfilling justified and proportionate requests by the Commission in the context of an investigation. Moreover, the Digital Services Coordinator of establishment, as well as the Board and any other Digital Services Coordinators where relevant, should provide the Commission with all necessary information and assistance to allow it to perform its tasks effectively, including information gathered in the context of data gathering or data access exercises, to the extent that this is not precluded by the legal basis according to which the information has been gathered. Conversely, the Commission should keep the Digital Services Coordinator of establishment and the Board informed on the exercise of its powers and in particular when it intends to initiate the proceeding and exercise its investigatory powers. Moreover, when the Commission communicates its preliminary findings, including any matter to which it objects, to providers of very large online platforms or of very large online search engines concerned, it should also communicate them to the Board. The Board should provide its views on the objections and assessment made by the Commission, which should take this opinion into account in the reasoning underpinning Commission's final decision.

- (140) In view of both the particular challenges that may arise in seeking to ensure compliance by providers of very large online platforms or of very large online search engines and the importance of doing so effectively, considering their size and impact and the harms that they may cause, the Commission should have strong investigative and enforcement powers to allow it to investigate, enforce and monitor compliance with the rules laid down in this Regulation, in full respect of the fundamental right to be heard and to have access to the file in the context of enforcement proceedings, the principle of proportionality and the rights and interests

(141) 為了確保於整個歐盟皆能有效實施及遵守本規則所規範之義務，執委會應能夠請求必要的資訊。尤其，執委會應有權存取任何為啟動、進行調查以及監督本規則所規範相關義務之遵守情形所需的相關文件、資料與資訊，無論是誰擁有上述文件、資料、或資訊，亦無論其類型或格式、儲存媒體、或儲存的確切位置為何。執委會應能藉由經過充分證實的資訊請求，直接要求相關超大型線上平臺或超大型線上搜尋引擎的提供者，以及因其交易、商業、工藝、或專業相關之目的，可能合理察覺與疑涉違法行為或違法行為有關之資訊的任何其他自然人或法人（如適用），提供任何相關證據、資料、及資訊。此外，為了本規則之目的，執委會應能向會員國內的任何公務機關、團體、或機構索取任何相關資訊。執委會應能透過調查權之行使（例如要求資訊接取或面談），針對涉及相關人員的文件、資料、資訊、資料庫、和演算法，要求存取權限並提出說明；並且能在經過同意的情況下與可能掌握有用資訊之任何自然人或法人面談，並透過任何技術性工具記錄其陳述。執委會也應獲得授權進行必要的審查，以執行本規則的相關條款。這些調查權旨在補充執委會向數位服務協調員和其他會員國機關尋求協助的可能性，例如透過提供資訊或行使上開權力。

of the affected parties.

- (141) The Commission should be able to request information necessary for the purpose of ensuring the effective implementation of and compliance with the obligations laid down in this Regulation, throughout the Union. In particular, the Commission should have access to any relevant documents, data and information necessary to open and conduct investigations and to monitor the compliance with the relevant 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 precise place where they are stored. The Commission should be able to directly require by means of a duly substantiated request for information that the provider of the very large online platform or of the very large online search engine concerned as well as any other natural or legal persons acting for purposes related to their trade, business, craft or profession that may be reasonably aware of information relating to the suspected infringement or the infringement, as applicable, 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 for the purpose of this Regulation. The Commission should be able to require access to, and explanations by means of exercise of investigatory powers, such as requests for information or interviews, relating to documents, data, information, data-bases and algorithms of relevant persons, and to interview, with their consent, any natural or legal persons who may be in possession of useful information and to record the statements made by any technical means. The Commission should also be empowered to undertake such inspections as are necessary to enforce the relevant provisions of this Regulation. Those investigatory powers

(142) 臨時措施可作為重要工具，以確保在調查進行期間，正在受到調查的違法行為不會導致對服務接受者有嚴重危害之風險。這項工具對於避免因執委會所作成的決定，於程序結束時產生難以回復的發展而言是至關重要的。因此，考慮到可能採用不符法遵的決定，執委會應有權於進行之程序中決議採取臨時措施。在執委會針對超大型線上平臺或超大型線上搜尋引擎的提供者違反本規則所規定之義務而作出初步決定時，應採用此項權力。實施臨時措施的決定應僅適用於指定期限內，此期限可在執委會之程序終結時結束，或在一個必要且適當的情況下延長之固定期限內。

(143) 執委會應能採取必要的行動，以監督本規則所制定之義務的有效實施與遵守。相關行動應包括委任獨立的外部專家及稽核人員於過程中協助執委會的能力，包括在適用的情況下委任來自會員國主管機關之人員，例如資料或消費者保護機關。在任命稽核人員時，執委會應確保充分輪調。

(144) 遵守本規則所實施之相關義務應能藉由罰款和分期繳納罰款的方式強制執行。為此，對於不遵守義務及違反程序性規則的行為，也應

aim to complement the Commission’s possibility to ask Digital Services Coordinators and other Member States’ authorities for assistance, for instance by providing information or in the exercise of those powers.

- (142) Interim measures can be an important tool to ensure that, while an investigation is ongoing, the infringement being investigated does not lead to the risk of serious damage for the recipients of the service. 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 under this Regulation by the provider of very large online platform or of very large online search engine. A decision imposing interim measures should only apply for a specified period, either one ending with the conclusion of the proceedings by the Commission, or for a fixed period which can be renewed insofar as it is necessary and appropriate.
- (143) The Commission should be able to take the necessary actions to monitor the effective implementation of and compliance with the obligations laid down in this Regulation. Such actions should include the ability to appoint independent external experts and auditors to assist the Commission in this process, including where applicable from competent authorities of the Member States, such as data or consumer protection authorities. When appointing auditors, the Commission should ensure sufficient rotation.
- (144) Compliance with the relevant obligations imposed under this Regulation should be enforceable by means of fines and periodic penalty payments.

制定適當的罰款和分期繳納罰款之標準，同時在符合比例原則與一事不二罰原則下受到適當的時效期限約束。執委會和相關國家機關應協調其執法力度，以確保這些原則得到尊重。特別是，執委會應透過與違反其他歐盟或國家規定有關的訴訟中之最終決定，考慮到對同一法人因同一事實而施加的罰款和處罰，以確保所施加之整體罰款和處罰符合比例原則，且相當於所犯下之違法行為的嚴重性。執委會依據本規則所作成的所有決定依據 TFEU 規定，皆屬歐盟法院的審理之範圍。且依照 TFEU 第 261 條，歐盟法院在罰鍰及罰金繳納方面具有不受限制的管轄權。

- (145) 有鑑於違反僅適用於超大型線上平臺及超大型線上搜尋引擎，針對管理系統性風險的附加義務，可能導致之重大社會效應，並且為了解決這些公共政策事務，有必要對任何所採取的行動提供一個加強監管的制度，以有效終止及補救違反本規則的行為。因此，一旦經過查明，有違反本規則中僅適用於超大型線上平臺及超大型線上搜尋引擎的條款之一的行為，甚至在必要時已實施制裁，則執委會應要求上述平臺或上述搜尋引擎的提供者訂定詳細的行動計畫，為違法行為對將來的任何影響予以補救，並且在執委會設定的時間表之內向數位服務協調員、執委會、及委員會提出該行動計畫。執委會應將委員會的意見納入考量，以確定行動計畫中所包含的措施是否足以解決違法行為，同時考慮到遵循相關行為守則是否包含在所提議的措施當中。執委會還應監督相關超大型線上平臺或超大型線上

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 in accordance with the principles of proportionality and *ne bis in idem*. The Commission and the relevant national authorities should coordinate their enforcement efforts in order to ensure that those 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 Union or national rules, so as to ensure that the overall fines and penalties imposed are proportionate and correspond to the seriousness of the infringements committed. All decisions taken by the Commission under this Regulation are subject to review by the Court of Justice of the European Union in accordance with the TFEU. The Court of Justice of the European Union should have unlimited jurisdiction in respect of fines and penalty payments in accordance with Article 261 TFEU.

- (145) Given the potential significant societal effects of an infringement of the additional obligations to manage systemic risks that solely apply to very large online platforms and very large online search engines and in order to address those public policy concerns, it is necessary to provide for a system of enhanced supervision of any action undertaken to effectively terminate and remedy infringements of this Regulation. Therefore, once an infringement of one of the provisions of this Regulation that solely apply to very large online platforms or very large online search engines has been ascertained and, where necessary, sanctioned, the Commission should request the provider of such platform or of such search engine to draw a detailed action plan to remedy any effect of the infringement for the future and communicate such action plan within a timeline set by

搜尋引擎的提供者按照其行動計畫所述內容，而採取之任何後續措施，同時也對提供者的獨立稽核加以評估。假如在行動計畫實施後，執委會仍認為違法行為尚未得到充分的補救，或是若行動計畫尚未提供或被認為不適當，則執委會應能依據本規定使用任何調查或執法權力，包括施以分期繳納之罰款及啟動使違法服務之存取停用的程序。

- (146) 相關超大型線上平臺或超大型線上搜尋引擎的提供者與受執委會行使權力之約束而其利益可能會受到其決定的影響之其他人員，應有機會事先提交其意見，而所作成之決定應廣泛公告周知。在確保當事人防禦權（特別是閱卷權）時，保護機密資訊亦至關重要。此外，在尊重資訊之機密性的同時，執委會應確保其決定所倚賴之任何資訊的揭露程度，能讓該決定之收受方了解導致該決定的事實及評估因素。

the Commission, to the Digital Services Coordinators, the Commission and the Board. The Commission, taking into account the opinion of the Board, should establish whether the measures included in the action plan are sufficient to address the infringement, taking also into account whether adherence to relevant code of conduct is included among the measures proposed. The Commission should also monitor any subsequent measure taken by the provider of a very large online platform or of a very large online search engine concerned as set out in its action plan, taking into account also an independent audit of the provider. If following the implementation of the action plan the Commission still considers that the infringement has not been fully remedied, or if the action plan has not been provided or is not considered suitable, it should be able to use any investigative or enforcement powers pursuant to this Regulation, including the power to impose periodic penalty payments and initiating the procedure to disable access to the infringing service.

- (146) The provider of the very large online platform or of the very large online search engine concerned and other persons subject to the exercise of the Commission's powers whose interests may be affected by a decision should be given the opportunity of submitting their observations beforehand, and the decisions taken should be widely publicised. While ensuring the rights of defence of the parties concerned, in particular, the right of access to the file, it is essential that confidential information be protected. Furthermore, while respecting the confidentiality of the information, the Commission should ensure that any information relied on for the purpose of its 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.

- (147) 為了保障本規則之統一性適用及執行，重要的是確保國家機關（包括國家法院）擁有所有必要的資訊，以保證其決定不會與執委會依據本規則所通過之決定相抵觸。於此並不影響 TFEU 第 267 條規定之適用。
- (148) 本規則的有效執行及監督需要數位服務協調員、委員會、及執委會間依據本規則所定資訊流與程序進行無縫且即時的資訊交換。在適當的情況下，這也可能成為其他主管機關存取該系統的依據。同時，有鑑於所交換的資訊可能是機密的或涉及個人資料，應依照蒐集資訊的目的，保護該資訊免於未經授權之存取。為此，這些機關之間的所有溝通都應在可靠及安全之資訊共享系統的基礎上進行，其細節應制定於施行細則中。資訊共享系統可以現有的內部市場工具作為基礎，只要其能以具成本效益的方式達成本規則之目標。
- (149) 在不損害服務接受者依據歐洲議會暨理事會 (EU)2020/1828 指令求助於代表，或依據國家法律規定求助於任何其他類型代表之權利的情況下，服務接受者也應有權委託法人或公共團體協助其行使其於本規則規定之權利。這些權利可能包含提交通知、對中介服務提供者所作成的決定提出質疑、及對違反本規則的提供者提出申訴等相關權利。某些團體、組織、與協會在察覺及標記錯誤或不正當的內容審查決定方面具有特殊的專業知識與能力，而且他們代表服務接受者所提出的申訴通常可能會對言論及資訊自由產生正面影響，因

- (147) In order to safeguard the harmonised 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 Article 267 TFEU.
- (148) The effective enforcement and monitoring of this Regulation requires a seamless and real-time exchange of information among the Digital Services Coordinators, the Board and the Commission, based on the information flows and procedures set out in this Regulation. This may also warrant access to this system by other competent authorities, where appropriate. At the same time, given that the information exchanged may be confidential or involving personal data, it should remain protected from unauthorised access, in accordance with the purposes for which the information has been gathered. For this reason, all communications between those authorities should take place on the basis of a reliable and secure information sharing system, whose details should be laid down in an implementing act. The information sharing system may be based on existing internal market tools, to the extent that they can meet the objectives of this Regulation in a cost-effective manner.
- (149) Without prejudice to the rights of recipients of services to turn to a representative in accordance with the Directive (EU) 2020/1828 of the European Parliament and of the Council or to any other type of representation under national law, recipients of the services should also have the right to mandate a legal person or a public body to exercise their rights provided for in this Regulation. Such rights may include the rights related to the submission of notices, the challenging of the decisions taken by providers of intermediary services, and the lodging

此，線上平臺提供者應立即處理這些申訴，不得無故拖延。

(150) 為了有效性及效率，執委會應對本規則進行整體評估。尤其是，該整體評估應特別著眼於本規則所涵蓋的服務範圍、與其他法案的相互影響、本規則對內部市場運作的影響（特別是在數位服務方面）、行為守則的實施情形、指定在歐盟內設立之法定代理人的義務、相關義務對小型及微型企業的影響、監管及執行機制的有效性、以及對言論及資訊自由權的影響。此外，為了避免不成比例的沉重責任並且確保本規則的持續有效性，執委會應在本規則實施之起始日起三年內就本規則所規範之義務對中小企業的影響進行評估，並且對本規則所涵蓋的服務範圍，特別是針對超大型線上平臺及超大型線上搜尋引擎層面，以及對在其生效之三年內與其他法案的相互影響予以評估。

(151) 為確保採取一致條件以實施本規則，應授予執委會執行之權力，用以訂定關於內容審查報告的形式、內容、及其他細節的範本，以及建立向超大型線上平臺及超大型線上搜尋引擎收取的年度監理費

of complaints against the providers for infringing this Regulation. Certain bodies, organisations and associations have particular expertise and competence in detecting and flagging erroneous or unjustified content moderation decisions, and their complaints on behalf of recipients of the service may have a positive impact on freedom of expression and of information in general, therefore, providers of online platforms should treat those complaints without undue delay.

- (150) In the interest of effectiveness and efficiency, the Commission should carry out a general evaluation of this Regulation. In particular, that general evaluation should address, inter alia, the scope of the services covered by this Regulation, the interplay with other legal acts, the impact of this Regulation on the functioning of the internal market, in particular regarding digital services, the implementation of codes of conduct, the obligation to designate a legal representative established in the Union, the effect of the obligations on small and micro enterprises, the effectiveness of the supervision and enforcement mechanism and the impact on the right to freedom of expression and of information. In addition, to avoid disproportionate burdens and ensure the continued effectiveness of this Regulation, the Commission should perform an evaluation of the impact of the obligations set out in this Regulation on small and medium-sized enterprises within three years from the start of its application and an evaluation on the scope of the services covered by this Regulation, particularly for very large online platforms and for very large online search engines, and the interplay with other legal acts within three years from its entry into force.
- (151) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to lay down templates concerning the form, content and other

用數額，並且為了在關於超大型線上平臺及超大型線上搜尋引擎之監管、調查、執法、及監督下所進行的程序、聽證會、經協商之資訊揭露，作出實際可行的安排。此外，為了資訊共享系統的運作及其與其他相關系統的相互可操作性，須建立可實施且可操作之安排。這些權力應依據歐洲議會暨理事會 (EU) 第 182/2011 號規則行使。

- (152) 為了實現本規則之目標，就超大型線上平臺及超大型線上搜尋引擎的識別條件、稽核的程序步驟、方法、與報告範本、存取權限請求的技術規格、以及設定監理費用的詳細方法與程序而言，應將依據 TFEU 第 290 條將通過法案的權力授予執委會，以補充本規則。尤為重要的是，執委會在籌備工作期間應進行適當的磋商，包括專家層級的磋商，且這些磋商應依據 2016 年 4 月 13 日「完善立法機構間協議」中所設置之原則進行。特別是，為了確保平等參與授權法案的準備工作，歐洲議會暨理事會及會員國專家將會同時收到所有文件，而且其專家可有計畫地參加與籌備授權法案相關之執委會專家小組會議。

details of reports on content moderation, to establish the amount of the annual supervisory fee charged on providers of very large online platforms and of very large online search engines, to lay down the practical arrangements for the proceedings, the hearings and the negotiated disclosure of information carried out in the context of supervision, investigation, enforcement and monitoring in respect of providers of very large online platforms and of very large online search engines, as well as to lay down the practical and operational arrangements for the functioning of the information sharing system and its interoperability with other relevant systems. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.

- (152) In order to fulfil the objectives of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation, in respect of criteria for the identification of very large online platforms and of very large online search engines, the procedural steps, methodologies and reporting templates for the audits, the technical specifications for access requests and the detailed methodology and procedures for setting the supervisory fee. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law- Making. 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.

- (153) 本規則尊重《憲章》所認定之基本權利與構成歐盟法一般性原則的基本權利。因此，本規則應依據這些基本權利（包括言論、資訊自由以及媒體自由與多元化）予以解釋及實施。當行使本規則所闡述之權力時，所有涉入之公共機關在相關基本權利發生衝突的情況下，應依照比例原則，於相關權利間達到合理的平衡。
- (154) 考慮到超大型線上平臺及超大型線上搜尋引擎可能造成的社會風險之範圍和影響、優先解決這些風險之需要、以及採取必要措施之能力，限制本規則開始適用於這些服務提供者的期限是正當的。
- (155) 由於會員國無法透過單獨行動達到必要的協調與合作，因此無法充分實現本規則之目標，即促進內部市場的正常運作，並且確保一個安全、可預測、和值得信賴的線上環境，使《憲章》所載入之基本權利得到適當的保護。然而因為涉及領土與個人的領域，這些目標在歐盟層級上更能達成，因此歐盟可依據《歐洲聯盟條約》第5條所述之輔助性原則採取措施。依據該條所述之比例原則，本規則並不超出實現這些目標所需的範圍。

- (153) This Regulation respects the fundamental rights recognised by the Charter and the fundamental rights constituting general principles of Union law. Accordingly, this Regulation should be interpreted and applied in accordance with those fundamental rights, including the freedom of expression and of information, as well as the freedom and pluralism of the media. When exercising the powers set out in this Regulation, all public authorities involved should achieve, in situations where the relevant fundamental rights conflict, a fair balance between the rights concerned, in accordance with the principle of proportionality.
- (154) Given the scope and impact of societal risks that may be caused by very large online platforms and very large online search engines, the need to address those risks as a matter of priority and the capacity to take the necessary measures, it is justified to limit the period after which this Regulation starts to apply to the providers of those services.
- (155) Since the objectives of this Regulation, namely to contribute to the proper functioning of the internal market and to ensure a safe, predictable and trusted online environment in which the fundamental rights enshrined in the Charter are duly protected, cannot be sufficiently achieved by the Member States because they cannot achieve the necessary harmonisation and cooperation by acting alone, but can rather, by reason of territorial and personal scope, be better achieved at the 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 Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

- (156) 依據歐洲議會暨理事會 (EU) 第 2018/1725 號規則第 42 條第 (1) 項，已諮詢歐洲資料保護監督機關，且其已於 2021 年 2 月 10 日提供意見。

(156) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council and delivered an opinion on 10 February 2021,

已通過本規則：

第一章

總則

第 1 條

宗旨

1. 本規則之目的係透過制定一致性規定促進內部中介服務市場之正常運作，建立一個安全、可預測與可信賴之線上環境，促進創新並保障歐盟憲章所揭載之基本權利，包括消費者保護原則等可獲得有效保障。
2. 本規則規定內部市場中介服務提供上之統一規範。其特別規定：
 - (a) 有條件地豁免中介服務提供者責任之架構；
 - (b) 針對特定類別之中介服務提供者所制定之具體盡職調查義務規範；
 - (c) 有關本規則之實施與執行之規範，包括相關主管機關之間的合作與協調規範。

第 2 條

範圍

1. 本規則適用於向於歐盟存在營業據點或實際身處歐盟之服務接受者所提供之中介服務，而不論中介服務提供者之營業據點所在地為何。

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

1. The aim of this Regulation is to contribute to the proper functioning of the internal market for intermediary services by setting out harmonised rules for a safe, predictable and trusted online environment that facilitates innovation and in which fundamental rights enshrined in the Charter, including the principle of consumer protection, are effectively protected.
2. This Regulation lays down harmonised rules on the provision of intermediary services in the internal market. In particular, it establishes:
 - (a) a framework for the conditional exemption from liability of providers of intermediary services;
 - (b) rules on specific due diligence obligations tailored to certain specific categories of providers of intermediary services;
 - (c) rules on the implementation and enforcement of this Regulation, including as regards the cooperation of and coordination between the competent authorities.

Article 2

Scope

1. This Regulation shall apply to intermediary services offered to recipients of the service that have their place of establishment or are located in the Union, irrespective of where the providers of those intermediary services

2. 本規則不適用於任何非屬中介服務之服務，亦不適用於對該等服務所提出之任何要求，不論該等服務是否透過使用中介服務加以提供。
3. 本規則不影響 2000/31/EC 指令之適用。
4. 本規則不影響其他歐盟立法所制定之規範，該等規範規定內部市場提供中介服務之其他事項，或明確與補充了本規則，特別是下述內容：
 - (a) 2010/13/EU 指令；
 - (b) 有關著作權暨關聯權利之歐盟立法；
 - (c) (EU) 2021/784 規則；
 - (d) (EU) 2019/1148 規則；
 - (e) (EU) 2019/1150 規則；
 - (f) 有關消費者保護與產品安全之歐盟立法，包括：(EU) 2017/2394 規則、(EU) 2019/1020 規則、2001/95/EC 指令及 2013/11/EU 指令；
 - (g) 有關個人資料保護之歐盟立法，特別是 (EU) 2016/679 規則及 2002/58/EC 指令；
 - (h) 有關民事領域之司法互助之歐盟立法，特別是 (EU) No 1215/2012 規則，或任何明定有關契約或非契約義務之適用之歐盟立法；
 - (i) 有關刑事領域之司法互助之歐盟立法，特別是歐盟刑事電子證據製作與保存規則；
 - (j) 有關於刑事訴訟中為蒐集證據而任命法律代表之統一規範之指令。

- have their place of establishment.
2. This Regulation shall not apply to any service that is not an intermediary service or to any requirements imposed in respect of such a service, irrespective of whether the service is provided through the use of an intermediary service.
 3. This Regulation shall not affect the application of Directive 2000/31/EC.
 4. This Regulation is without prejudice to the rules laid down by other Union legal acts regulating other aspects of the provision of intermediary services in the internal market or specifying and complementing this Regulation, in particular, the following:
 - (a) Directive 2010/13/EU;
 - (b) Union law on copyright and related rights;
 - (c) Regulation (EU) 2021/784;
 - (d) Regulation (EU) 2019/1148;
 - (e) Regulation (EU) 2019/1150;
 - (f) Union law on consumer protection and product safety, including Regulations (EU) 2017/2394 and (EU) 2019/1020 and Directives 2001/95/EC and 2013/11/EU;
 - (g) Union law on the protection of personal data, in particular Regulation (EU) 2016/679 and Directive 2002/58/EC;
 - (h) Union law in the field of judicial cooperation in civil matters, in particular Regulation (EU) No 1215/2012 or any Union legal act laying down the rules on law applicable to contractual and non-contractual obligations;
 - (i) Union law in the field of judicial cooperation in criminal matters, in particular a Regulation on European Production and Preservation Orders for electronic evidence in criminal matters;
 - (j) a Directive laying down harmonised rules on the appointment of legal

第3條 定義

基於本規則之目的，適用下述之定義規範：

- (a) 「資訊社會服務」係指 (EU) 2015/1535 指令第 1 條第 (1) 項第 (b) 款所定義之「服務」；
- (b) 「服務接受者」係指使用中介服務之任何自然人或法人，特別是出於尋找資訊或使其可被近用之目的者；
- (c) 「消費者」係指出於貿易、商業、工藝或專業以外之目的而從事活動之任何自然人；
- (d) 「於聯盟內提供服務」係指使單一或多數成員國自然人或法人，可得使用與聯盟具實質關聯之中介服務提供者所提供之服務；
- (e) 「與聯盟具實質關聯」係指中介服務提供者因其於歐盟設有營業據點，或因特定之事實標準而與歐盟存在關聯性，諸如：
 - 在一個或多個成員國之中，對比其人口而言，具相當數量之服務接受者；或
 - 具體鎖定一個或多個成員國從事活動；
- (f) 「企業經營者」係指任何自然人或任何法人，無論其係公務抑或非公務，出於與貿易、商業、工藝或專業有關之目的而從事活動，包括基於其名義或代表其從事活動之人；
- (g) 「中介服務」係指下述資訊社會服務態樣之一：

representatives for the purpose of gathering evidence in criminal proceedings.

Article 3

Definitions

For the purpose of this Regulation, the following definitions shall apply:

- (a) ‘information society service’ means a ‘service’ as defined in Article 1(1), point (b), of Directive (EU) 2015/1535;
- (b) ‘recipient of the service’ means any natural or legal person who uses an intermediary service, in particular for the purposes of seeking information or making it accessible;
- (c) ‘consumer’ means any natural person who is acting for purposes which are outside his or her trade, business, craft, or profession;
- (d) ‘to offer services in the Union’ means enabling natural or legal persons in one or more Member States to use the services of a provider of intermediary services that has a substantial connection to the Union;
- (e) ‘substantial connection to the Union’ means a connection of a provider of intermediary services with the Union resulting either from its establishment in the Union or from specific factual criteria, such as:
 - a significant number of recipients of the service in one or more Member States in relation to its or their population; or
 - the targeting of activities towards one or more Member States;
- (f) ‘trader’ means any natural person, or any legal person irrespective of whether it is privately or publicly owned, who is acting, including through any person acting in his or her name or on his or her behalf, for purposes relating to his or her trade, business, craft or profession;
- (g) ‘intermediary service’ means one of the following information society services:

- (i) 「單純作為管道」服務，包括在通訊網路中傳輸服務接受者所提供之資訊，或提供針對通訊網路之近用；
- (ii) 「緩存」服務，包括在通訊網路中傳輸由服務接受者所提供之資訊，涉及該等資訊之自動、中間與臨時性儲存，其執行之唯一目的係根據其他接受者之要求，更富效率地將資訊傳輸予提出要求之接受者；
- (iii) 「託管」服務，包括儲存由服務接受者提供之資訊，以及應其要求所提供之資訊。
- (h) 「非法內容」係指任何資訊，其本身或所涉及、包括產品銷售或服務提供在內之活動，並不符合任何歐盟法律或歐盟成員國法律，無論該等法律之具體主題或性質為何；
- (i) 「線上平臺」係指應服務接受者之請求，面向公眾儲存與傳播資訊之託管服務。若該等活動係其他服務之次要且單純之輔助功能，或主要服務之次要功能，出於客觀和技術原因，在欠缺其他服務之前提下將無法使用，同時將該特徵或功能集成至其他服務之中，亦非規避本規則適用性之手段時，不在此限；
- (j) 「線上搜尋引擎」係指一種中介服務，允許用戶輸入進行搜尋，原則上可對所有網站或特定語言別下之所有網站進行搜尋，可得利用關鍵字、語音輸入、片語或其他輸入方式，對任何主題進行搜尋，並以任何格式回傳搜尋結果，其中可發現與請求內容有關之資訊；

- (i) a ‘mere conduit’ service, consisting of the transmission in a communication network of information provided by a recipient of the service, or the provision of access to a communication network;
 - (ii) a ‘caching’ service, consisting of the transmission in a communication network of information provided by a recipient of the service, involving the automatic, intermediate and temporary storage of that information, performed for the sole purpose of making more efficient the information’s onward transmission to other recipients upon their request;
 - (iii) a ‘hosting’ service, consisting of the storage of information provided by, and at the request of, a recipient of the service;
- (h) ‘illegal content’ means any information that, in itself or in relation to an activity, including the sale of products or the provision of services, is not in compliance with Union law or the law of any Member State which is in compliance with Union law, irrespective of the precise subject matter or nature of that law;
- (i) ‘online platform’ means a hosting service that, at the request of a recipient of the service, stores and disseminates information to the public, unless that activity is a minor and purely ancillary feature of another service or a minor functionality of the principal service and, for objective and technical reasons, cannot be used without that other service, and the integration of the feature or functionality into the other service is not a means to circumvent the applicability of this Regulation;
- (j) ‘online search engine’ means an intermediary service that allows users to input queries in order to perform searches of, in principle, all websites, or all websites in a particular language, on the basis of a query on any subject in the form of a keyword, voice request, phrase or other input, and returns results in any format in which information related to the requested content can be found;

- (k) 「向公眾傳播」係指按照提供資訊之服務接受者之請求，向看似不限數量之第三方提供資訊；
- (l) 「遠距契約」係指 2011/83/EU 指令第 2 條第 (7) 項所定義之遠距契約；
- (m) 「線上界面」係指任何軟體，包括網站或其特定部分，以及包括行動應用程式在內之任何應用程式；
- (n) 「營業據點之數位服務協調人」係指中介服務提供者之主要營業據點之所在地，或其法定代表人居所或設定住所之成員國之數位服務協調人；
- (o) 「目的地之數位服務協調人」係指提供中介服務之成員國之數位服務協調人；
- (p) 「線上平臺之主動接受者」係指藉由請求線上平臺託管資訊或請求揭露線上平臺所託管之資訊，並透過其線上界面而與線上平臺進行接觸之服務接受者；
- (q) 「線上搜尋引擎之主動接受者」係指向線上搜尋引擎提交搜尋請求，並接觸於其線上界面所條列與呈現資訊之服務接受者；
- (r) 「廣告」係指由線上平臺於其線上介面上所提供、旨在宣傳法人或自然人訊息之特定資訊，不論其是否出於商業抑或非商業目的，線上平臺專為宣傳該等資訊而收取報酬；
- (s) 「推薦系統」係指線上平臺所使用之完全或部分自動化系統，可用於在其線上界面中向服務接受者推薦特定資訊或使其優先考慮該等資訊，包括由服務接受者所發起之搜尋結果，或以其他方式確定所顯

- (k) ‘dissemination to the public’ means making information available, at the request of the recipient of the service who provided the information, to a potentially unlimited number of third parties;
- (l) ‘distance contract’ means ‘distance contract’ as defined in Article 2, point (7), of Directive 2011/83/EU;
- (m) ‘online interface’ means any software, including a website or a part thereof, and applications, including mobile applications;
- (n) ‘Digital Services Coordinator of establishment’ means the Digital Services Coordinator of the Member State where the main establishment of a provider of an intermediary service is located or its legal representative resides or is established;
- (o) ‘Digital Services Coordinator of destination’ means the Digital Services Coordinator of a Member State where the intermediary service is provided;
- (p) ‘active recipient of an online platform’ means a recipient of the service that has engaged with an online platform by either requesting the online platform to host information or being exposed to information hosted by the online platform and disseminated through its online interface;
- (q) ‘active recipient of an online search engine’ means a recipient of the service that has submitted a query to an online search engine and been exposed to information indexed and presented on its online interface;
- (r) ‘advertisement’ means information designed to promote the message of a legal or natural person, irrespective of whether to achieve commercial or non-commercial purposes, and presented by an online platform on its online interface against remuneration specifically for promoting that information;
- (s) ‘recommender system’ means a fully or partially automated system used by an online platform to suggest in its online interface specific information to recipients of the service or prioritise that information, including as a result

示資訊之相對順序或重要性；

- (t) 「內容審核」係指中介服務提供者所進行之活動，無論是否以自動化方式進行，其主要目的係檢測、識別與處理由服務接受者所提供、與中介服務提供者之條款與條件不相符之非法內容或資訊，包括採取影響該等非法內容或資訊之可用性、可見性與可近用性之措施，諸如降等、廢止、禁止近用或予以刪除，或影響服務接受者提供該等資訊之能力，諸如終止或暫停其帳號；

- (u) 「條款與條件」係指用以管理中介服務提供者與服務接受者之間契約關係之所有條款，無論其名稱或形式為何；

- (v) 「身心障礙者」係指歐洲議會與歐盟理事會第 2019/882 號指令第 3 條第 1 項規定所述及之身心障礙者；

- (w) 「商業通訊」係指 2000/31/EC 指令第 2 條第 (f) 款所定義之商業通訊；

- (x) 「營業額」係指 139/2004 號規則第 5 條第 1 項定義下之企業所獲取之金額。

第二章

中介服務提供者之責任

第 4 條

單純作為管道

- of a search initiated by the recipient of the service or otherwise determining the relative order or prominence of information displayed;
- (t) ‘content moderation’ means the activities, whether automated or not, undertaken by providers of intermediary services, that are aimed, in particular, at detecting, identifying and addressing illegal content or information incompatible with their terms and conditions, provided by recipients of the service, including measures taken that affect the availability, visibility, and accessibility of that illegal content or that information, such as demotion, demonetisation, disabling of access to, or removal thereof, or that affect the ability of the recipients of the service to provide that information, such as the termination or suspension of a recipient’s account;
- (u) ‘terms and conditions’ means all clauses, irrespective of their name or form, which govern the contractual relationship between the provider of intermediary services and the recipients of the service;
- (v) ‘persons with disabilities’ means ‘persons with disabilities’ as referred to in Article 3, point (1), of Directive (EU) 2019/882 of the European Parliament and of the Council;
- (w) ‘commercial communication’ means ‘commercial communication’ as defined in Article 2, point (f), of Directive 2000/ 31/EC;
- (x) ‘turnover’ means the amount derived by an undertaking within the meaning of Article 5(1) of Council Regulation (EC) No 139/2004.

CHAPTER II

LIABILITY OF PROVIDERS OF INTERMEDIARY SERVICES

Article 4

‘Mere conduit’

1. 若所提供之資訊社會服務包括在通訊網路中傳輸服務接受者所提供之資訊，或提供通訊網路之近用，在符合下列條件時，服務提供者無須對其所傳輸或收受之資訊承擔責任：
 - (a) 未發起傳輸；
 - (b) 未挑選傳輸之接受者；
 - (c) 未選擇或修改傳輸中所包含之資訊。

2. 前項之傳輸與提供近用行為，應包括所傳輸資訊之自動、中間與暫時性儲存，而此類儲存之唯一目的，係於通訊網路中進行傳輸，且資訊的儲存時間不得超過傳輸所必須之合理時間。

3. 本條規定並不影響司法或行政機關，根據成員國法律制度要求服務提供者終止服務或防範侵權行為之可能。

第 5 條 緩存

1. 若所提供之資訊社會服務包括在通訊網路中傳輸服務接受者所提供之資訊，且其唯一目的係應其他服務接受者之要求，更富效率或更安全地將資訊傳輸予其他接受者，於符合下述條件時，服務提供者不對該等資訊之自動、中間與臨時性儲存負責：

1. Where an information society service is provided that consists of the transmission in a communication network of information provided by a recipient of the service, or the provision of access to a communication network, the service provider shall not be liable for the information transmitted or accessed, on condition that the provider:
 - (a) does not initiate the transmission;
 - (b) does not select the receiver of the transmission; and
 - (c) does not select or modify the information contained in the transmission.
2. The acts of transmission and of provision of access referred to in paragraph 1 shall include the automatic, intermediate and transient storage of the information transmitted in so far as this takes place for the sole purpose of carrying out the transmission in the communication network, and provided that the information is not stored for any period longer than is reasonably necessary for the transmission.
3. This Article shall not affect the possibility for a judicial or administrative authority, in accordance with a Member State's legal system, to require the service provider to terminate or prevent an infringement.

Article 5

'Caching'

1. Where an information society service is provided that consists of the transmission in a communication network of information provided by a recipient of the service, the service provider shall not be liable for the automatic, intermediate and temporary storage of that information, performed for the sole purpose of making more efficient or more secure the information's onward transmission to other recipients of the service upon their request, on condition that the provider:

- (a) 未修改資訊；
 - (b) 遵循獲取資訊之條件；
 - (c) 遵循基於行業廣泛認可與使用方式之規則，進行資訊之更新；

 - (d) 不干擾出於行業廣泛認可與使用之技術之合法使用，獲取相關資訊所使用之數據；以及
 - (e) 當實際獲知所傳輸之原始出處之資訊，已自網路中刪除或已被禁止近用，或司法機關或行政主管機關已下令刪除或禁止近用，應迅速採取行動，刪除其所儲存之資訊或禁止近用。
2. 本條規定並不影響司法或行政機關，根據成員國法律制度要求服務提供者終止服務或防範侵權行為之可能。

第 6 條 託管

1. 若所提供之資訊社會服務包括儲存服務接受者所提供之資訊，於符合下述條件時，服務提供者不對依據服務接受者請求所儲存之資訊負責：
- (a) 對非法活動或非法內容並無實際了解，同時就損害賠償而言，並不了解明顯存在著非法活動或非法內容之事實或狀況；或者
 - (b) 在獲得此類知識或認識後，迅速採取行動刪除非法內容或禁止近用。
2. 若服務接受者係於提供者之授權或控制之下從事活動，則不適用前項規定。

- (a) does not modify the information;
 - (b) complies with conditions on access to the information;
 - (c) complies with rules regarding the updating of the information, specified in a manner widely recognised and used by industry;
 - (d) does not interfere with the lawful use of technology, widely recognised and used by industry, to obtain data on the use of the information; and
 - (e) acts expeditiously to remove or to disable access to the information it has stored upon obtaining actual knowledge of the fact that the information at the initial source of the transmission has been removed from the network, or access to it has been disabled, or that a judicial or an administrative authority has ordered such removal or disablement.
2. This Article shall not affect the possibility for a judicial or administrative authority, in accordance with a Member State's legal system, to require the service provider to terminate or prevent an infringement.

Article 6

Hosting

1. Where an information society service is provided that consists of the storage of information provided by a recipient of the service, the service provider shall not be liable for the information stored at the request of a recipient of the service, on condition that the provider:
- (a) does not have actual knowledge of illegal activity or illegal content and, as regards claims for damages, is not aware of facts or circumstances from which the illegal activity or illegal content is apparent; or
 - (b) upon obtaining such knowledge or awareness, acts expeditiously to remove or to disable access to the illegal content.
2. Paragraph 1 shall not apply where the recipient of the service is acting under the authority or the control of the provider.

3. 第 1 項規定不適用於允許消費者與企業經營者締結遠距契約之線上平臺，其依據消費者保護法所須承擔之責任，若該等線上平臺提供特定資訊或以其他方式實現系爭交易，從而使通常消費者相信該等資訊或作為交易標的之產品或服務，係由線上平臺本身或其所授權或控制之下服務接受者所提供。

4. 本條規定並不影響司法或行政機關，根據成員國法律制度要求服務提供者終止服務或防範侵權行為之可能。

第 7 條

自願主動調查並遵循法律

不得僅因中介服務提供者出於善意與勤勉，針對非法內容進行自願性主動調查，或採取其他行動以檢測、識別與刪除非法內容或禁止近用，或採取必要措施遵循包括本規則要求在內之歐盟法律與成員國法律規範，從而認定中介服務提供者並未享有第 4 條、第 5 條及第 6 條所規定之豁免資格。

第 8 條

未有一般監控或積極調查事實之義務

不應要求中介服務提供者承擔監控其所傳輸或儲存之資訊之一般義務，亦不應要中介服務提供者承擔積極尋找可表明非法活動存在之事實或狀

3. Paragraph 1 shall not apply with respect to the liability under consumer protection law of online platforms that allow consumers to conclude distance contracts with traders, where such an online platform presents the specific item of information or otherwise enables the specific transaction at issue in a way that would lead an average consumer to believe that the information, or the product or service that is the object of the transaction, is provided either by the online platform itself or by a recipient of the service who is acting under its authority or control.
4. This Article shall not affect the possibility for a judicial or administrative authority, in accordance with a Member State's legal system, to require the service provider to terminate or prevent an infringement.

Article 7

Voluntary own-initiative investigations and legal compliance

Providers of intermediary services shall not be deemed ineligible for the exemptions from liability referred to in Articles 4, 5 and 6 solely because they, in good faith and in a diligent manner, carry out voluntary own-initiative investigations into, or take other measures aimed at detecting, identifying and removing, or disabling access to, illegal content, or take the necessary measures to comply with the requirements of Union law and national law in compliance with Union law, including the requirements set out in this Regulation.

Article 8

No general monitoring or active fact-finding obligations

No general obligation to monitor the information which providers of intermediary services transmit or store, nor actively to seek facts or

況之義務。

第 9 條 打擊非法內容之命令

1. 中介服務提供者於接獲國家司法或行政機關根據歐盟法律與成員國法律，針對單一或多項非法內容所發出之命令後，中介服務提供者應立即通知發出命令之機關或命令中所指定之其他機關，明確說明該命令是否生效以及於何時生效。

2. 成員國應確保將前項規定所提及之命令發送予中介服務提供者時，應至少滿足下述條件：
 - (a) 該等命令應包括下述要素：
 - (i) 該等命令於歐盟法律或成員國法律下之法律基礎；

 - (ii) 藉由援引歐盟法律或成員國法律之一項或多項具體規定，解釋系爭資訊被視為非法內容之理由；

 - (iii) 識別發出命令之機關之資訊；
 - (iv) 使中介服務提供者可得識別與定位相關非法內容之明確資訊，諸如一個或多個準確的 URL，以及必要時之附加資訊；

 - (v) 中介服務提供者與其所提供內容之服務接受者，可得尋求之救濟機制之資訊；

 - (vi) 在適用之前提下，有關將接收命令暨其所生效果之機構之資訊。

circumstances indicating illegal activity shall be imposed on those providers.

Article 9

Orders to act against illegal content

1. Upon the receipt of an order to act against one or more specific items of illegal content, issued by the relevant national judicial or administrative authorities, on the basis of the applicable Union law or national law in compliance with Union law, providers of intermediary services shall inform the authority issuing the order, or any other authority specified in the order, of any effect given to the order without undue delay, specifying if and when effect was given to the order.
2. Member States shall ensure that when an order referred to in paragraph 1 is transmitted to the provider, it meets at least the following conditions:
 - (a) that order contains the following elements:
 - (i) a reference to the legal basis under Union or national law for the order;
 - (ii) a statement of reasons explaining why the information is illegal content, by reference to one or more specific provisions of Union law or national law in compliance with Union law;
 - (iii) information identifying the issuing authority;
 - (iv) clear information enabling the provider of intermediary services to identify and locate the illegal content concerned, such as one or more exact URL and, where necessary, additional information;
 - (v) information about redress mechanisms available to the provider of intermediary services and to the recipient of the service who provided the content;
 - (vi) where applicable, information about which authority is to receive the information about the effect given to the orders;

- (b) 根據適用的歐盟法律與成員國法律規定，包括憲章以及相關之國際法一般原則，該等命令之地域範圍，應限於實現其目標所必要之範圍之內。
- (c) 該等命令應以發出命令的機關與中介服務提供者間所協商，依據第 11 條第 3 項規定聲明的語言別之一或成員國的其他官方語言之一進行傳送，並傳送至中介服務提供者所指定的電子聯繫點。如果該等命令未以中介服務提供者所聲明的語言或其他雙方協議的語言起草，則該等命令可得以發出命令的機關使用之語言進行傳送，但應檢附至少包含本項第 (a) 款與第 (b) 款規定要件之聲明或雙方協議語言別之翻譯。
3. 發出命令的機關或當中受指定之機關（於有此一情形時），應將該等命令連同中介服務提供者所接獲、有關該等命令之生效情況之任何資訊，併同傳送予發出該等命令的成員國之數位服務協調人。
 4. 成員國數位服務協調人自司法或行政機關接獲該等命令後，其應毫不遲延，透過依本法第 85 條規定所建立之系統，將第 1 項規定的命令之副本，傳送予所有其他數位服務協調人。
 5. 最遲應於命令生效時，或已有適用之情形下，根據發出機關於命令中所定時間點，中介服務提供者應通知相關服務之接受者，其所接獲的命令以及該等命令之生效情形。提供予服務接受者的訊息，應當包括

- (b) the territorial scope of that order, on the basis of the applicable rules of Union and national law, including the Charter, and, where relevant, general principles of international law, is limited to what is strictly necessary to achieve its objective;
- (c) that order is transmitted in one of the languages declared by the provider of intermediary services pursuant to Article 11(3) or in another official language of the Member States, agreed between the authority issuing the order and that provider, and is sent to the electronic point of contact designated by that provider, in accordance with Article 11; where the order is not drafted in the language declared by the provider of intermediary services or in another bilaterally agreed language, the order may be transmitted in the language of the authority issuing the order, provided that it is accompanied by a translation into such declared or bilaterally agreed language of at least the elements set out in points (a) and (b) of this paragraph.
3. The authority issuing the order or, where applicable, the authority specified therein, shall transmit it, along with any information received from the provider of intermediary services concerning the effect given to that order to the Digital Services Coordinator from the Member State of the issuing authority.
 4. After receiving the order from the judicial or administrative authority, the Digital Services Coordinator of the Member State concerned shall, without undue delay, transmit a copy of the order referred to in paragraph 1 of this Article to all other Digital Services Coordinators through the system established in accordance with Article 85.
 5. At the latest when effect is given to the order or, where applicable, at the time provided by the issuing authority in its order, providers of intermediary services shall inform the recipient of the service concerned of

說明理由、現行救濟機會，以及根據第 2 項規定之命令適用地域範圍之描述。

6. 本條所規定的條件與要求，並不影響國家民事與刑事訴訟法之適用。

第 10 條 提供資訊之命令

1. 中介服務提供者應於接獲相關國家司法或行政機關，根據歐盟法律或符合歐盟法律之成員國法律所發出、要求提供有關一個或多個特定服務接受者之具體資訊之命令後，迅速且無不當延遲地通知發出該等命令之機關或命令中所指定之其他機關，通報其已經接獲該等命令以及該等命令之執行情況，並說明是否業已執行該等命令，以及於何時確實執行該等命令。
2. 成員國應確保在前項規定所提及之命令發送予中介服務提供者時，應至少符合下述條件：
 - (a) 該等命令應包括下述要素：
 - (i) 該等命令於歐盟法律或成員國法律下之法律基礎；
 - (ii) 識別發出命令之機關之資訊；
 - (iii) 使中介服務提供者可得識別擬索資訊之特定接受者或接受者之清晰訊息，例如一個或多個帳戶名稱或唯一識別碼；

the order received and to the effect given to it. Such information provided to the recipient of the service shall include a statement of reasons, the possibilities for redress that exist, and a description of the territorial scope of the order, in accordance with paragraph 2.

6. The conditions and requirements laid down in this Article shall be without prejudice to national civil and criminal procedural law.

Article 10

Orders to provide information

1. Upon receipt of an order to provide specific information about one or more specific individual recipients of the service, issued by the relevant national judicial or administrative authorities on the basis of the applicable Union law or national law in compliance with Union law, providers of intermediary services shall, without undue delay inform the authority issuing the order, or any other authority specified in the order, of its receipt and of the effect given to the order, specifying if and when effect was given to the order.
2. Member States shall ensure that when an order referred to in paragraph 1 is transmitted to the provider, it meets at least the following conditions:
 - (a) that order contains the following elements:
 - (i) a reference to the legal basis under Union or national law for the order;
 - (ii) information identifying the issuing authority;
 - (iii) clear information enabling the provider of intermediary services to identify the specific recipient or recipients on whom information is sought, such as one or more account names or unique identifiers;

- (iv) 解釋說明索要資訊之目的，以及資訊提供請求係有其必要且適當，以確定中介服務的接受者是否符合所適用之歐盟法律或符合歐盟法律之成員國法律。但出於與預防、調查、檢測與起訴刑事犯罪有關之原因，從而無法提供此類說明時，不在此限；
 - (v) 中介服務提供者與服務之接受者，可得尋求之救濟機制之資訊；
 - (vi) 在適用之情形下，關於何機關將接收命令執行情況訊息之資訊；
- (b) 該等命令僅要求中介服務提供者提供出於服務提供之目的所蒐集，並處於其控制狀態下之資訊：
- (c) 該等命令應以發出命令的機關與中介服務提供者間所協商，依據第 11 條第 3 項規定聲明的語言別之一或成員國的其他官方語言之一進行傳送，並傳送至中介服務提供者所指定的電子聯繫點。如果該等命令未以中介服務提供者所聲明的語言或其他雙方協議的語言起草，則該等命令得以發出命令的機關使用之語言進行傳送，但應檢附至少包含本項第 (a) 款與第 (b) 款規定要件之聲明或雙方協議語言別之翻譯。
3. 發出命令的機關或當中受指定之機關（於有此一情形時），應將該等命令連同中介服務提供者所接獲、有關該等命令之生效情況之任何資訊，併同傳送予發出該等命令的成員國之數位服務協調人。

- (iv) a statement of reasons explaining the objective for which the information is required and why the requirement to provide the information is necessary and proportionate to determine compliance by the recipients of the intermediary services with applicable Union law or national law in compliance with Union law, unless such a statement cannot be provided for reasons related to the prevention, investigation, detection and prosecution of criminal offences;
 - (v) information about redress mechanisms available to the provider and to the recipients of the service concerned;
 - (vi) where applicable, information about which authority is to receive the information about the effect given to the orders;
- (b) that order only requires the provider to provide information already collected for the purposes of providing the service and which lies within its control;
- (c) that order is transmitted in one of the languages declared by the provider of intermediary services pursuant to Article 11(3) or in another official language of the Member States, agreed between the authority issuing the order and the provider, and is sent to the electronic point of contact designated by that provider, in accordance with Article 11; where the order is not drafted in the language declared by the provider of intermediary services or in another bilaterally agreed language, the order may be transmitted in the language of the authority issuing the order, provided that it is accompanied by a translation into such declared or bilaterally agreed language of at least the elements set out in points (a) and (b) of this paragraph.
3. The authority issuing the order or, where applicable, the authority specified therein, shall transmit it, along with any information received from the provider of intermediary services concerning the effect given to that order

4. 會員國數位服務協調人自司法或行政機關接獲該等命令後，其應毫不遲延，透過依本法第 85 條規定所建立之系統，將第 1 項規定的命令之副本，傳送予所有其他數位服務協調人。
5. 最遲應於命令生效時，或已有適用之情形下，根據發出機關於命令中所定時間點，中介服務提供者應通知相關服務之接受者，其所接獲的命令以及該等命令之生效情形。提供予服務接受者的訊息，應包括根據第 2 項規定之說明理由及現行可用之救濟機會。
6. 本條所規定的條件與要求，並不影響國家民事與刑事訴訟法之適用。

第三章

維護透明安全的線上環境之盡職調查義務

第一節

適用於所有中介服務提供者之規定

第 11 條

對應成員國主管機關、歐盟執委會與歐洲數位服務委員會之聯繫窗口

1. 中介服務提供者應指定一個單一聯繫窗口，使其可得透過電子方式直接與成員國主管機關、歐盟執委會以及依第 61 條規定所指定之歐洲

- to the Digital Services Coordinator from the Member State of the issuing authority.
4. After receiving the order from the judicial or administrative authority, the Digital Services Coordinator of the Member State concerned shall, without undue delay, transmit a copy of the order referred to in paragraph 1 of this Article to all Digital Services Coordinators through the system established in accordance with Article 85.
 5. At the latest when effect is given to the order, or, where applicable, at the time provided by the issuing authority in its order, providers of intermediary services shall inform the recipient of the service concerned of the order received and the effect given to it. Such information provided to the recipient of the service shall include a statement of reasons and the possibilities for redress that exist, in accordance with paragraph 2.
 6. The conditions and requirements laid down in this Article shall be without prejudice to national civil and criminal procedural law.

CHAPTER III

DUE DILIGENCE OBLIGATIONS FOR A TRANSPARENT AND SAFE ONLINE ENVIRONMENT

SECTION 1

Provisions applicable to all providers of intermediary services

Article 11

Points of contact for Member States' authorities, the Commission and the Board

1. Providers of intermediary services shall designate a single point of contact to enable them to communicate directly, by electronic means, with Member

數位服務委員會，就本規定之應用進行溝通。

2. 中介服務提供者應公布必要資訊，以便輕易識別並與其單一聯繫窗口進行聯繫。相關資訊應易於近用並保持更新。
3. 中介服務提供者應於前項規定之資訊中，指定成員國官方語言，除了歐盟公民最廣泛理解的語言別之一外，並應至少包括中介服務提供者之主要營業據點所在成員國之官方語言之一，或其法定代表人之居所或所設定之住所之官方語言，用以與其聯繫窗口進行聯繫。

第 12 條

對應服務接受者之聯繫窗口

1. 中介服務提供者應指定一個單一聯繫窗口，使服務接受者可得透過電子方式與用戶友好方式，直接且迅速地與中介服務提供者進行溝通，包括允許服務接受者選擇溝通方式，而不單純依賴自動化工具進行。
2. 除 2000/31/EC 指令所規定之義務，中介服務提供者應公布針對服務接受者所提供之資訊，以便輕易識別並與其單一聯繫窗口進行聯繫。相關資訊應易於近用並保持更新。

States' authorities, the Commission and the Board referred to in Article 61 for the application of this Regulation.

2. Providers of intermediary services shall make public the information necessary to easily identify and communicate with their single points of contact. That information shall be easily accessible, and shall be kept up to date.
3. Providers of intermediary services shall specify in the information referred to in paragraph 2 the official language or languages of the Member States which, in addition to a language broadly understood by the largest possible number of Union citizens, can be used to communicate with their points of contact, and which shall include at least one of the official languages of the Member State in which the provider of intermediary services has its main establishment or where its legal representative resides or is established.

Article 12

Points of contact for recipients of the service

1. Providers of intermediary services shall designate a single point of contact to enable recipients of the service to communicate directly and rapidly with them, by electronic means and in a user-friendly manner, including by allowing recipients of the service to choose the means of communication, which shall not solely rely on automated tools.
2. In addition to the obligations provided under Directive 2000/31/EC, providers of intermediary services shall make public the information necessary for the recipients of the service in order to easily identify and communicate with their single points of contact. That information shall be easily accessible, and shall be kept up to date.

第 13 條 法定代表人

1. 在歐盟境內未有營業據點，但面向歐盟提供服務之中介服務提供者，應以書面方式指定一名法人或自然人，在中介服務提供者實際提供服務的會員國中之一成員國，擔任其法定代表人。
2. 中介服務提供者應授權其法定代表人，以便成員國主管機關、歐盟執委會與歐洲數位服務委員會針對與本規定有關之所有問題，均可以對其發出決定並要求其回應，此回應可以是追加性質或直接代替中介服務提供者之回應。中介服務提供者應授予其法定代表人必要的權力與充分資源，以保證其將成員國主管當局、歐盟執委會與歐洲數位服務委員會進行有效且及時之合作，並且遵守該等決定。
3. 經指定之法定代表人可因其未遵循本規則所規定之義務而承擔責任，但其不影響針對中介服務提供者所提起之責任追究與法律訴訟。
4. 中介服務提供者應向法定代表人之居所或設定住所之成員國之數位服務協調人，告知其法定代表人之姓名、郵寄地址、電子郵件地址與電話號碼。中介服務提供者應確保該等資訊處於公開、易於近用、準確並保持更新之狀態。
5. 根據第 1 項規定於歐盟境內所指定之法定代表人，不被視為歐盟境內之營業據點。

Article 13

Legal representatives

1. Providers of intermediary services which do not have an establishment in the Union but which offer services in the Union shall designate, in writing, a legal or natural person to act as their legal representative in one of the Member States where the provider offers its services.
2. Providers of intermediary services shall mandate their legal representatives for the purpose of being addressed in addition to or instead of such providers, by the Member States' competent authorities, the Commission and the Board, on all issues necessary for the receipt of, compliance with and enforcement of decisions issued in relation to this Regulation. Providers of intermediary services shall provide their legal representative with necessary powers and sufficient resources to guarantee their efficient and timely cooperation with the Member States' competent authorities, the Commission and the Board, and to comply with such decisions.
3. It shall be possible for the designated legal representative to be held liable for non-compliance with obligations under this Regulation, without prejudice to the liability and legal actions that could be initiated against the provider of intermediary services.
4. Providers of intermediary services shall notify the name, postal address, email address and telephone number of their legal representative to the Digital Services Coordinator in the Member State where that legal representative resides or is established. They shall ensure that that information is publicly available, easily accessible, accurate and kept up to date.
5. The designation of a legal representative within the Union pursuant to paragraph 1 shall not constitute an establishment in the Union.

第 14 條 條款與條件

1. 中介服務提供者應於其條款與條件之中，納入有關中介服務提供者針對服務接受者提供的訊息所施加的任何限制之資訊。該等資訊應包括有關運用於內容審查目的之政策、程序、措施與工具之資訊，包括演算法決策與人工審查，以及其內部投訴處理系統之程序規則等。同時該等資訊應以明確、簡單、易懂、用戶友好與明確的語言別呈現，並應以易於近用且可供機器判讀之格式公開提供。
2. 中介服務提供者應告知服務接受者有關條款與條件之任何重大變更。
3. 若中介服務的主要客群係未成年人或主要由未成年人使用，該等中介服務的提供者應以未成年人可得理解之方式，解釋服務使用上的有關條件與任何限制。
4. 中介服務提供者在適用與執行第 1 項規定之限制時，應以勤勉、客觀與符合比例之方式進行，並應充分考慮所有相關利害關係人之權利與合法利益，包括服務接受者之基本權利，諸如言論自由、媒體自由與多元化，以及歐盟憲章載明之其他基本權利與自由。
5. 超大型線上平臺與超大型線上搜尋引擎之提供者，應向服務接受者提供簡明、易於近用且可供機器判讀的條款與條件之摘要，包括可尋求

Article 14

Terms and conditions

1. Providers of intermediary services shall include information on any restrictions that they impose in relation to the use of their service in respect of information provided by the recipients of the service, in their terms and conditions. That information shall include information on any policies, procedures, measures and tools used for the purpose of content moderation, including algorithmic decision-making and human review, as well as the rules of procedure of their internal complaint handling system. It shall be set out in clear, plain, intelligible, user-friendly and unambiguous language, and shall be publicly available in an easily accessible and machine-readable format.
2. Providers of intermediary services shall inform the recipients of the service of any significant change to the terms and conditions.
3. Where an intermediary service is primarily directed at minors or is predominantly used by them, the provider of that intermediary service shall explain the conditions for, and any restrictions on, the use of the service in a way that minors can understand.
4. Providers of intermediary services shall act in a diligent, objective and proportionate manner in applying and enforcing the restrictions referred to in paragraph 1, with due regard to the rights and legitimate interests of all parties involved, including the fundamental rights of the recipients of the service, such as the freedom of expression, freedom and pluralism of the media, and other fundamental rights and freedoms as enshrined in the Charter.
5. Providers of very large online platforms and of very large online search engines shall provide recipients of services with a concise, easily-accessible

之救濟措施與救濟機制，同時使用明確而不含糊之語言別。

6. 符合第 33 條定義之超大型線上平臺與超大型線上搜尋引擎，應以其服務所涉及的所有成員國之官方語言，公布服務條款與條件。

第 15 條

中介服務提供者之透明度報告義務

1. 中介服務提供者應每年至少一次，以可供機器判讀的格式與易於近用之方式，針對其於周期內所進行的任何內容之審查，公布清晰且易於理解之報告。當有適用時，前揭報告應包括下述資訊：
 - (a) 對中介服務提供者而言，其自成員國主管機關所接獲的命令之數量，包括根據第 9 條及第 10 條規定所發出之命令、非法內容之類型、發出該等命令之成員國以及通知發出機關或在該命令中指定之其他機關收到命令之數量，以及執行該等命令所需之平均時間；
 - (b) 對託管服務提供者而言，根據所指定的非法內容之類型，依第 16 條規定所提交之通知數量、由可信任的舉報者所提交之通知數量、根據通知所採取的任何行動，區分行動係基於法律抑或提供者所訂條款與條件、使用自動方式處理之通知數量，以及採取行動所需之平均時間；

and machine-readable summary of the terms and conditions, including the available remedies and redress mechanisms, in clear and unambiguous language.

6. Very large online platforms and very large online search engines within the meaning of Article 33 shall publish their terms and conditions in the official languages of all the Member States in which they offer their services.

Article 15

Transparency reporting obligations for providers of intermediary services

1. Providers of intermediary services shall make publicly available, in a machine-readable format and in an easily accessible manner, at least once a year, clear, easily comprehensible reports on any content moderation that they engaged in during the relevant period. Those reports shall include, in particular, information on the following, as applicable:
 - (a) for providers of intermediary services, the number of orders received from Member States' authorities including orders issued in accordance with Articles 9 and 10, categorised by the type of illegal content concerned, the Member State issuing the order, and the median time needed to inform the authority issuing the order, or any other authority specified in the order, of its receipt, and to give effect to the order;
 - (b) for providers of hosting services, the number of notices submitted in accordance with Article 16, categorised by the type of alleged illegal content concerned, the number of notices submitted by trusted flaggers, any action taken pursuant to the notices by differentiating whether the action was taken on the basis of the law or the terms and conditions of the provider, the number of notices processed by using automated means and the median time needed for taking the action;

(c) 對中介服務提供者而言，有關其主動進行的內容審查之有意義且易於理解之資訊，包括自動化工具之使用、針對內容審查負責人員提供培訓與協助等措施，所採取之措施之數量與類型對服務接受者所提供的資訊之可用性、可見性、可訪問性以及服務接受者透過服務提供資訊的能力之所生影響，以及有關服務之其他限制；報告所載資訊應根據非法內容的類型或違反服務提供者條款與條件情形進行分類，及按檢測方法與應用之限制類型進行分類；

(d) 對於中介服務提供者而言，按其條款與條件，透過內部投訴系統所接獲之投訴案件數量；此外，對線上平臺提供者而言，根據第 20 條，相關投訴案件之來源，針對投訴所採取之決定、作成決定所需之平均時間，以及相關決定被撤銷之數量；

(e) 為實現內容審查目的所使用之自動化方式，包括定性描述、具體目的之說明、用於實現相關目的所使用之自動化方式，其精確性與可能出現的錯誤率之衡量指標，以及所採取的任何保障措施。

2. 前項規定並不適用符合歐盟 2003/361/EC 建議書之小型企業或微型企業定義，且不屬於本法第 33 條所規定之超大型線上平臺之中介服務提供者。

3. 歐盟執委會可針對依第 1 項規定所應提出的報告之形式、內容和其他

- (c) for providers of intermediary services, meaningful and comprehensible information about the content moderation engaged in at the providers' own initiative, including the use of automated tools, the measures taken to provide training and assistance to persons in charge of content moderation, the number and type of measures taken that affect the availability, visibility and accessibility of information provided by the recipients of the service and the recipients' ability to provide information through the service, and other related restrictions of the service; the information reported shall be categorised by the type of illegal content or violation of the terms and conditions of the service provider, by the detection method and by the type of restriction applied;
 - (d) for providers of intermediary services, the number of complaints received through the internal complaint-handling systems in accordance with the provider's terms and conditions and additionally, for providers of online platforms, in accordance with Article 20, the basis for those complaints, decisions taken in respect of those complaints, the median time needed for taking those decisions and the number of instances where those decisions were reversed;
 - (e) any use made of automated means for the purpose of content moderation, including a qualitative description, a specification of the precise purposes, indicators of the accuracy and the possible rate of error of the automated means used in fulfilling those purposes, and any safeguards applied.
2. Paragraph 1 of this Article shall not apply to providers of intermediary services that qualify as micro or small enterprises as defined in Recommendation 2003/361/EC and which are not very large online platforms within the meaning of Article 33 of this Regulation.
 3. The Commission may adopt implementing acts to lay down templates

細節，包括一致的報告期間及範本之採用等，制定執行法規。相關執行法規應按照第 88 條之諮詢程序加以通過。

第二節

適用於託管服務提供者（包括線上平臺）之附加規定

第 16 條

通報與行動機制

1. 託管服務提供者應建立機制，允許任何個人或實體通報其服務中存在該個人或實體認為屬於非法內容之特定資訊。相關機制應易於存取且用戶友好，並應允許僅透過電子方式進行通報。

2. 前項所述機制應有助於提交精確及可充分證明之通報。基此，託管服務提供者應採取必要措施，以支持並便於提交包含下述事項之通報：
 - (a) 對個人或實體聲稱相關資訊屬於非法內容之原因，進行充分解釋；

 - (b) 明確揭示該等資訊之確切電子位址，諸如準確的單一或多個 URL，以及必要時提供額外附加資訊，以便識別適用於內容類型與特定託管服務類型之非法內容；

concerning the form, content and other details of reports pursuant to paragraph 1 of this Article, including harmonised reporting periods. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 88.

SECTION 2

Additional provisions applicable to providers of hosting services, including online platforms

Article 16

Notice and action mechanisms

1. Providers of hosting services shall put mechanisms in place to allow any individual or entity to notify them of the presence on their service of specific items of information that the individual or entity considers to be illegal content. Those mechanisms shall be easy to access and user-friendly, and shall allow for the submission of notices exclusively by electronic means.
2. The mechanisms referred to in paragraph 1 shall be such as to facilitate the submission of sufficiently precise and adequately substantiated notices. To that end, the providers of hosting services shall take the necessary measures to enable and to facilitate the submission of notices containing all of the following elements:
 - (a) a sufficiently substantiated explanation of the reasons why the individual or entity alleges the information in question to be illegal content;
 - (b) a clear indication of the exact electronic location of that information, such as the exact URL or URLs, and, where necessary, additional information enabling the identification of the illegal content adapted to the type of content and to the specific type of hosting service;

- (c) 提交通報的個人或實體之姓名與電子郵件地址，但涉及 2011/93/EU 指令第 3 條至第 7 條所述犯罪行為之一的資訊，不在此限；
 - (d) 確認提交通報的個人或實體，真誠相信其通報所包含的資訊與指控係準確且完整之聲明。
3. 就所涉及之具體資訊而言，本條所稱之通報應被視為根據第 6 條之目的所引發的實際知識或認識，其允許勤勉的託管服務提供者，在未進行詳盡的法律審查之情形下，識別相關活動或資訊之非法性。
 4. 如果通報中包含提交通報的個人或實體之電子聯絡資訊，託管服務提供者應立即向該等個人或實體發送業已收到通報之確認訊息。
 5. 託管服務提供者亦應於毫無延遲之下，針對個人或實體通報中所涉資訊之決定，通報該等個人或實體，並提供對其所作決定尋求救濟的可能性之資訊。
 6. 託管服務提供者應及時、勤勉、非武斷且客觀地處理第 1 項規定所稱機制下接獲的任何通報，並針對通報中所涉資訊作出決定。若託管服務提供者係使用自動化方式進行處理或作出決定，其應於第 5 項規定所稱通報中納入有關使用自動化方式之資訊。

第 17 條 理由說明

- (c) the name and email address of the individual or entity submitting the notice, except in the case of information considered to involve one of the offences referred to in Articles 3 to 7 of Directive 2011/93/EU;
- (d) a statement confirming the bona fide belief of the individual or entity submitting the notice that the information and allegations contained therein are accurate and complete.
3. Notices referred to in this Article shall be considered to give rise to actual knowledge or awareness for the purposes of Article 6 in respect of the specific item of information concerned where they allow a diligent provider of hosting services to identify the illegality of the relevant activity or information without a detailed legal examination.
 4. Where the notice contains the electronic contact information of the individual or entity that submitted it, the provider of hosting services shall, without undue delay, send a confirmation of receipt of the notice to that individual or entity.
 5. The provider shall also, without undue delay, notify that individual or entity of its decision in respect of the information to which the notice relates, providing information on the possibilities for redress in respect of that decision.
 6. Providers of hosting services shall process any notices that they receive under the mechanisms referred to in paragraph 1 and take their decisions in respect of the information to which the notices relate, in a timely, diligent, non-arbitrary and objective manner. Where they use automated means for that processing or decision-making, they shall include information on such use in the notification referred to in paragraph 5.

Article 17

Statement of reasons

1. 託管服務提供者應針對任何受到影響的服務接受者，就下述限制措施提供清晰且具體之理由說明；相關限制措施係出於服務接受者所提供之資訊屬於非法內容或不符合其條款與條件而加以實施：
 - (a) 限制特定資訊之可見性，包括刪除內容、禁止近用內容，或調降內容安全級別；
 - (b) 暫停、終止或以其他方式限制金錢支付；
 - (c) 暫停或終止服務之全部或一部；
 - (d) 暫停或終止服務接受者之帳號使用。
2. 前項規定僅適用於託管服務提供者已知悉有關電子聯絡方式之情況。無論出於何等原因或如何實施該等限制，最遲應自實施限制之日起生效。

前項規定並不適用於欺詐性巨量商業內容資訊之情形。
3. 第 1 項規定所稱之理由說明應至少包括以下資訊：
 - (a) 所作決定是否涉及刪除、禁止近用、調降安全等級或限制資訊之可見性，或者涉及暫停或終止與該等資訊有關之金錢支付，或者就該等資訊實施第 1 項規定所稱之其他措施之資訊，在實際適用之下，該等決定之地域範圍與持續時間；
 - (b) 所作決定所依據之事實與情況，包括在實際適用之下，該等決定是否根據第 16 條所提交之通報或基於自主調查加以作成之資訊，並在出於絕對必要下，提供通報者之身分資訊；

1. Providers of hosting services shall provide a clear and specific statement of reasons to any affected recipients of the service for any of the following restrictions imposed on the ground that the information provided by the recipient of the service is illegal content or incompatible with their terms and conditions:
 - (a) any restrictions of the visibility of specific items of information provided by the recipient of the service, including removal of content, disabling access to content, or demoting content;
 - (b) suspension, termination or other restriction of monetary payments;
 - (c) suspension or termination of the provision of the service in whole or in part;
 - (d) suspension or termination of the recipient of the service's account.
2. Paragraph 1 shall only apply where the relevant electronic contact details are known to the provider. It shall apply at the latest from the date that the restriction is imposed, regardless of why or how it was imposed. Paragraph 1 shall not apply where the information is deceptive high-volume commercial content.
3. The statement of reasons referred to in paragraph 1 shall at least contain the following information:
 - (a) information on whether the decision entails either the removal of, the disabling of access to, the demotion of or the restriction of the visibility of the information, or the suspension or termination of monetary payments related to that information, or imposes other measures referred to in paragraph 1 with regard to the information, and, where relevant, the territorial scope of the decision and its duration;
 - (b) the facts and circumstances relied on in taking the decision, including, where relevant, information on whether the decision was taken pursuant to a notice submitted in accordance with Article 16 or based on vol-

- (c) 在實際適用之下，有關使用自動化方式作成決定之資訊，包括是否針對運用自動化方式檢測或所識別的內容作成決定之資訊；
 - (d) 若所作決定涉及涉有非法之內容，表明所根據之法律依據，並解釋為何根據該等法律依據認定系爭資訊屬於非法內容；
 - (e) 若所作決策係基於系爭資訊並未符合託管服務提供者之條款與條件，表明所根據之契約依據，並解釋為何根據該等依據認定系爭資訊並未符合；
 - (f) 提供服務接受者針對所作決定尋求救濟的可能性之清晰且用戶友好之資訊，特別是在實際適用之下，尋求內部投訴處理機制、訴訟外解決機制與司法救濟等。
4. 託管服務提供者根據本條規定所提供之資訊應清晰易懂，在特定情況下應盡可能地精確與具體。相關資訊尤其應確保相關服務接受者，在合理情況下可得有效行使前項第 (f) 款規定所述之救濟可能性。
5. 本條規定不適用於第 9 條規定所述之任何命令。

第 18 條
涉嫌刑事犯罪之通報

- untary own-initiative investigations and, where strictly necessary, the identity of the notifier;
- (c) where applicable, information on the use made of automated means in taking the decision, including information on whether the decision was taken in respect of content detected or identified using automated means;
 - (d) where the decision concerns allegedly illegal content, a reference to the legal ground relied on and explanations as to why the information is considered to be illegal content on that ground;
 - (e) where the decision is based on the alleged incompatibility of the information with the terms and conditions of the provider of hosting services, a reference to the contractual ground relied on and explanations as to why the information is considered to be incompatible with that ground;
 - (f) clear and user-friendly information on the possibilities for redress available to the recipient of the service in respect of the decision, in particular, where applicable through internal complaint-handling mechanisms, out-of-court dispute settlement and judicial redress.
4. The information provided by the providers of hosting services in accordance with this Article shall be clear and easily comprehensible and as precise and specific as reasonably possible under the given circumstances. The information shall, in particular, be such as to reasonably allow the recipient of the service concerned to effectively exercise the possibilities for redress referred to in of paragraph 3, point (f).
 5. This Article shall not apply to any orders referred to in Article 9.

Article 18

Notification of suspicions of criminal offences

1. 若託管服務提供者所獲知的任何資訊，使其懷疑涉及對特定個人或多人的生命或安全產生威脅之刑事犯罪業已發生、正在發生或可能發生，其應立即通報相關成員國之執法機關或司法機關，並提供所有相關資訊。
2. 若託管服務提供者無法合理地確定所涉及之成員國，其應通報所在國家之執法機關，或其法定代表人之居所或設定住所之成員國，或通報歐洲警察組織，或者二者都通報。

根據本條規定，所涉及之成員國應係懷疑犯罪據悉業已發生、正在發生或可能發生之成員國，或疑似犯罪嫌疑人所居住或所在地點之成員國，或疑似犯罪被害人所居住或所在地點之成員國。

第三節

適用於線上平臺提供者之附加規定

第 19 條

微型與小型企業之豁免

1. 除第 24 條第 3 項規定，本節規定並不適用符合 2003/361/EC 建議書中有關微型企業或小型企業定義之線上平臺提供者。

除第 24 條第 3 項規定，本節規定不適用於根據 2003/361/EC 建議書第 4 條第 2 項規定，在喪失微型企業或小型企業資格後 12 個月內恢復為微型企業或小型企業之線上平臺提供者。但本法第 33 條之超大型線上平臺，不在此限。

1. Where a provider of hosting services becomes aware of any information giving rise to a suspicion that a criminal offence involving a threat to the life or safety of a person or persons has taken place, is taking place or is likely to take place, it shall promptly inform the law enforcement or judicial authorities of the Member State or Member States concerned of its suspicion and provide all relevant information available.
2. Where the provider of hosting services cannot identify with reasonable certainty the Member State concerned, it shall inform the law enforcement authorities of the Member State in which it is established or where its legal representative resides or is established or inform Europol, or both.

For the purpose of this Article, the Member State concerned shall be the Member State in which the offence is suspected to have taken place, to be taking place or to be likely to take place, or the Member State where the suspected offender resides or is located, or the Member State where the victim of the suspected offence resides or is located.

SECTION 3

Additional provisions applicable to providers of online platforms

Article 19

Exclusion for micro and small enterprises

1. This Section, with the exception of Article 24(3) thereof, shall not apply to providers of online platforms that qualify as micro or small enterprises as defined in Recommendation 2003/361/EC.

This Section, with the exception of Article 24(3) thereof, shall not apply to providers of online platforms that previously qualified for the status of a micro or small enterprise as defined in Recommendation 2003/361/EC during the 12 months following their loss of that status pursuant to

2. 根據前項規定，本節規定適用於根據第 33 條規定被指定為超大型線上平臺之線上平臺提供者，無論其是否符合微型企業或小型企業之資格。

第 20 條

內部投訴處理系統

1. 線上平臺提供者應向其服務接受者提供有效的內部投訴處理系統，該系統允許服務接受者得在本項下述決定作成之後至少六個月之內，以電子方式免費提出投訴，針對線上平臺提供者於接獲通報後所作成之決定表示反對，或針對線上平臺提供者根據其條款與條件，認定服務接受者提供之資訊構成非法內容或不符其條款與和條件從而作成之決定表示反對：
 - (a) 決定是否刪除、禁止近用或限制資訊之可見性；
 - (b) 決定是否暫停或終止向服務接受者所提供的服務之全部或一部；
 - (c) 決定是否暫停或終止服務接受者之帳號；
 - (d) 決定是否暫停、終止或以其他方式限制服務接受者藉由其所提供之資訊獲取利益之能力。
2. 前項所述至少六個月之期限，應自依第 16 條第 5 項或第 17 條規定將所作決定通知服務接受者之日起計算。

Article 4(2) thereof, except when they are very large online platforms in accordance with Article 33.

2. By derogation from paragraph 1 of this Article, this Section shall apply to providers of online platforms that have been designated as very large online platforms in accordance with Article 33, irrespective of whether they qualify as micro or small enterprises.

Article 20

Internal complaint-handling system

1. Providers of online platforms shall provide recipients of the service, including individuals or entities that have submitted a notice, for a period of at least six months following the decision referred to in this paragraph, with access to an effective internal complaint-handling system that enables them to lodge complaints, electronically and free of charge, against the decision taken by the provider of the online platform upon the receipt of a notice or against the following decisions taken by the provider of the online platform on the grounds that the information provided by the recipients constitutes illegal content or is incompatible with its terms and conditions:
 - (a) decisions whether or not to remove or disable access to or restrict visibility of the information;
 - (b) decisions whether or not to suspend or terminate the provision of the service, in whole or in part, to the recipients;
 - (c) decisions whether or not to suspend or terminate the recipients' account;
 - (d) decisions whether or not to suspend, terminate or otherwise restrict the ability to monetise information provided by the recipients.
2. The period of at least six months referred to in paragraph 1 of this Article shall start on the day on which the recipient of the service is informed

3. 線上平臺提供者應確保其內部投訴處理系統易於近用、用戶友好，並應有助於提交精確及可充分證明之投訴。
4. 線上平臺提供者應迅速、非歧視、勤勉與非武斷地處理透過其內部投訴處理系統所提交之投訴。若投訴包含充分理由，致使線上平臺提供者認定其未按通報採取行動之決定係欠缺根據，或投訴涉及之資訊並不屬非法，並且未與線上平臺提供者之條款和條件相衝突，或資訊表明實無須針對投訴人行為採取措施，則線上平臺提供者應立即撤銷前項規定所述之決定。
5. 線上平臺提供者應立即通知投訴人，其針對投訴相關資訊所作具充分理由之決定，及根據第 21 條規定提供訴訟外爭端解決機制之可能性，以及其他可尋求之救濟方法。
6. 線上平臺提供者應確保其根據前項規定所作成之決定，係在具備適當資格的工作人員監督之下進行，而不僅依賴於自動化方法。

第 21 條

訴訟外爭端解決

1. 第 20 條第 1 項決定涉及進行通報之個人或實體在內之服務接受者，有權選擇任何依第 3 項認證程序業已獲得認證之訴訟外爭端解決機構，藉以解決與決定有關之爭端，包括未能透過第 20 條內部投訴處理系統獲致解決之投訴。

- about the decision in accordance with Article 16(5) or Article 17.
3. Providers of online platforms shall ensure that their internal complaint-handling systems are easy to access, user- friendly and enable and facilitate the submission of sufficiently precise and adequately substantiated complaints.
 4. Providers of online platforms shall handle complaints submitted through their internal complaint-handling system in a timely, non-discriminatory, diligent and non-arbitrary manner. Where a complaint contains sufficient grounds for the provider of the online platform to consider that its decision not to act upon the notice is unfounded or that the information to which the complaint relates is not illegal and is not incompatible with its terms and conditions, or contains information indicating that the complainant’s conduct does not warrant the measure taken, it shall reverse its decision referred to in paragraph 1 without undue delay.
 5. Providers of online platforms shall inform complainants without undue delay of their reasoned decision in respect of the information to which the complaint relates and of the possibility of out-of-court dispute settlement provided for in Article 21 and other available possibilities for redress.
 6. Providers of online platforms shall ensure that the decisions, referred to in paragraph 5, are taken under the supervision of appropriately qualified staff, and not solely on the basis of automated means.

Article 21

Out-of-court dispute settlement

1. Recipients of the service, including individuals or entities that have submitted notices, addressed by the decisions referred to in Article 20(1) shall be entitled to select any out-of-court dispute settlement body that has been certified in accordance with paragraph 3 of this Article in order

線上平臺提供者應確保有關服務接受者有權使用上述訴訟外爭端解決機制之資訊，其應可得於線上界面輕易近用、清晰且用戶友好。

本項之第1分項規定並未損及服務接受者在任何階段根據所適用之法律，針對線上平臺提供者所作決定提起訴訟之權利。

2. 雙方應誠實善意地與所選定、業經認證之訴訟外爭端解決機構合作，藉以解決爭端。
若涉及相同資訊、相同非法或不符合之內容之爭端已獲致解決，線上平臺提供者可拒絕與訴訟外爭端解決機構合作。
經認證之訴訟外爭端解決機構，無權對當事人強制達成具拘束力之爭端解決方案。

3. 訴訟外爭端解決機構所在成員國之數位服務協調人，得應機構之請求，在最多五年之期間內（可延展），對機構進行認證，前提是該機構已證明符合下述所有條件：
 - (a) 該機構係公正與獨立，包括在財務上獨立，不受線上平臺提供者與線上平臺提供者所提供的服務之接受者，包括進行通報之個人或實體之影響；

to resolve disputes relating to those decisions, including complaints that have not been resolved by means of the internal complaint-handling system referred to in that Article.

Providers of online platforms shall ensure that information about the possibility for recipients of the service to have access to an out-of-court dispute settlement, as referred to in the first subparagraph, is easily accessible on their online interface, clear and user-friendly.

The first subparagraph is without prejudice to the right of the recipient of the service concerned to initiate, at any stage, proceedings to contest those decisions by the providers of online platforms before a court in accordance with the applicable law.

2. Both parties shall engage, in good faith, with the selected certified out-of-court dispute settlement body with a view to resolving the dispute.

Providers of online platforms may refuse to engage with such out-of-court dispute settlement body if a dispute has already been resolved concerning the same information and the same grounds of alleged illegality or incompatibility of content.

The certified out-of-court dispute settlement body shall not have the power to impose a binding settlement of the dispute on the parties.

3. The Digital Services Coordinator of the Member State where the out-of-court dispute settlement body is established shall, for a maximum period of five years, which may be renewed, certify the body, at its request, where the body has demonstrated that it meets all of the following conditions:

- (a) it is impartial and independent, including financially independent, of providers of online platforms and of recipients of the service provided by providers of online platforms, including of individuals or entities that have submitted notices;

- (b) 該機構對於涉及非法內容之單一或多個特定領域之問題，或對於單一或多個類型線上平臺的條款與條件之應用與執行一事，具備必要的專業知識，使該機構可得有效地促成爭端之解決；
- (c) 該機構成員之報酬應無涉程序結果；
- (d) 該機構提供的訴訟外爭端解決機制應該易於近用，可透過電子通訊技術提供，並允許線上啟動爭端解決程序及提交必要之佐證文件；
- (e) 該機構可得以迅速、高效及富成本效益之方式解決爭端，並至少提供一種官方語言供解決之用，該官方語言應屬於歐聯官方語言之一；
- (f) 該機構提供的訴訟外爭端解決機制應根據明確與公平之程序規則進行，相關規則應易於公開近用，並應符合包括本法在內所適用之法律。

於有適用時，數位服務協調人應於認證證書中註記：

- (a) 本項之第 1 分項第 (b) 款規定所述、與該機構之專業知識有關之具體問題；以及
- (b) 如本項之第 1 分項第 (e) 款規定所述、該機構用以解決爭端之一種或多種歐盟官方語言別。

4. 業經認證之訴訟外爭端解決機構應每年向認證其資格之數位服務協調人報告其運作情況，至少包括其所接獲之爭端數量、有關爭端結果之資訊、解決相關爭端所需之平均時間，以及所遭遇之任何不足之處或困難。訴訟外爭端解決機構並應於數位服務協調人要求下，提供附加

- (b) it has the necessary expertise in relation to the issues arising in one or more particular areas of illegal content, or in relation to the application and enforcement of terms and conditions of one or more types of online platform, allowing the body to contribute effectively to the settlement of a dispute;
 - (c) its members are remunerated in a way that is not linked to the outcome of the procedure;
 - (d) the out-of-court dispute settlement that it offers is easily accessible, through electronic communications technology and provides for the possibility to initiate the dispute settlement and to submit the requisite supporting documents online;
 - (e) it is capable of settling disputes in a swift, efficient and cost-effective manner and in at least one of the official languages of the institutions of the Union;
 - (f) the out-of-court dispute settlement that it offers takes place in accordance with clear and fair rules of procedure that are easily and publicly accessible, and that comply with applicable law, including this Article.
- The Digital Services Coordinator shall, where applicable, specify in the certificate:
- (a) the particular issues to which the body's expertise relates, as referred to in point (b) of the first subparagraph; and
 - (b) the official language or languages of the institutions of the Union in which the body is capable of settling disputes, as referred to in point (e) of the first subparagraph.
4. Certified out-of-court dispute settlement bodies shall report to the Digital Services Coordinator that certified them, on an annual basis, on their functioning, specifying at least the number of disputes they received, the information about the outcomes of those disputes, the average time taken

資訊。

數位服務協調人應每兩年編制有關其所認證之訴訟外爭端解決機構運作情形之報告。該等報告應特別納入：

- (a) 臚列各別業經認證之訴訟外爭端解決機構每年所接獲之爭端數量；
- (b) 載明提交予相關機構之程序之具體產出，以及解決爭端所需之平均時間；
- (c) 識別並解釋與相關機構運作有關之任何系統面或組織面之不足之處或困難；
- (d) 識別有關機構運作之最佳實務操作情形；
- (e) 於實際適用時，提出改進機構運作之建議。

業經認證之訴訟外爭端解決機構應於合理期間之內向各該當事人提交其所作決定，至遲不得超過接獲投訴後 90 個日曆天。在高度複雜爭端情況之下，業經認證之訴訟外爭端解決機構可自行決定延長 90 日曆天之期限，但不得逾 90 天，整體期限最長為 180 天。

5. 若訴訟外爭端解決機構針對爭端所作裁決對包括進行通報之個人或實體在內之服務接受者有利，則應由線上平臺提供者承擔訴訟外爭端解決機構所收取之所有費用，並應將包括進行通報之個人或實體在內之服務接受者，針對爭端解決所支付之任何其他合理費用，退還予服務接受者。若訴訟外爭端解決機構針對爭端所作裁決係對線上平臺提供者有利，則包括進行通報之個人或實體在內之服務接受者，無須償還

to resolve them and any shortcomings or difficulties encountered. They shall provide additional information at the request of that Digital Services Coordinator.

Digital Services Coordinators shall, every two years, draw up a report on the functioning of the out-of-court dispute settlement bodies that they certified. That report shall in particular:

- (a) list the number of disputes that each certified out-of-court dispute settlement body has received annually;
- (b) indicate the outcomes of the procedures brought before those bodies and the average time taken to resolve the disputes;
- (c) identify and explain any systematic or sectoral shortcomings or difficulties encountered in relation to the functioning of those bodies;
- (d) identify best practices concerning that functioning;
- (e) make recommendations as to how to improve that functioning, where appropriate.

Certified out-of-court dispute settlement bodies shall make their decisions available to the parties within a reasonable period of time and no later than 90 calendar days after the receipt of the complaint. In the case of highly complex disputes, the certified out-of-court dispute settlement body may, at its own discretion, extend the 90 calendar day period for an additional period that shall not exceed 90 days, resulting in a maximum total duration of 180 days.

5. If the out-of-court dispute settlement body decides the dispute in favour of the recipient of the service, including the individual or entity that has submitted a notice, the provider of the online platform shall bear all the fees charged by the out-of-court dispute settlement body, and shall reimburse that recipient, including the individual or entity, for any other reasonable expenses that it has paid in relation to the dispute settlement. If the out-of-

任何與爭端解決有關之費用或其他費用，但訴訟外爭端解決機構認定該服務接受者顯係惡意行事者，不在此限。

訴訟外爭端解決機構向線上平臺提供者所收取的費用應當合理，且在任何情況下均不得超過該機構所支出之成本。針對服務接受者，爭端解決應當免費提供或僅收取象徵性費用。

業經認證之訴訟外爭端解決機構於參與爭端解決之前，應將費用或用於確定費用之機制，告知包括進行通報之個人或實體在內之服務接受者及相關線上平臺提供者。

6. 成員國得就第 1 項規定目的之達成，設立訴訟外爭端解決機構，或支持其依第 3 條規定所認證之部分或全部之訴訟外爭端解決機構之活動。

成員國應確保基於上述分項所進行之任何活動，並不影響其數位服務協調人根據第 3 條規定針對機構進行認證之能力。

7. 數位服務協調人若確定根據自身之主動調查或基於第三方所提供之資訊，訴訟外爭端解決機構不再符合第 3 項規定所列條件，則應撤銷該機構之認證資格。在撤銷認證資格之前，數位服務協調人應讓訴訟外爭端解決機構可得就其調查結果與撤銷認證資格之構想進行回應。

court dispute settlement body decides the dispute in favour of the provider of the online platform, the recipient of the service, including the individual or entity, shall not be required to reimburse any fees or other expenses that the provider of the online platform paid or is to pay in relation to the dispute settlement, unless the out-of-court dispute settlement body finds that that recipient manifestly acted in bad faith.

The fees charged by the out-of-court dispute settlement body to the providers of online platforms for the dispute settlement shall be reasonable and shall in any event not exceed the costs incurred by the body. For recipients of the service, the dispute settlement shall be available free of charge or at a nominal fee.

Certified out-of-court dispute settlement bodies shall make the fees, or the mechanisms used to determine the fees, known to the recipient of the service, including to the individuals or entities that have submitted a notice, and to the provider of the online platform concerned, before engaging in the dispute settlement.

6. Member States may establish out-of-court dispute settlement bodies for the purposes of paragraph 1 or support the activities of some or all out-of-court dispute settlement bodies that they have certified in accordance with paragraph 3.

Member States shall ensure that any of their activities undertaken under the first subparagraph do not affect the ability of their Digital Services Coordinators to certify the bodies concerned in accordance with paragraph 3.

7. A Digital Services Coordinator that has certified an out-of-court dispute settlement body shall revoke that certification if it determines, following an investigation either on its own initiative or on the basis of the information received by third parties, that the out-of-court dispute settlement body no

8. 數位服務協調人應向歐盟執委會通報其根據第 3 條規定所認證之訴訟外爭端解決機構、所適用之規定，以及經其撤銷認證資格之訴訟外爭端解決機構。歐盟執委會應於易於近用之專用網站上公布一份相關機構之列表，包括相關規範並保持最新狀態。

9. 本條規定並不影響根據 2013/11/EU 指令及在該指令下針對消費者所設立之訴訟外爭端解決程序與機構。

第 22 條

可信賴檢舉人

1. 線上平臺提供者應採取必要的技術面與組織面措施，確保可信賴檢舉人在其指定的專業領域內，透過第 16 條規定所述機制所進行之通報，獲得優先處理並作成決定，而不得無故拖延。

2. 本法所稱之「可信賴檢舉人」資格，應根據任何實體之申請並由其在成員國之數位服務協調人授予。申請人應證明自身符合下述所有條件：

- longer meets the conditions set out in paragraph 3. Before revoking that certification, the Digital Services Coordinator shall afford that body an opportunity to react to the findings of its investigation and its intention to revoke the out-of-court dispute settlement body's certification.
8. Digital Services Coordinators shall notify to the Commission the out-of-court dispute settlement bodies that they have certified in accordance with paragraph 3, including where applicable the specifications referred to in the second subparagraph of that paragraph, as well as the out-of-court dispute settlement bodies the certification of which they have revoked. The Commission shall publish a list of those bodies, including those specifications, on a dedicated website that is easily accessible, and keep it up to date.
 9. This Article is without prejudice to Directive 2013/11/EU and alternative dispute resolution procedures and entities for consumers established under that Directive.

Article 22

Trusted flaggers

1. Providers of online platforms shall take the necessary technical and organisational measures to ensure that notices submitted by trusted flaggers, acting within their designated area of expertise, through the mechanisms referred to in Article 16, are given priority and are processed and decided upon without undue delay.
2. The status of 'trusted flagger' under this Regulation shall be awarded, upon application by any entity, by the Digital Services Coordinator of the Member State in which the applicant is established, to an applicant that has demonstrated that it meets all of the following conditions:

- (a) 就檢測、識別與通報非法內容之目的而言，具備特定專業知識與能力；
 - (b) 獨立於任何線上平臺提供者之外；
 - (c) 立於通報目的之下勤奮、準確與客觀地執行其活動。
3. 可信賴檢舉人應針對其根據第 16 條規定在相關期間內所進行之通報，至少每年發布易於理解且詳細之報告。前開報告應臚列根據下述分類之通報數量：
- (a) 提供者之身分；
 - (b) 所述疑似非法內容之類型；
 - (c) 提供者所採取之措施。
- 相關報告應說明有關確保可信賴檢舉人獨立性之程序。

可信賴檢舉人應將相關報告發送予授予其資格之數位服務協調人，並將之公開發布。相關報告中之資訊不應包含個人資料。

4. 數位服務協調人應向歐盟執委會及歐洲數位服務委員會通報其根據第 2 項規定授予可信賴檢舉人資格，根據第 6 項規定暫停此一資格，或根據第 7 項規定撤銷此一資格之實體的名稱、地址與電子郵件地址等資訊。
5. 歐盟執委會應當以易於近用且可供機器判讀之格式，在一個公開可用之資料庫中發布第 4 項規定所述之資訊，並應確保該資料庫處於最新狀態。
6. 若線上平臺提供者所掌握之資訊，表明可信賴檢舉人透過第 16 條所述機制提交了大量不精準、不正確或不足以證明之通報，包括與第 20 條第 4 項投訴處理有關之資訊，線上平臺提供者應將該等資訊提交授

- (a) it has particular expertise and competence for the purposes of detecting, identifying and notifying illegal content;
 - (b) it is independent from any provider of online platforms;
 - (c) it carries out its activities for the purposes of submitting notices diligently, accurately and objectively.
3. Trusted flaggers shall publish, at least once a year easily comprehensible and detailed reports on notices submitted in accordance with Article 16 during the relevant period. The report shall list at least the number of notices categorised by:
- (a) the identity of the provider of hosting services,
 - (b) the type of allegedly illegal content notified,
 - (c) the action taken by the provider.

Those reports shall include an explanation of the procedures in place to ensure that the trusted flagger retains its independence.

Trusted flaggers shall send those reports to the awarding Digital Services Coordinator, and shall make them publicly available. The information in those reports shall not contain personal data.

4. Digital Services Coordinators shall communicate to the Commission and the Board the names, addresses and email addresses of the entities to which they have awarded the status of the trusted flagger in accordance with paragraph 2 or whose trusted flagger status they have suspended in accordance with paragraph 6 or revoked in accordance with paragraph 7.
5. The Commission shall publish the information referred to in paragraph 4 in a publicly available database, in an easily accessible and machine-readable format, and shall keep the database up to date.
6. Where a provider of online platforms has information indicating that a trusted flagger has submitted a significant number of insufficiently precise, inaccurate or inadequately substantiated notices through the mechanisms

予可信賴檢舉人資格之數位服務協調人，並提供必要的說明與支持文件。數位服務協調人接獲線上平臺提供者之資訊後，若認為存有合法理由便應展開調查，調查期間其可暫停可信賴檢舉人之資格。前揭調查應毫無遲延地進行。

7. 授予可信賴檢舉人資格之數位服務協調人，應當根據第2項規定，主動發起或根據第三方所提供之資訊（包括根據前項由線上平臺提供者所提供之資訊）進行調查後，確定該實體不再符合第2項所列條件時，應撤銷其可信賴檢舉人資格。在撤銷該資格之前，數位服務協調人應讓該實體得針對其調查結果與撤銷其可信賴檢舉人資格之構想進行回應。
8. 歐盟執委會得於諮詢歐洲數位服務委員會後，於必要時發布指引，助益線上平臺提供者與數位服務協調人操作第2項、第6項與前項規定。

第 23 條

防止濫用之措施與保護

1. 線上平臺提供者應於發出事先警告後，針對經常提供明顯非法內容之服務接受者，在合理期間內暫停對其提供服務。

referred to in Article 16, including information gathered in connection to the processing of complaints through the internal complaint-handling systems referred to in Article 20(4), it shall communicate that information to the Digital Services Coordinator that awarded the status of trusted flagger to the entity concerned, providing the necessary explanations and supporting documents. Upon receiving the information from the provider of online platforms, and if the Digital Services Coordinator considers that there are legitimate reasons to open an investigation, the status of trusted flagger shall be suspended during the period of the investigation. That investigation shall be carried out without undue delay.

7. The Digital Services Coordinator that awarded the status of trusted flagger to an entity shall revoke that status if it determines, following an investigation either on its own initiative or on the basis information received from third parties, including the information provided by a provider of online platforms pursuant to paragraph 6, that the entity no longer meets the conditions set out in paragraph 2. Before revoking that status, the Digital Services Coordinator shall afford the entity an opportunity to react to the findings of its investigation and its intention to revoke the entity's status as trusted flagger.
8. The Commission, after consulting the Board, shall, where necessary, issue guidelines to assist providers of online platforms and Digital Services Coordinators in the application of paragraphs 2, 6 and 7.

Article 23

Measures and protection against misuse

1. Providers of online platforms shall suspend, for a reasonable period of time and after having issued a prior warning, the provision of their services to

2. 線上平臺提供者應於發出事先警告後，針對經常提交明顯毫無根據之通報個人或實體，或明顯毫無根據之投訴的投訴人，在合理期間內暫停處理依第 16 條與第 20 條規定所述之通報與行動機制，以及內部投訴處理系統所提交之通報與投訴。

3. 線上平臺提供者於決定暫停時，應評估是否涉及第 1 項與前項規定所提及之濫用情形，其應根據線上平臺可獲得之所有事實與情況，針對個案及時、認真與客觀地進行評估。前揭之情況應包括下述內容：
 - (a) 在特定時間範圍內提交之明顯非法內容或明顯無根據之通報或投訴之絕對數量；
 - (b) 上述數量與特定時間範圍內所提供之資訊總數之相對比例；
 - (c) 濫用之嚴重性，包括非法內容之性質以及其所生後果；
 - (d) 在可得識別之下，服務接受者、個人、實體或投訴人之意圖。

4. 線上平臺提供者應於其條款與條件中，清晰詳細地說明其針對第 1 項與第 2 項規定所述的濫用之政策，並提供於評估特定行為是否構成濫用以及暫停的持續時間所考慮之事實與情況之示範案例。

- recipients of the service that frequently provide manifestly illegal content.
2. Providers of online platforms shall suspend, for a reasonable period of time and after having issued a prior warning, the processing of notices and complaints submitted through the notice and action mechanisms and internal complaints- handling systems referred to in Articles 16 and 20, respectively, by individuals or entities or by complainants that frequently submit notices or complaints that are manifestly unfounded.
 3. When deciding on suspension, providers of online platforms shall assess, on a case-by-case basis and in a timely, diligent and objective manner, whether the recipient of the service, the individual, the entity or the complainant engages in the misuse referred to in paragraphs 1 and 2, taking into account all relevant facts and circumstances apparent from the information available to the provider of online platforms. Those circumstances shall include at least the following:
 - (a) the absolute numbers of items of manifestly illegal content or manifestly unfounded notices or complaints, submitted within a given time frame;
 - (b) the relative proportion thereof in relation to the total number of items of information provided or notices submitted within a given time frame;
 - (c) the gravity of the misuses, including the nature of illegal content, and of its consequences;
 - (d) where it is possible to identify it, the intention of the recipient of the service, the individual, the entity or the complainant.
 4. Providers of online platforms shall set out, in a clear and detailed manner, in their terms and conditions their policy in respect of the misuse referred to in paragraphs 1 and 2, and shall give examples of the facts and circumstances that they take into account when assessing whether certain behaviour constitutes misuse and the duration of the suspension.

第 24 條

提供線上平臺之透明度報告義務

1. 除第 15 條規定之資訊外，線上平臺提供者應於該條規定之報告納入下述資訊：
 - (a) 第 21 條所提及之訴訟外爭端解決機構之爭端數量，爭端解決之結果以及完成爭端解決程序所需之平均時間，以及線上平臺提供者所作決定與爭端案件之間的比例；
 - (b) 根據第 23 條規定所實施之暫停數量，並區分為明顯非法內容之提供、明顯毫無根據之通報之提交，以及明顯毫無根據之投訴之提交等所實施之暫停。
2. 至 2023 年 2 月 17 日以及之後每六個月，提供者應於其線上界面之公開部分，根據第 33 條第 3 項所述之授權法規所制定之方法，針對個別線上平臺或線上搜尋引擎，按先前六個月之平均數進行計算，發布有關歐盟境內每月平均活躍服務接受者之資訊。
3. 線上平臺提供者或線上搜尋引擎提供者應根據營業據點所在成員國之數位服務協調人與歐盟執委會之要求，提供前項規定所述之資訊，並應更新至接獲要求之時間點。數位服務協調人與歐盟執委會可針對前項規定中之計算，要求提供其他資訊，包括針對所使用資訊之解釋與證明。前揭資訊不得包含個人資料。

Article 24

Transparency reporting obligations for providers of online platforms

1. In addition to the information referred to in Article 15, providers of online platforms shall include in the reports referred to in that Article information on the following:
 - (a) the number of disputes submitted to the out-of-court dispute settlement bodies referred to in Article 21, the outcomes of the dispute settlement, and the median time needed for completing the dispute settlement procedures, as well as the share of disputes where the provider of the on-line platform implemented the decisions of the body;
 - (b) the number of suspensions imposed pursuant to Article 23, distinguishing between suspensions enacted for the provision of manifestly illegal content, the submission of manifestly unfounded notices and the submission of manifestly unfounded complaints.
2. By 17 February 2023 and at least once every six months thereafter, providers shall publish for each online platform or online search engine, in a publicly available section of their online interface, information on the average monthly active recipients of the service in the Union, calculated as an average over the period of the past six months and in accordance with the methodology laid down in the delegated acts referred to in Article 33(3), where those delegated acts have been adopted.
3. Providers of online platforms or of online search engines shall communicate to the Digital Services Coordinator of establishment and the Commission, upon their request and without undue delay, the information referred to in paragraph 2, updated to the moment of such request. That Digital Services Coordinator or the Commission may require the provider of the online platform or of the online search engine to provide additional

4. 營業據點所在成員國之數位服務協調人，基於第 2 項與前項規定所接獲之資訊，有理由認為線上平臺提供者或線上搜索引擎提供者業已達到第 33 條第 1 項所規定之歐盟境內月平均活躍服務接受者之門檻標準時，應通報歐盟執委會。
5. 線上平臺提供者應適時向歐盟執委會提交第 17 條第 1 項規定所述之決定與理由說明，以利納入由歐盟執委會所管理之公開可讀取之資料庫。線上平臺提供者應確保所提交之資訊不包含個人資料。
6. 歐盟執委會可針對依第 1 項規定所應提出的報告之形式、內容和其他細節之範本，制定執行法規。相關執行法規應按照第 88 條之諮詢程序加以通過。

第 25 條

線上界面之設計與組織

1. 線上平臺提供者不得設計、組織或經營，利用線上界面欺騙或操縱其服務接受者，或以其他方式實質性地扭曲或損害其服務接受者作出自由與知情決策之能力。

- information as regards the calculation referred to in that paragraph, including explanations and substantiation in respect of the data used. That information shall not include personal data.
4. When the Digital Services Coordinator of establishment has reasons to consider, based the information received pursuant to paragraphs 2 and 3 of this Article, that a provider of online platforms or of online search engines meets the threshold of average monthly active recipients of the service in the Union laid down in Article 33(1), it shall inform the Commission thereof.
 5. Providers of online platforms shall, without undue delay, submit to the Commission the decisions and the statements of reasons referred to in Article 17(1) for the inclusion in a publicly accessible machine-readable database managed by the Commission. Providers of online platforms shall ensure that the information submitted does not contain personal data.
 6. The Commission may adopt implementing acts to lay down templates concerning the form, content and other details of reports pursuant to paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 88.

Article 25

Online interface design and organisation

1. Providers of online platforms shall not design, organise or operate their online interfaces in a way that deceives or manipulates the recipients of their service or in a way that otherwise materially distorts or impairs the ability of the recipients of their service to make free and informed decisions.

2. 前項之禁止要求，不適用 2005/29/EC 指令或 2016/679/EU 規則已規範之作法。
3. 歐盟執委會可針對第 1 項規定之實務操作發布指南，尤其是：
 - (a) 在要求服務接受者作出決策時，突顯特定選項；
 - (b) 在業已作出選擇之下，重複要求服務接受者作出選擇，尤其是運用干擾用戶體驗之彈出式視窗方式；
 - (c) 使終止服務之程序比訂閱服務更加困難。

第 26 條 線上平臺上之廣告

1. 於其線上界面呈現廣告之線上平臺提供者應確保，針對呈現予個別接受者之每則廣告，服務接受者可得以清晰、簡明且明確之方式即時地識別以下資訊：
 - (a) 該等資訊屬於廣告形式，包括透過顯目之標示加以突顯，其可得遵循依第 44 條規定所制定之標準；
 - (b) 代表其展示廣告之自然人或法人；
 - (c) 支付廣告費用之自然人或法人，若前揭自然人或法人與前款規定之自然人或法人有所不同時；
 - (d) 可得自廣告中直接且輕易地獲取、有關用以確定投放廣告之接受者之主要參數，以及在實際適用時，如何更改相關參數之富有意義之資訊。

2. The prohibition in paragraph 1 shall not apply to practices covered by Directive 2005/29/EC or Regulation (EU) 2016/679.
3. The Commission may issue guidelines on how paragraph 1 applies to specific practices, notably:
 - (a) giving more prominence to certain choices when asking the recipient of the service for a decision;
 - (b) repeatedly requesting that the recipient of the service make a choice where that choice has already been made, especially by presenting pop-ups that interfere with the user experience;
 - (c) making the procedure for terminating a service more difficult than subscribing to it.

Article 26

Advertising on online platforms

1. Providers of online platforms that present advertisements on their online interfaces shall ensure that, for each specific advertisement presented to each individual recipient, the recipients of the service are able to identify, in a clear, concise and unambiguous manner and in real time, the following:
 - (a) that the information is an advertisement, including through prominent markings, which might follow standards pursuant to Article 44;
 - (b) the natural or legal person on whose behalf the advertisement is presented;
 - (c) the natural or legal person who paid for the advertisement if that person is different from the natural or legal person referred to in point (b);
 - (d) meaningful information directly and easily accessible from the advertisement about the main parameters used to determine the recipient to whom the advertisement is presented and, where applicable, about how to change those parameters.

2. 線上平臺提供者應向其服務接受者提供一個功能，使其可聲明線上平臺提供者所提供之內容，是否屬於商業通訊。

當服務接受者根據上述分項規定提出聲明時，線上平臺提供者應確保其他服務接受者，包括透過顯目標示，依第 44 條之標準，使其可得清晰明確且即時性地識別線上平臺提供者提供之內容是否屬商業通訊。

3. 線上平臺提供者不得基於 2016/679/EU 規則第 4 條第 4 項所定義之個人剖析建檔，利用 2016/679/EU 規則第 9 條第 1 項之特種個人資料，向服務接受者投放廣告。

第 27 條

推薦系統之透明度

1. 使用推薦系統之線上平臺提供者，應於其條款與條件之中，以清晰易懂的語言陳述其推薦系統所使用之主要參數，以及服務接受者擁有哪些選項，可得修改或影響相關主要參數。
2. 前項規定所稱之主要參數，應解釋為何向服務接受者建議特定資訊，其應至少包括：
 - (a) 在確定向服務接受者建議之資訊中，最具重要性之標準；
 - (b) 解釋相關參數之相對重要性之原因。

2. Providers of online platforms shall provide recipients of the service with a functionality to declare whether the content they provide is or contains commercial communications.

When the recipient of the service submits a declaration pursuant to this paragraph, the provider of online platforms shall ensure that other recipients of the service can identify in a clear and unambiguous manner and in real time, including through prominent markings, which might follow standards pursuant to Article 44, that the content provided by the recipient of the service is or contains commercial communications, as described in that declaration.

3. Providers of online platforms shall not present advertisements to recipients of the service based on profiling as defined in Article 4, point (4), of Regulation (EU) 2016/679 using special categories of personal data referred to in Article 9(1) of Regulation (EU) 2016/679.

Article 27

Recommender system transparency

1. Providers of online platforms that use recommender systems shall set out in their terms and conditions, in plain and intelligible language, the main parameters used in their recommender systems, as well as any options for the recipients of the service to modify or influence those main parameters.
2. The main parameters referred to in paragraph 1 shall explain why certain information is suggested to the recipient of the service. They shall include, at least:
 - (a) the criteria which are most significant in determining the information suggested to the recipient of the service;
 - (b) the reasons for the relative importance of those parameters.

3. 若第 1 項推薦系統在確定呈現予服務接受者的資訊之相對順序，提供了複數選項，則線上平臺提供者尚應提供一種功能，允許服務接受者隨時選擇並修改其首選選項。該功能應直接且易於自線上平臺之線上界面特定部分獲取，且該部分之資訊應被優先考慮。

第 28 條

未成年人之線上保護

1. 以未成年人為主要客群之線上平臺提供者，應採取適當與相稱之措施，確保其服務對未成年人之隱私、人身安全與網路安全提供高水平之保護。
2. 在合理確定服務接受者屬於未成年人時，線上平臺提供者不得在其界面進行 2016/679/EU 規則第 4 條第 4 項所定義之個人剖析建檔，不得利用 2016/679/EU 規則第 9 條第 1 項之特種個人資料，向服務接受者投放廣告。
3. 本條所定義務之遵循，並未強迫線上平臺提供者處理附加之個人資料，以利評估服務接受者是否屬於未成年人。
4. 歐盟執委會得於諮詢歐洲數位服務委員會後發布指引，藉以協助線上平臺提供者遵循第 1 項規定。

第四節

適用於允許消費者與企業經營者締結遠距契約之線上平臺提供者之附加規定

3. Where several options are available pursuant to paragraph 1 for recommender systems that determine the relative order of information presented to recipients of the service, providers of online platforms shall also make available a functionality that allows the recipient of the service to select and to modify at any time their preferred option. That functionality shall be directly and easily accessible from the specific section of the online platform’s online interface where the information is being prioritised.

Article 28

Online protection of minors

1. Providers of online platforms accessible to minors shall put in place appropriate and proportionate measures to ensure a high level of privacy, safety, and security of minors, on their service.
2. Providers of online platform shall not present advertisements on their interface based on profiling as defined in Article 4, point (4), of Regulation (EU) 2016/679 using personal data of the recipient of the service when they are aware with reasonable certainty that the recipient of the service is a minor.
3. Compliance with the obligations set out in this Article shall not oblige providers of online platforms to process additional personal data in order to assess whether the recipient of the service is a minor.
4. The Commission, after consulting the Board, may issue guidelines to assist providers of online platforms in the application of paragraph 1.

SECTION 4

Additional provisions applicable to providers of online platforms allowing consumers to conclude distance contracts with traders

第 29 條 中小企業之豁免

1. 本節規定並不適用符合 2003/361/EC 建議書中有關微型企業或小型企業定義之允許消費者與企業經營者締結遠距契約之線上平臺提供者。本節規定不適用於根據 2003/361/EC 建議書第 4 條第 2 項規定，在喪失微型企業或小型企業資格後 12 個月內恢復為微型企業或小型企業之允許消費者與企業經營者締結遠距契約之線上平臺提供者。但本法第 33 條之超大型線上平臺，不在此限。
2. 根據前項規定，本節規定適用於根據第 33 條規定被指定為超大型線上平臺之允許消費者與企業經營者締結遠距契約之線上平臺提供者，無論其是否符合微型企業或小型企業之資格。

第 30 條 企業經營者之可追溯性

1. 允許消費者與企業經營者締結遠距契約之線上平臺提供者，應在平臺上商家實際使用服務前，確保獲取下述資訊，甫能使其利用線上平臺宣傳資訊或向位處歐盟境內之消費者提供商品或服務：

(a) 平臺上商家之姓名、地址、電話號碼與電子郵件地址；

Article 29

Exclusion for micro and small enterprises

1. This Section shall not apply to providers of online platforms allowing consumers to conclude distance contracts with traders that qualify as micro or small enterprises as defined in Recommendation 2003/361/EC.
This Section shall not apply to providers of online platforms allowing consumers to conclude distance contracts with traders that previously qualified for the status of a micro or small enterprise as defined in Recommendation 2003/361/EC during the 12 months following their loss of that status pursuant to Article 4(2) thereof, except when they are very large online platforms in accordance with Article 33.
2. By derogation from paragraph 1 of this Article, this Section shall apply to providers of online platforms allowing consumers to conclude distance contracts with traders that have been designated as very large online platforms in accordance with Article 33, irrespective of whether they qualify as micro or small enterprises.

Article 30

Traceability of traders

1. Providers of online platforms allowing consumers to conclude distance contracts with traders shall ensure that traders can only use those online platforms to promote messages on or to offer products or services to consumers located in the Union if, prior to the use of their services for those purposes, they have obtained the following information, where applicable to the trader:
 - (a) the name, address, telephone number and email address of the trader;

- (b) 平臺上商家之身分證明文件副本，或根據 2014/910 號規則第 3 條所定義之任何其他電子識別資訊；
 - (c) 平臺上商家之支付帳號之詳細資訊；
 - (d) 若平臺上商家在商業登記簿冊或類似之公共登記簿冊進行註冊，應提供商家所註冊之商業登記簿冊以及該登記簿冊之註冊號碼或該登記簿冊中之等同效力之身分證明方式；
 - (e) 平臺上商家之自我聲明，承諾僅提供符合歐盟法律之商品或服務。
2. 允許消費者與企業經營者締結遠距契約之線上平臺提供者，於接獲前項所述之資訊後，在其允許平臺上商家使用其服務之前，應透過可免費近用的官方線上資料庫，或由成員國或歐盟所提供之線上介面，或透過要求企業經營者提供可靠來源之文件等方式，盡最大努力評估前項第 1 分項第 (a) 款至第 (e) 款之資訊是否可靠並確實完成。就本條而言，企業經營者應對其所提供的資訊之準確性加以負責。

對於企業經營者已於 2024 年 2 月 17 日使用線上平臺提供者之服務，而與消費者基於第 1 項規定締結遠距契約時，線上平臺提供者應盡最大努力於 12 個月內從相關企業經營者取得所列資訊。若相關企業經營者未能在該期限內提供資訊，則線上平臺提供者應暫停向該企業經營者提供服務，直到其提供所有資訊為止。

- (b) a copy of the identification document of the trader or any other electronic identification as defined by Article 3 of Regulation (EU) No 910/2014 of the European Parliament and of the Council;
 - (c) the payment account details of the trader;
 - (d) where the trader is registered in a trade register or similar public register, the trade register in which the trader is registered and its registration number or equivalent means of identification in that register;
 - (e) a self-certification by the trader committing to only offer products or services that comply with the applicable rules of Union law.
2. Upon receiving the information referred to in paragraph 1 and prior to allowing the trader concerned to use its services, the provider of the online platform allowing consumers to conclude distance contracts with traders shall, through the use of any freely accessible official online database or online interface made available by a Member State or the Union or through requests to the trader to provide supporting documents from reliable sources, make best efforts to assess whether the information referred to in paragraph 1, points (a) to (e), is reliable and complete. For the purpose of this Regulation, traders shall be liable for the accuracy of the information provided.

As regards traders that are already using the services of providers of online platforms allowing consumers to conclude distance contracts with traders for the purposes referred to in paragraph 1 on 17 February 2024, the providers shall make best efforts to obtain the information listed from the traders concerned within 12 months. Where the traders concerned fail to provide the information within that period, the providers shall suspend the provision of their services to those traders until they have provided all information.

3. 允許消費者與企業經營者締結遠距契約之線上平臺提供者，若有充分跡象或有理由相信，平臺上商家所提供之第1項所述資訊，有不準確、不完整或不及時情形時，該線上平臺提供者應要求平臺上商家立即或在歐盟與成員國立法規定之期限內解決前述情況。

若平臺上商家未能修正或完善系爭資訊，則允許消費者與企業經營者締結遠距契約之線上平臺提供者，應迅速暫停該平臺上商家透過其服務提供商品或服務予位處歐盟境內之消費者，直至其所提出之要求完全獲得滿足為止。

4. 在不損及 2019/1150 號規則第 4 條規定之下，允許消費者與企業經營者締結遠距契約之線上平臺提供者，根據本條第 1 項規定拒絕平臺上商家使用其服務，或根據本條第 3 項規定暫停其服務之使用時，平臺上商家應享有依本法第 20 條與第 21 條規定提出投訴之權利。
5. 允許消費者與企業經營者締結遠距契約之線上平臺提供者，應以安全方式儲存根據第 1 項與第 2 項規定所獲取之資訊，在與相關平臺上商家之契約關係結束後六個月內，其應刪除相關資訊。
6. 在不損及本條第 2 項規定之下，允許消費者與企業經營者締結遠距契約之線上平臺提供者，僅能根據法律明文規定，包括本法第 10 條所述之命令以及歐盟成員國主管機關或歐盟執委會為履行本法所定事項而發布之任何命令，將資訊提供予第三方。

3. Where the provider of the online platform allowing consumers to conclude distance contracts with traders obtains sufficient indications or has reason to believe that any item of information referred to in paragraph 1 obtained from the trader concerned is inaccurate, incomplete or not up-to-date, that provider shall request that the trader remedy that situation without delay or within the period set by Union and national law.

Where the trader fails to correct or complete that information, the provider of the online platform allowing consumers to conclude distance contracts with traders shall swiftly suspend the provision of its service to that trader in relation to the offering of products or services to consumers located in the Union until the request has been fully complied with.

4. Without prejudice to Article 4 of Regulation (EU) 2019/1150, if a provider of an online platform allowing consumers to conclude distance contracts with traders refuses to allow a trader to use its service pursuant to paragraph 1, or suspends the provision of its service pursuant to paragraph 3 of this Article, the trader concerned shall have the right to lodge a complaint as provided for in Articles 20 and 21 of this Regulation.
5. Providers of online platforms allowing consumers to conclude distance contracts with traders shall store the information obtained pursuant to paragraphs 1 and 2 in a secure manner for a period of six months after the end of the contractual relationship with the trader concerned. They shall subsequently delete the information.
6. Without prejudice to paragraph 2 of this Article, the provider of the online platform allowing consumers to conclude distance contracts with traders shall only disclose the information to third parties where so required in accordance with the applicable law, including the orders referred to in Article 10 and any orders issued by Member States' competent authorities or the Commission for the performance of their tasks under this Regulation.

7. 允許消費者與企業經營者締結遠距契約之線上平臺提供者，應以清晰、易於近用與易於理解之方式，向服務接受者提供本條第 1 項第 (a) 款、第 (d) 款與第 (e) 款所述之資訊。前揭資訊至少應於展示商品或服務資訊的線上平臺之線上界面加以提供。

第 31 條

以設計落實法律遵循

1. 允許消費者與企業經營者締結遠距契約之線上平臺提供者，應確保其線上界面之設計與組織方式，可得使平臺上商家遵循所適用之歐盟立法中有關締約前資訊、法律遵循與產品安全資訊等義務。

特別是相關提供者確保其線上界面，可得促使平臺上商家提供 2019/1020 規則第 3 條第 (13) 款所定義以及其他歐盟立法所規定之資訊，諸如實際經營者之名稱、地址、電話號碼與電子郵件地址等資訊。

2. 允許消費者與企業經營者締結遠距契約之線上平臺提供者，應確保其線上界面之設計與組織方式，允許平臺上商家提供至少下述資訊：
 - (a) 清楚明確地識別係透過提供者之服務，向位處歐盟境內之消費者宣傳或提供商品或服務之必要資訊；
 - (b) 任何可識別平臺上商家之標誌，諸如商標、符號或圖像；以及

7. The provider of the online platform allowing consumers to conclude distance contracts with traders shall make the information referred to in paragraph 1, points (a), (d) and (e) available on its online platform to the recipients of the service in a clear, easily accessible and comprehensible manner. That information shall be available at least on the online platform's online interface where the information on the product or service is presented.

Article 31

Compliance by design

1. Providers of online platforms allowing consumers to conclude distance contracts with traders shall ensure that its online interface is designed and organised in a way that enables traders to comply with their obligations regarding pre- contractual information, compliance and product safety information under applicable Union law.
In particular, the provider concerned shall ensure that its online interface enables traders to provide information on the name, address, telephone number and email address of the economic operator, as defined in Article 3, point (13), of Regulation (EU) 2019/1020 and other Union law.
2. Providers of online platforms allowing consumers to conclude distance contracts with traders shall ensure that its online interface is designed and organised in a way that it allows traders to provide at least the following:
 - (a) the information necessary for the clear and unambiguous identification of the products or the services promoted or offered to consumers located in the Union through the services of the providers;
 - (b) any sign identifying the trader such as the trademark, symbol or logo;
 and,

(c) 於實際適用時，遵循所適用的歐盟立法中有關商品安全與商品法律規範之標示與標章之資訊。

3. 允許消費者與企業經營者締結遠距契約之線上平臺提供者，應盡最大努力評估平臺上商家是否於獲准在平臺提供其商品或服務之前，提供第 1 項與前項規定所述之資訊。在同意平臺上商家於允許消費者與企業經營者締結遠距契約之線上平臺提供商品或服務後，該提供者應合理努力在任何由官方建置、免費近用與可供機器判讀之線上資料庫或線上界面中進行隨機檢查，以確保所提供之商品或服務，未被識別為非法。

第 32 條 知情權

1. 無論係透過何種方式，若允許消費者與企業經營者締結遠距契約之線上平臺提供者得知平臺上商家藉由其服務，向位處歐盟境內之消費者提供了非法商品或服務，該線上平臺提供者應根據其所掌握之聯繫方式，將下述資訊告知通知透過其服務購入非法商品或服務之消費者：

- (a) 商品或服務屬於非法之事實；
- (b) 平臺上商家之身分；以及
- (c) 任何有關之救濟方式。

上述分項所規定之義務，僅適用於線上平臺提供者得知非法行為之時間點前六個月內所購入之非法商品或服務。

- (c) where applicable, the information concerning the labelling and marking in compliance with rules of applicable Union law on product safety and product compliance.
3. Providers of online platforms allowing consumers to conclude distance contracts with traders shall make best efforts to assess whether such traders have provided the information referred to in paragraphs 1 and 2 prior to allowing them to offer their products or services on those platforms. After allowing the trader to offer products or services on its online platform that allows consumers to conclude distance contracts with traders, the provider shall make reasonable efforts to randomly check in any official, freely accessible and machine-readable online database or online interface whether the products or services offered have been identified as illegal.

Article 32

Right to information

1. Where a provider of an online platform allowing consumers to conclude distance contracts with traders becomes aware, irrespective of the means used, that an illegal product or service has been offered by a trader to consumers located in the Union through its services, that provider shall inform, insofar as it has their contact details, consumers who purchased the illegal product or service through its services of the following:
- (a) the fact that the product or service is illegal;
 - (b) the identity of the trader; and
 - (c) any relevant means of redress.

The obligation laid down in the first subparagraph shall be limited to purchases of illegal products or services made within the six months preceding the moment that the provider became aware of the illegality.

2. 前項規定所述情形，若允許消費者與企業經營者締結遠距契約之線上平臺提供者，並未擁有所有受到影響之消費者之聯繫方式，則該線上平臺提供者應於其線上界面公開提供易於近用之系爭非法商品或服務、平臺上商家身份以及任何有關之救濟方式之資訊。

第五節

超大型線上平臺與超大型線上搜尋引擎於管理系統性風險之附加義務

第 33 條

超大型線上平臺與超大型線上搜尋引擎

1. 本節規定適用於在歐盟境內擁有等於或大於 4500 萬個月平均活躍用戶之線上平臺與線上搜尋引擎，同時根據第 4 項規定被指定為超大型線上平臺與超大型線上搜尋引擎。
2. 歐盟執委會應根據第 87 條規定制定授權法規，以調整前項規定所述之歐盟境內月平均活躍用戶數量，亦即當歐盟人口相較於 2020 年或最新的授權法規實際採用之年度，人口增加或減少達 5% 時，在此一情形下，應當調整該門檻指標，使其相當於通過授權法規年度之歐盟人口之 10%，四捨五入後以百萬為表示單位。

2. Where, in the situation referred to in paragraph 1, the provider of the online platform allowing consumers to conclude distance contracts with traders does not have the contact details of all consumers concerned, that provider shall make publicly available and easily accessible on its online interface the information concerning the illegal product or service, the identity of the trader and any relevant means of redress.

SECTION 5

Additional obligations for providers of very large online platforms and of very large online search engines to manage systemic risks

Article 33

Very large online platforms and very large online search engines

1. This Section shall apply to online platforms and online search engines which have a number of average monthly active recipients of the service in the Union equal to or higher than 45 million, and which are designated as very large online platforms or very large online search engines pursuant to paragraph 4.
2. The Commission shall adopt delegated acts in accordance with Article 87 to adjust the number of average monthly active recipients of the service in the Union referred to in paragraph 1, where the Union's population increases or decreases at least by 5 % in relation to its population in 2020 or its population after adjustment by means of a delegated act in the year in which the latest delegated act was adopted. In such a case, it shall adjust the number so that it corresponds to 10 % of the Union's population in the year in which it adopts the delegated act, rounded up or down to allow the number to be expressed in millions.

3. 歐盟執委會可得於諮詢歐洲數位服務委員會後，根據第 87 條規定制定授權法規補充本條規定，可制定於歐盟境內所提供之服務之月平均活躍用戶數之計算方法，使之適用於本條第 1 項與第 24 條第 2 項規定，並確保該方法慮及市場與技術之發展。

4. 歐盟執委會應於諮詢營業據點所在成員國，或根據營業據點所在成員國之數位服務協調人依第 24 條第 4 項規定所提供之資訊，基於本條規範目的採行決定，將月平均活躍用戶數等於或大於本條第 1 項所述門檻標準之線上平臺或線上搜尋引擎，指定為超大型線上平臺與超大型線上搜尋引擎。歐盟執委會應根據按第 24 條第 2 項規定要求線上平臺或線上搜尋引擎所提供之資訊、根據第 24 條第 3 項規定所要求之資訊，或歐盟執委會可得獲取之其他資訊作出決定。

若線上平臺或線上搜尋引擎提供者未能遵循第 24 條第 2 項規定，或未能遵循營業據點所在成員國之數位服務協調人或歐盟執委會根據第 24 條第 3 項規定所提出之要求，並不妨礙歐盟執委會根據本項規定，將相關提供者指定為超大型線上平臺與超大型線上搜尋引擎之提供者。

歐盟執委會根據本項之第一分項規定，或根據按第 24 條第 3 項規定所要求之附加資訊作出決定時，歐盟執委會應賦予相關線上平臺或線上搜尋引擎提供者得在 10 個工作日內，提交針對歐盟執委會初步結論以及針對擬將之指定為超大型線上平臺與超大型線上搜尋引擎構想之意見。歐盟執委會應充分考慮相關提供者所提出之意見。

3. The Commission may adopt delegated acts in accordance with Article 87, after consulting the Board, to supplement the provisions of this Regulation by laying down the methodology for calculating the number of average monthly active recipients of the service in the Union, for the purposes of paragraph 1 of this Article and Article 24(2), ensuring that the methodology takes account of market and technological developments.
4. The Commission shall, after having consulted the Member State of establishment or after taking into account the information provided by the Digital Services Coordinator of establishment pursuant to Article 24(4), adopt a decision designating as a very large online platform or a very large online search engine for the purposes of this Regulation the online platform or the online search engine which has a number of average monthly active recipients of the service equal to or higher than the number referred to in paragraph 1 of this Article. The Commission shall take its decision on the basis of data reported by the provider of the online platform or of the online search engine pursuant to Article 24(2), or information requested pursuant to Article 24(3) or any other information available to the Commission.

The failure by the provider of the online platform or of the online search engine to comply with Article 24(2) or to comply with the request by the Digital Services Coordinator of establishment or by the Commission pursuant to Article 24(3) shall not prevent the Commission from designating that provider as a provider of a very large online platform or of a very large online search engine pursuant to this paragraph.

Where the Commission bases its decision on other information available to the Commission pursuant to the first subparagraph of this paragraph or on the basis of additional information requested pursuant to Article 24(3), the Commission shall give the provider of the online platform or of the online search engine concerned 10 working days in which to submit its views on

若線上平臺或線上搜尋引擎提供者並未依本項第三分項規定提交其意見，並不妨礙歐盟執委會根據可得獲取之其他資訊，將該提供者指定為超大型線上平臺與超大型線上搜尋引擎之提供者。

5. 若線上平臺或線上搜尋引擎在連續一年未曾中斷之期間內，使用其服務之月平均活躍用戶並未達到或未逾第 1 項規定之門檻標準時，歐盟執委會便應終止指定。
6. 歐盟執委會應將其根據第 4 項與前項規定所作成之決定，及時通知相應之線上平臺或線上搜尋引擎提供者、歐洲數位服務委員會與營業據點所在成員國之數位服務協調人。

歐盟執委會應確保所指定之超大型線上平臺與超大型線上搜尋引擎之名單，刊登於歐盟官方公報並保持該名單處於最新狀態。本節規定之義務，將於向第 1 項規定所述之相關提供者發出通知後四個月起，適用或停止適用於相關超大型線上平臺與超大型線上搜尋引擎。

第 34 條 風險評估

the Commission's preliminary findings and on its intention to designate the online platform or the online search engine as a very large online platform or as a very large online search engine, respectively. The Commission shall take due account of the views submitted by the provider concerned.

The failure of the provider of the online platform or of the online search engine concerned to submit its views pursuant to the third subparagraph shall not prevent the Commission from designating that online platform or that online search engine as a very large online platform or as a very large online search engine, respectively, based on other information available to it.

5. The Commission shall terminate the designation if, during an uninterrupted period of one year, the online platform or the online search engine does not have a number of average monthly active recipients of the service equal to or higher than the number referred to in paragraph 1.
6. The Commission shall notify its decisions pursuant to paragraphs 4 and 5, without undue delay, to the provider of the online platform or of the online search engine concerned, to the Board and to the Digital Services Coordinator of establishment.

The Commission shall ensure that the list of designated very large online platforms and very large online search engines is published in the Official Journal of the European Union, and shall keep that list up to date. The obligations set out in this Section shall apply, or cease to apply, to the very large online platforms and very large online search engines concerned from four months after the notification to the provider concerned referred to in the first subparagraph.

Article 34

Risk assessment

1. 超大型線上平臺與超大型線上搜尋引擎提供者，應勤奮地識別、分析與評估其服務及相關系統（包括演算法系統）之設計或運作，或使用其服務，於歐盟境內產生之相關系統性風險或基此而生之風險。

超大型線上平臺與超大型線上搜尋引擎提供者應於第 33 條第 6 項之申請日期，以及其後每年至少一次，同時於部署可能對系統產生重大影響之功能前，進行風險評估。該風險評估應針對其服務進行，並與系統性風險符合比例原則，考慮其嚴重性與可能性，並應包括以下之系統性風險：

- (a) 透過其服務傳播非法內容；
- (b) 對於基本權利之行使實際或可得預見之負面影響，特別是針對歐盟憲章第 1 條所規定之人格尊嚴、第 7 條所規定之尊重私人與家庭生活、第 8 條所規定之個人資料保護、第 11 條所規定之言論與資訊自由，包括言論與媒體自由及多樣性、憲章第 21 條所規定之不歧視、憲章第 24 條所規定之尊重兒童權利，以及憲章第 38 條所規定之高水平消費者保護等基本權利；
- (c) 對公民言論與選舉過程以及公共安全之實際或可得預見之負面影響；
- (d) 對基於性別之所生暴力、公共健康、未成年人以及對個人之身體與心理健康造成嚴重負面結果之實際或可得預見之負面影響。

1. Providers of very large online platforms and of very large online search engines shall diligently identify, analyse and assess any systemic risks in the Union stemming from the design or functioning of their service and its related systems, including algorithmic systems, or from the use made of their services.

They shall carry out the risk assessments by the date of application referred to in Article 33(6), second subparagraph, and at least once every year thereafter, and in any event prior to deploying functionalities that are likely to have a critical impact on the risks identified pursuant to this Article. This risk assessment shall be specific to their services and proportionate to the systemic risks, taking into consideration their severity and probability, and shall include the following systemic risks:

- (a) the dissemination of illegal content through their services;
- (b) any actual or foreseeable negative effects for the exercise of fundamental rights, in particular the fundamental rights to human dignity enshrined in Article 1 of the Charter, to respect for private and family life enshrined in Article 7 of the Charter, to the protection of personal data enshrined in Article 8 of the Charter, to freedom of expression and information, including the freedom and pluralism of the media, enshrined in Article 11 of the Charter, to non-discrimination enshrined in Article 21 of the Charter, to respect for the rights of the child enshrined in Article 24 of the Charter and to a high-level of consumer protection enshrined in Article 38 of the Charter;
- (c) any actual or foreseeable negative effects on civic discourse and electoral processes, and public security;
- (d) any actual or foreseeable negative effects in relation to gender-based violence, the protection of public health and minors and serious negative consequences to the person's physical and mental well-being.

2. 超大型線上平臺與超大型線上搜尋引擎提供者於進行風險評估時，應特別考慮下述因素是否以及將如何影響前項規定所述之任何系統性風險：
 - (a) 超大型線上平臺與超大型線上搜尋引擎提供者之推薦系統，以及任何其他有關之演算法系統之設計；
 - (b) 超大型線上平臺與超大型線上搜尋引擎提供者之內容審查系統；
 - (c) 所適用之條款與條件，以及相關條款與條件之執行；
 - (d) 用以選擇與呈現廣告之系統；
 - (e) 超大型線上平臺與超大型線上搜尋引擎提供者針對數據之實務操作情形。

評估工作尚應分析前項規定之風險是否受到其服務之刻意操縱之影響，包括對服務之不真實使用或自動利用，以及與其條款與條件不相符之非法內容，相關資訊之擴大與可能迅速且廣泛之傳播情形。

評估工作亦應考慮特定之區域或語言方面之因素，包括相關因素特定於某一成員國時。

3. 超大型線上平臺與超大型線上搜尋引擎提供者應保留風險評估之佐證文件，並保留至少執行風險評估後三年，並應根據要求，將之提供予歐盟執委會及營業據點所在成員國之數位服務協調人。

第 35 條 風險緩解

2. When conducting risk assessments, providers of very large online platforms and of very large online search engines shall take into account, in particular, whether and how the following factors influence any of the systemic risks referred to in paragraph 1:
 - (a) the design of their recommender systems and any other relevant algorithmic system;
 - (b) their content moderation systems;
 - (c) the applicable terms and conditions and their enforcement;
 - (d) systems for selecting and presenting advertisements;
 - (e) data related practices of the provider.

The assessments shall also analyse whether and how the risks pursuant to paragraph 1 are influenced by intentional manipulation of their service, including by inauthentic use or automated exploitation of the service, as well as the amplification and potentially rapid and wide dissemination of illegal content and of information that is incompatible with their terms and conditions.

The assessment shall take into account specific regional or linguistic aspects, including when specific to a Member State.

3. Providers of very large online platforms and of very large online search engines shall preserve the supporting documents of the risk assessments for at least three years after the performance of risk assessments, and shall, upon request, communicate them to the Commission and to the Digital Services Coordinator of establishment.

Article 35

Mitigation of risks

1. 超大型線上平臺與超大型線上搜索引擎提供者，應針對根據第 34 條規定所確定之具體系統性風險，制定合理、適度與有效之緩解措施，並應特別考慮相關措施對基本權利之影響。相關措施可能包括：
 - (a) 調整其服務之設計、特性或運作方式，包括其線上界面；
 - (b) 調整其條款與條件，以及條款與條件之執行；
 - (c) 調整內容審查流程，包括處理與特定類型非法內容有關的通知之速度與質量，並在適當情況下，迅速刪除或禁止近用受通報之內容，特別是有關非法仇恨言論或網路暴力，以及調整任何有關的內容審查決策流程與專用資源；
 - (d) 測試與調整其演算法系統，包括其推薦系統；
 - (e) 調整其廣告系統，並採取針對性措施，旨在限制或調整與其提供的服務有關之廣告投放；
 - (f) 強化內部流程、資源、測試、文件或監管，特別是有關檢測系統性風險層面；
 - (g) 根據第 22 條規定與可信賴檢舉人進行合作或調整合作方式，並根據第 21 條規定執行訴訟外爭端解決機構所作決定；
 - (h) 透過第 45 條與第 48 條規定所述之行為準則與危機協議，啟動或調整與其他線上平臺或線上搜尋引擎提供者之合作；

1. Providers of very large online platforms and of very large online search engines shall put in place reasonable, proportionate and effective mitigation measures, tailored to the specific systemic risks identified pursuant to Article 34, with particular consideration to the impacts of such measures on fundamental rights. Such measures may include, where applicable:
 - (a) adapting the design, features or functioning of their services, including their online interfaces;
 - (b) adapting their terms and conditions and their enforcement;
 - (c) adapting content moderation processes, including the speed and quality of processing notices related to specific types of illegal content and, where appropriate, the expeditious removal of, or the disabling of access to, the content notified, in particular in respect of illegal hate speech or cyber violence, as well as adapting any relevant decision-making processes and dedicated resources for content moderation;
 - (d) testing and adapting their algorithmic systems, including their recommender systems;
 - (e) adapting their advertising systems and adopting targeted measures aimed at limiting or adjusting the presentation of advertisements in association with the service they provide;
 - (f) reinforcing the internal processes, resources, testing, documentation, or supervision of any of their activities in particular as regards detection of systemic risk;
 - (g) initiating or adjusting cooperation with trusted flaggers in accordance with Article 22 and the implementation of the decisions of out-of-court dispute settlement bodies pursuant to Article 21;
 - (h) initiating or adjusting cooperation with other providers of online platforms or of online search engines through the codes of conduct and the crisis protocols referred to in Articles 45 and 48 respectively;

- (i) 採用提高意識之措施並調整其線上界面，以利向服務接受者提供更多資訊；
 - (j) 視情況採用針對性措施，藉以保護兒童之權利，包括年齡驗證與家長控制工具，以及旨在協助未成年人報告虐待或尋求支持之工具；
 - (k) 與現有的人、物體、地點或其他實體或事件明顯相似之生成或經過編輯之圖像、音訊或視訊，對人們而言極為真實，應當確保特定資訊並於線上界面透過顯著標記以利區分，此外，應提供易於使用之功能，使服務接受者可得註記此類資訊。
2. 歐洲數位服務委員會應與歐盟執委會合作，每年發布綜合報告。前揭報告應包括下述內容：
- (a) 識別與評估透過超大型線上平臺與超大型線上搜尋引擎提供者提交之報告或其他資訊來源，特別是根據第 39 條、第 40 條與第 42 條規定所提供之資訊，所掌握之最為顯著與經常出現之系統性風險；
 - (b) 超大型線上平臺與超大型線上搜尋引擎提供者之最佳實務操作，藉以緩解業已識別之系統性風險。
- 於實際適用時，上揭報告應按發生之成員國與整個歐盟就系統性風險進行細分。
3. 歐盟執委會可得與數位服務協調人合作，針對第 1 項規定之具體風險發布應用指引，特別是提出最佳實務操作方式與建議採行之措施，並應適當考慮相關措施對各利害關係人受歐盟憲章保障之基本權利之可能影響。在編制相關指引時，歐盟執委會應著手進行公眾諮詢。

- (i) taking awareness-raising measures and adapting their online interface in order to give recipients of the service more information;
 - (j) taking targeted measures to protect the rights of the child, including age verification and parental control tools, tools aimed at helping minors signal abuse or obtain support, as appropriate;
 - (k) ensuring that an item of information, whether it constitutes a generated or manipulated image, audio or video that appreciably resembles existing persons, objects, places or other entities or events and falsely appears to a person to be authentic or truthful is distinguishable through prominent markings when presented on their online interfaces, and, in addition, providing an easy to use functionality which enables recipients of the service to indicate such information.
2. The Board, in cooperation with the Commission, shall publish comprehensive reports, once a year. The reports shall include the following:
- (a) identification and assessment of the most prominent and recurrent systemic risks reported by providers of very large online platforms and of very large online search engines or identified through other information sources, in particular those provided in compliance with Articles 39, 40 and 42;
 - (b) best practices for providers of very large online platforms and of very large online search engines to mitigate the systemic risks identified.
- Those reports shall present systemic risks broken down by the Member States in which they occurred and in the Union as a whole, as applicable.
3. The Commission, in cooperation with the Digital Services Coordinators, may issue guidelines on the application of paragraph 1 in relation to specific risks, in particular to present best practices and recommend possible measures, having due regard to the possible consequences of the measures on fundamental rights enshrined in the Charter of all parties

第 36 條 危機應對機制

1. 當發生危機，歐盟執委會得根據歐洲數位服務委員會之建議並採取決定，要求一個或多個超大型線上平臺與超大型線上搜尋引擎提供者採取下述一項或多項行動：
 - (a) 評估其服務之運作與使用，在多大程度以及如何造成第 2 項規定所述之的嚴重威脅，或可能造成此類威脅；
 - (b) 識別並應用具體、有效與相稱之措施，諸如第 35 條第 1 項或第 48 條第 2 項規定之措施，藉以防止、消除或限制根據本項第 (a) 款規定所確定之嚴重威脅；
 - (c) 依據決定中所指定之特定日期或特定間隔向歐盟執委會報告有關本項第 (a) 款規定之評估、本項第 (b) 款規定之具體措施之內容、實施情況、相關措施之定性與定量影響，以及與前揭評估或措施有關之任何其他問題。

在依本項第 (b) 款確定及採取具體措施時，服務提供者應適當考量第 2 項所提嚴重威脅之嚴重性、措施之急迫性，以及對所有相關利害關係人權利及合法利益的實際或潛在影響，包括用以維護歐盟憲章所定基本權利之措施的失敗可能性。

involved. When preparing those guidelines the Commission shall organise public consultations.

Article 36

Crisis response mechanism

1. Where a crisis occurs, the Commission, acting upon a recommendation of the Board may adopt a decision, requiring one or more providers of very large online platforms or of very large online search engines to take one or more of the following actions:
 - (a) assess whether, and if so to what extent and how, the functioning and use of their services significantly contribute to a serious threat as referred to in paragraph 2, or are likely to do so;
 - (b) identify and apply specific, effective and proportionate measures, such as any of those provided for in Article 35(1) or Article 48(2), to prevent, eliminate or limit any such contribution to the serious threat identified pursuant to point (a) of this paragraph;
 - (c) report to the Commission by a certain date or at regular intervals specified in the decision, on the assessments referred to in point (a), on the precise content, implementation and qualitative and quantitative impact of the specific measures taken pursuant to point (b) and on any other issue related to those assessments or those measures, as specified in the decision.

When identifying and applying measures pursuant to point (b) of this paragraph, the service provider or providers shall take due account of the gravity of the serious threat referred to in paragraph 2, of the urgency of the measures and of the actual or potential implications for the rights and legitimate interests of all parties concerned, including the possible failure of the measures to respect the fundamental rights enshrined in the Charter.

2. 就本條規定而言，當特殊情況導致歐盟或其重要地區之公共安全或公共衛生受到嚴重威脅時，應視為發生危機。
3. 在採取第 1 項規定所述之決定時，歐盟執委會應確保滿足下述所有要求：
 - (a) 決定所要求採取之行動應為絕對必要、有正當理由，並且是符合比例的，特別應考量第 2 項規定所述的嚴重威脅之嚴重性、採取措施之急迫性，以及對於所有相關利害關係人權利與合法利益之實際或潛在影響，包括用以維護歐盟憲章所定基本權利的措施之失敗可能性；
 - (b) 決定應明確規定採取第 1 項第 (b) 款規定所述的特定措施之合理期限，特別應慮及相關措施之急迫性，以及準備與實施相關措施所需要的時間；
 - (c) 決定所要求採取之行動之期限，不得超過三個月。
4. 在採取第 1 項規定所述之決定後，歐盟執委會應適時採取下述措施：
 - (a) 將決定內容通知所針對之超大型線上平臺與超大型線上搜尋引擎提供者；
 - (b) 公開決定內容；
 - (c) 將決定內容通報歐洲數位服務委員會，請其就該決定提出意見，並隨時通報決定之後續發展。
5. 根據第 1 項第 (b) 款規定與第 7 項之第 2 分項所採取之具體措施之選擇，應由歐盟執委會決定所涉及的一個或多個超大型線上平臺與超大型線上搜尋引擎為之。

2. For the purpose of this Article, a crisis shall be deemed to have occurred where extraordinary circumstances lead to a serious threat to public security or public health in the Union or in significant parts of it.
3. When taking the decision referred to in paragraph 1, the Commission shall ensure that all of the following requirements are met:
 - (a) the actions required by the decision are strictly necessary, justified and proportionate, having regard in particular to the gravity of the serious threat referred to in paragraph 2, the urgency of the measures and the actual or potential implications for the rights and legitimate interests of all parties concerned, including the possible failure of the measures to respect the fundamental rights enshrined in the Charter;
 - (b) the decision specifies a reasonable period within which specific measures referred to in paragraph 1, point (b), are to be taken, having regard, in particular, to the urgency of those measures and the time needed to prepare and implement them;
 - (c) the actions required by the decision are limited to a period not exceeding three months.
4. After adopting the decision referred to in paragraph 1, the Commission shall, without undue delay, take the following steps:
 - (a) notify the decision to the provider or providers to which the decision is addressed;
 - (b) make the decision publicly available; and
 - (c) inform the Board of the decision, invite it to submit its views thereon, and keep it informed of any subsequent developments relating to the decision.
5. The choice of specific measures to be taken pursuant to paragraph 1, point (b), and to paragraph 7, second subparagraph, shall remain with the provider or providers addressed by the Commission's decision.

6. 歐盟執委會可以自行主動或應提供者之請求，與提供者進行溝通，以利根據提供者之具體情況，確定第 1 項第 (b) 款規定所述的預期或業已實施之措施，是否有效且相稱地實現了所追求之目標。尤其歐盟執委會應確保提供者根據第 1 項第 (b) 款規定所採取之措施，係符合第 3 項第 (a) 款與第 (c) 款規定所述之要求。

7. 歐盟執委會應根據本條第 1 項第 (c) 款所述之報告以及其他相關資訊，包括根據第 40 條或第 67 條規定提出的請求所獲取之資訊，監督針對第 1 項決定所採取的具體措施之執行情形。考慮危機的演變，歐盟執委會應至少每月一次、定期向歐洲數位服務委員會報告前揭監督情況。

若歐盟執委會認為根據第 1 項第 (b) 款規定所採取的預期或業已實施之具體措施，並不具成效或不符比例時，可得於諮詢歐洲數位服務委員會後，採取決定並要求提供者重新審視相關具體措施之確定或應用情形。

8. 根據危機之演變情形，歐盟執委會可根據歐洲數位服務委員會之建議，採取下述方式，修正根據第 1 項或第 7 項之第 2 分項規定所作之決定：
 - (a) 撤銷決定，並在適當情況下要求超大型線上平臺與超大型線上搜尋引擎提供者停止適用根據第 1 項第 (b) 款或第 7 項之第 2 分項規定被要求採取之措施，特別是採取相關措施之理由已不復存在時；

6. The Commission may on its own initiative or at the request of the provider, engage in a dialogue with the provider to determine whether, in light of the provider's specific circumstances, the intended or implemented measures referred to in paragraph 1, point (b), are effective and proportionate in achieving the objectives pursued. In particular, the Commission shall ensure that the measures taken by the service provider under paragraph 1, point (b), meet the requirements referred to in paragraph 3, points (a) and (c).
7. The Commission shall monitor the application of the specific measures taken pursuant to the decision referred to in paragraph 1 of this Article on the basis of the reports referred to in point (c) of that paragraph and any other relevant information, including information it may request pursuant to Article 40 or 67, taking into account the evolution of the crisis. The Commission shall report regularly to the Board on that monitoring, at least on a monthly basis.

Where the Commission considers that the intended or implemented specific measures pursuant to paragraph 1, point (b), are not effective or proportionate it may, after consulting the Board, adopt a decision requiring the provider to review the identification or application of those specific measures.

8. Where appropriate in view of the evolution of the crisis, the Commission, acting on the Board's recommendation, may amend the decision referred to in paragraph 1 or in paragraph 7, second subparagraph, by:
 - (a) revoking the decision and, where appropriate, requiring the very large online platform or very large online search engine to cease to apply the measures identified and implemented pursuant to paragraph 1, point (b), or paragraph 7, second subparagraph, in particular where the grounds for such measures do not exist anymore;

(b) 延長第 3 項第 (c) 款規定所述之時間，但最長不得超過三個月；

(c) 考量實施相關措施所獲取之經驗，特別是用以維護歐盟憲章所定基本權利的措施之失敗可能性。

9. 第 1 項至第 6 項之要求，適用於本條所述之決定暨其修改。
10. 歐盟執委會應在最大程度範圍內考量歐洲數位服務委員會根據本條規定所提出之建議。
11. 凡根據本條規定通過決定，歐盟執委會應每年定期向歐洲議會與歐盟理事會進行報告，並在危機結束之後 3 個月內，將根據本條規定所採取的具體措施之適用情形，向歐洲議會與歐盟理事會進行報告。

第 37 條 獨立審計

1. 超大型線上平臺與超大型線上搜尋引擎提供者應自行承擔費用並至少每年接受一次獨立審計，以評估其是否遵循下述要求：
 - (a) 第 3 節規定所臚列之義務；
 - (b) 根據第 45 條與第 46 條規定所述之行為準則，以及根據第 48 條規定所述之危機協議所承諾之任何義務。
2. 超大型線上平臺與超大型線上搜尋引擎提供者應提供履行本條規定之審計機構所需之合作與協助，以使其可得有效、高效與及時地進行審計，包括提供對所有相關資料與場所之近用權限，以及回答口頭或書面問題。超大型線上平臺與超大型線上搜尋引擎提供者應避免妨礙、

- (b) extending the period referred to paragraph 3, point (c), by a period of no more than three months;
 - (c) taking account of experience gained in applying the measures, in particular the possible failure of the measures to respect the fundamental rights enshrined in the Charter.
9. The requirements of paragraphs 1 to 6 shall apply to the decision and to the amendment thereof referred to in this Article.
 10. The Commission shall take utmost account of the recommendation of the Board issued pursuant to this Article.
 11. The Commission shall report to the European Parliament and to the Council on a yearly basis following the adoption of decisions in accordance with this Article, and, in any event, three months after the end of the crisis, on the application of the specific measures taken pursuant to those decisions.

Article 37

Independent audit

1. Providers of very large online platforms and of very large online search engines shall be subject, at their own expense and at least once a year, to independent audits to assess compliance with the following:
 - (a) the obligations set out in Chapter III;
 - (b) any commitments undertaken pursuant to the codes of conduct referred to in Articles 45 and 46 and the crisis protocols referred to in Article 48.
2. Providers of very large online platforms and of very large online search engines shall afford the organisations carrying out the audits pursuant to this Article the cooperation and assistance necessary to enable them to conduct those audits in an effective, efficient and timely manner, including

不當影響或破壞審計之進行。

上述審計應確保在審計過程中，包括在審計終止之後所取得有關超大型線上平臺、超大型線上搜尋引擎提供者與第三方所提供的資訊，具備充分之機密性與專業保密性。惟遵守此一要求不應對審計的進行以及本條之其他規定產生不利影響，特別是有關透明度、監督與執行等規定。出於根據第 42 條第 4 項規定所述的透明度報告之需求，本條第 4 項與第 6 項所述之審計報告與審計執行報告，應為不包含任何可合理視為機密資訊之版本。

3. 根據第 1 項規定所應執行之審計，應由以下機構執行：

(a) 與超大型線上平臺與超大型線上搜尋引擎提供者，以及任何與前揭提供者有關之法人，不存在利益衝突情形並獨立運作，特別是：

(i) 在審計開始之前 12 個月內，並未向超大型線上平臺與超大型線上搜尋引擎提供者，以及與該提供者有關之任何法人，提供與審計事項相關之非審計服務，並承諾在審計完成之後 12 個月內不提供此類服務；

by giving them access to all relevant data and premises and by answering oral or written questions. They shall refrain from hampering, unduly influencing or undermining the performance of the audit.

Such audits shall ensure an adequate level of confidentiality and professional secrecy in respect of the information obtained from the providers of very large online platforms and of very large online search engines and third parties in the context of the audits, including after the termination of the audits. However, complying with that requirement shall not adversely affect the performance of the audits and other provisions of this Regulation, in particular those on transparency, supervision and enforcement. Where necessary for the purpose of the transparency reporting pursuant to Article 42(4), the audit report and the audit implementation report referred to in paragraphs 4 and 6 of this Article shall be accompanied with versions that do not contain any information that could reasonably be considered to be confidential.

3. Audits performed pursuant to paragraph 1 shall be performed by organisations which:
 - (a) are independent from, and do not have any conflicts of interest with, the provider of very large online platforms or of very large online search engines concerned and any legal person connected to that provider; in particular:
 - (i) have not provided non-audit services related to the matters audited to the provider of very large online platform or of very large online search engine concerned and to any legal person connected to that provider in the 12 months' period before the beginning of the audit and have committed to not providing them with such services in the 12 months' period after the completion of the audit;

- (ii) 連續 10 年以上未依本條規定，向超大型線上平臺與超大型線上搜尋引擎提供者，以及與該提供者有關之任何法人，提供審計服務；
 - (iii) 並未以不執行審計，換取根據審計結果而定之費用。
- (b) 在風險管理、技術力與能力等領域具備公認之專業知識；
- (c) 具備公認的客觀性與專業道德，特別是在實務準則或適當標準之遵循層面。
4. 超大型線上平臺與超大型線上搜尋引擎提供者應確保執行審計之機構，針對每次審計建立一份審計報告。該報告應以書面形式提供，並應至少納入下述內容：
- (a) 受審計之超大型線上平臺與超大型線上搜尋引擎提供者之名稱、地址與聯絡地點，以及審計所涵蓋之具體時程；
 - (b) 執行審計之組織或組織之名稱與地址；
 - (c) 利益聲明；
 - (d) 審計之具體要素與所應用方法之描述；
 - (e) 審計活動所獲取的主要發現之描述與摘要；
 - (f) 作為審計之一部之第三方諮詢名單；
 - (g) 對於受審計之超大型線上平臺與超大型線上搜尋引擎提供者是否遵循第 1 項所述之義務與承諾之審計意見，即「正面」、「附評論意見之正面」或「負面」；

- (ii) have not provided auditing services pursuant to this Article to the provider of very large online platform or of very large online search engine concerned and any legal person connected to that provider during a period longer than 10 consecutive years;
 - (iii) are not performing the audit in return for fees which are contingent on the result of the audit;
- (b) have proven expertise in the area of risk management, technical competence and capabilities;
 - (c) have proven objectivity and professional ethics, based in particular on adherence to codes of practice or appropriate standards.
4. Providers of very large online platforms and of very large online search engines shall ensure that the organisations that perform the audits establish an audit report for each audit. That report shall be substantiated, in writing, and shall include at least the following:
- (a) the name, address and the point of contact of the provider of the very large online platform or of the very large online search engine subject to the audit and the period covered;
 - (b) the name and address of the organisation or organisations performing the audit;
 - (c) a declaration of interests;
 - (d) a description of the specific elements audited, and the methodology applied;
 - (e) a description and a summary of the main findings drawn from the audit;
 - (f) a list of the third parties consulted as part of the audit;
 - (g) an audit opinion on whether the provider of the very large online platform or of the very large online search engine subject to the audit complied with the obligations and with the commitments referred to in paragraph 1, namely ‘positive’, ‘positive with comments’ or ‘negative’;

- (h) 若審計意見並非「正面」，則提供落實法遵所必須的具體措施之操作建議，以及落實法遵之建議時程。
5. 若執行審計之機構無法審計某些具體要素，或根據其調查表達審計意見，則審計報告應說明具體情形與無法審計相關要素之原因。
 6. 收到非「正面」審計報告之超大型線上平臺與超大型線上搜尋引擎提供者，應妥適考量審計報告對其提出之操作建議，以採取必要措施執行相關建議。超大型線上平臺與超大型線上搜尋引擎提供者應於收到相關建議之後 1 個月內採納一份審計執行報告，詳細臚列相關措施。若超大型線上平臺與超大型線上搜尋引擎提供者不擬執行相關操作建議，則應在審計執行報告中說明不執行之原因，並臚列其業已採取、用以解決所知名未遵循情形之任何替代措施。
 7. 歐盟執委會有權根據第 87 條規定制定授權法規，補充本條所規定的審計執行之必要規則，特別是有關其程序步驟、審計方法與審計報告範本等事項之必要規則，相關審計應根據本條規定進行。前揭授權法規應將第 44 條第 1 項第 (c) 款所述之任何自願性審計標準納為考量。

第 38 條 推薦系統

- (h) where the audit opinion is not ‘positive’, operational recommendations on specific measures to achieve compliance and the recommended timeframe to achieve compliance.
5. Where the organisation performing the audit was unable to audit certain specific elements or to express an audit opinion based on its investigations, the audit report shall include an explanation of the circumstances and the reasons why those elements could not be audited.
 6. Providers of very large online platforms or of very large online search engines receiving an audit report that is not ‘positive’ shall take due account of the operational recommendations addressed to them with a view to take the necessary measures to implement them. They shall, within one month from receiving those recommendations, adopt an audit implementation report setting out those measures. Where they do not implement the operational recommendations, they shall justify in the audit implementation report the reasons for not doing so and set out any alternative measures that they have taken to address any instances of non-compliance identified.
 7. The Commission is empowered to adopt delegated acts in accordance with Article 87 to supplement this Regulation by laying down the necessary rules for the performance of the audits pursuant to this Article, in particular as regards the necessary rules on the procedural steps, auditing methodologies and reporting templates for the audits performed pursuant to this Article. Those delegated acts shall take into account any voluntary auditing standards referred to in Article 44(1), point (e).

Article 38

Recommender systems

除第 27 條規定載明之要求，使用推薦系統之超大型線上平臺與超大型線上搜尋引擎提供者，應為其每個推薦系統提供至少一個選項，且該選項不得基於 2016/679/EU 規則第 4 條第 4 項所定義之個人剖析建檔。

第 39 條 額外之線上廣告透明度

1. 於線上界面展示廣告之超大型線上平臺與超大型線上搜尋引擎提供者，應透過允許多條件查詢的可供搜尋且可靠之工具，透過應用程式在其線上介面之特定部分進行編譯並公開發布程式設計接口，其中包括第 2 項規定所述之資訊，適用於其投放廣告之整個期間，直至廣告最後一次在其線上介面投放之最後一年。超大型線上平臺與超大型線上搜尋引擎提供者應確保其儲存庫不包含已向其投放或是可能向其投放廣告之廣告接受者之個人資料，並應盡合理努力確保資訊之準確與完整。

2. 上揭儲存庫應至少納入下述所有資訊：
 - (a) 廣告之內容，包括產品、服務或品牌之名稱以及廣告之主題；

 - (b) 代表所投放廣告之自然人或法人；

 - (c) 若支付廣告之人，與第 (b) 款所稱之不同，則為支付廣告費用之自然人或法人；

In addition to the requirements set out in Article 27, providers of very large online platforms and of very large online search engines that use recommender systems shall provide at least one option for each of their recommender systems which is not based on profiling as defined in Article 4, point (4), of Regulation (EU) 2016/679.

Article 39

Additional online advertising transparency

1. Providers of very large online platforms or of very large online search engines that present advertisements on their online interfaces shall compile and make publicly available in a specific section of their online interface, through a searchable and reliable tool that allows multicriteria queries and through application programming interfaces, a repository containing the information referred to in paragraph 2, for the entire period during which they present an advertisement and until one year after the advertisement was presented for the last time on their online interfaces. They shall ensure that the repository does not contain any personal data of the recipients of the service to whom the advertisement was or could have been presented, and shall make reasonable efforts to ensure that the information is accurate and complete.
2. The repository shall include at least all of the following information:
 - (a) the content of the advertisement, including the name of the product, service or brand and the subject matter of the advertisement;
 - (b) the natural or legal person on whose behalf the advertisement is presented;
 - (c) the natural or legal person who paid for the advertisement, if that person is different from the person referred to in point (b);

- (d) 廣告實際投放之期間；
 - (e) 廣告是否旨在專門向一個或多個特定群體之服務接受者加以投放，若為肯定，則應用於此一目的之主要參數，包括在實際適用下，用於排除其中一個或多個特定群體之主要參數；
 - (f) 根據第 26 條第 2 項規定所識別之超大型線上平臺所發布之商業通訊；
 - (g) 服務接受者所達到之總數，在實際適用下，按成員國針對廣告細分之一個或多個接受者群體之總數。
3. 關於前項規定之第 (a) 款、第 (b) 款與第 (c) 款，若超大型線上平臺與超大型線上搜尋引擎提供者基於所謂的非非法性或與其條款與條件不相符，從而移除或禁止對於特定廣告之近用權利，則儲存庫便不應包括上述之第 (a) 款、第 (b) 款與第 (c) 款規定之資訊。在此一情況下，對具體廣告而言，其儲存庫在實際適用下應包括第 17 條第 3 項第 (a) 款至第 (e) 款，或第 9 條第 2 項第 (a) 款第 (i) 目所稱之資訊。

歐盟執委會可得於諮詢歐洲數位服務委員會、第 40 條所稱之業經審核之研究人員以及公眾之後，就本條所稱之儲存庫之結構、組織與功能等事項發布指引。

第 40 條

資料近用與審查

1. 超大型線上平臺與超大型線上搜尋引擎提供者應根據其附理由說明之要求，在要求中指定之合理期限內，向其營業據點所在成員國之數位

- (d) the period during which the advertisement was presented;
 - (e) whether the advertisement was intended to be presented specifically to one or more particular groups of recipients of the service and if so, the main parameters used for that purpose including where applicable the main parameters used to exclude one or more of such particular groups;
 - (f) the commercial communications published on the very large online platforms and identified pursuant to Article 26(2);
 - (g) the total number of recipients of the service reached and, where applicable, aggregate numbers broken down by Member State for the group or groups of recipients that the advertisement specifically targeted.
3. As regards paragraph 2, points (a), (b) and (c), where a provider of very large online platform or of very large online search engine has removed or disabled access to a specific advertisement based on alleged illegality or incompatibility with its terms and conditions, the repository shall not include the information referred to in those points. In such case, the repository shall include, for the specific advertisement concerned, the information referred to in Article 17(3), points (a) to (e), or Article 9(2), point (a)(i), as applicable.

The Commission may, after consultation of the Board, the relevant vetted researchers referred to in Article 40 and the public, issue guidelines on the structure, organisation and functionalities of the repositories referred to in this Article.

Article 40

Data access and scrutiny

1. Providers of very large online platforms or of very large online search engines shall provide the Digital Services Coordinator of establishment or

服務協調人或歐盟執委會提供近用資料之權限，以監測並評估本規則之遵循情形。

2. 數位服務協調人與歐盟執委會應僅將根據第 1 項規定所近用之資料，用於監測及評估本規則之遵循情形，並應考慮超大型線上平臺與超大型線上搜尋引擎提供者與相關服務接受者之權利與利益，包括保護個人資料、保護商業機密在內之機密資訊，以及維護其服務之安全性。

3. 出於第 1 項規定之目的，超大型線上平臺與超大型線上搜尋引擎提供者應根據營業據點所在成員國之數位服務協調人或歐盟執委會之要求，解釋其演算法系統，包括其推薦系統之設計、邏輯、運作與測試。

4. 根據營業據點所在成員國之數位服務協調人之要求，超大型線上平臺與超大型線上搜尋引擎提供者應按要求所指定之合理期限，提供對經過審核之研究人員之資料近用權，相關研究人員應符合本條第 8 項規定所述之條件，其唯一目的係進行有助於檢測、識別與理解歐盟境內系統性風險，以及根據第 34 條第 1 項與第 35 條規定，有關風險緩解措施之適當性、效率與衝擊分析之研究。

5. 於接獲根據前項規定之要求後之 15 天內，若超大型線上平臺與超大型線上搜尋引擎提供者認為出於下述理由之一，無法提供被要求之資料時，其可請求營業據點所在成員國之數位服務協調人修改其要求：

the Commission, at their reasoned request and within a reasonable period specified in that request, access to data that are necessary to monitor and assess compliance with this Regulation.

2. Digital Services Coordinators and the Commission shall use the data accessed pursuant to paragraph 1 only for the purpose of monitoring and assessing compliance with this Regulation and shall take due account of the rights and interests of the providers of very large online platforms or of very large online search engines and the recipients of the service concerned, including the protection of personal data, the protection of confidential information, in particular trade secrets, and maintaining the security of their service.
3. For the purposes of paragraph 1, providers of very large online platforms or of very large online search engines shall, at the request of either the Digital Service Coordinator of establishment or of the Commission, explain the design, the logic, the functioning and the testing of their algorithmic systems, including their recommender systems.
4. Upon a reasoned request from the Digital Services Coordinator of establishment, providers of very large online platforms or of very large online search engines shall, within a reasonable period, as specified in the request, provide access to data to vetted researchers who meet the requirements in paragraph 8 of this Article, for the sole purpose of conducting research that contributes to the detection, identification and understanding of systemic risks in the Union, as set out pursuant to Article 34(1), and to the assessment of the adequacy, efficiency and impacts of the risk mitigation measures pursuant to Article 35.
5. Within 15 days following receipt of a request as referred to in paragraph 4, providers of very large online platforms or of very large online search engines may request the Digital Services Coordinator of establishment, to

- (a) 超大型線上平臺與超大型線上搜索引擎提供者無法近用資料；
 - (b) 提供資料將導致超大型線上平臺與超大型線上搜尋引擎提供者之服務安全性或機密資訊之保護，特別是商業秘密層面出現重大漏洞。
6. 根據第 5 項規定提出的修改請求，應包含對一種或多種替代方式的建議，透過這些方式可以提供對所請求資料或對請求目的而言，適當且充分的其他資料之存取。

營業據點所在成員國之數位服務協調人應在 15 天內就修改請求作出決定，並將其決定以及相關的修改後的請求和新的期限傳達給超大型線上平臺與超大型線上搜尋引擎提供者並要求遵守。

7. 超大型線上平臺與超大型線上搜尋引擎提供者應透過請求所指定的適當介面（包括線上資料庫或應用程式介面）促進並提供對第 1 項與第 4 項規定之資料之存取。
8. 在研究人員提出適當證實之申請後，營業據點所在成員國之數位服務協調人應授予相關研究人員針對申請中提到之具體研究之「經過審查之研究人員」之地位，並向超大型線上平臺與超大型線上搜尋引擎提供者發出合理之資料存取請求。超大型線上平臺與超大型線上搜尋引擎提供者根據第 4 項第 (a) 款規定，研究人員證明其符合下述所有條件：
- (a) 相關人員隸屬於 2019/790 指令第 2 條第 (1) 款所定義之研究組織；

amend the request, where they consider that they are unable to give access to the data requested because one of following two reasons:

- (a) they do not have access to the data;
- (b) giving access to the data will lead to significant vulnerabilities in the security of their service or the protection of confidential information, in particular trade secrets.

6. Requests for amendment pursuant to paragraph 5 shall contain proposals for one or more alternative means through which access may be provided to the requested data or other data which are appropriate and sufficient for the purpose of the request.

The Digital Services Coordinator of establishment shall decide on the request for amendment within 15 days and communicate to the provider of the very large online platform or of the very large online search engine its decision and, where relevant, the amended request and the new period to comply with the request.

7. Providers of very large online platforms or of very large online search engines shall facilitate and provide access to data pursuant to paragraphs 1 and 4 through appropriate interfaces specified in the request, including online databases or application programming interfaces.
8. Upon a duly substantiated application from researchers, the Digital Services Coordinator of establishment shall grant such researchers the status of ‘vetted researchers’ for the specific research referred to in the application and issue a reasoned request for data access to a provider of very large online platform or of very large online search engine a pursuant to paragraph 4, where the researchers demonstrate that they meet all of the following conditions:
 - (a) they are affiliated to a research organisation as defined in Article 2, point (1), of Directive (EU) 2019/790;

- (b) 獨立於商業利益之外；
- (c) 所提出之申請揭露研究資助情形；
- (d) 有能力滿足個別請求所對應之資料安全與保密要求並保護個人資料，並且在請求中描述了相關研究人員出於此一目的所採取之適當技術與組織措施；
- (e) 申請表明研究人員所獲取的資料與所要求之時間範圍，對於其研究目的係屬必要，並且與其研究目的相符，並且該等研究之預期結果，將有助於實現上述第 4 項規定之目的；
- (f) 計畫之研究活動將用於第 4 項規定所稱之目的；
- (g) 承諾根據 2016/679 規則，在研究完成後之合理期限內，免費公開其研究結果，並遵循相關服務接受者之權利和利益。

營業據點所在成員國之數位服務協調人於接獲根據本項所提出之申請後，應通報歐盟執委會與歐洲數位服務委員會。

9. 研究人員亦可得向所屬研究組織成員國之數位服務協調人提交申請。在接獲根據本項規定提出之申請後，數位服務協調人應就相關研究人員是否符合第 8 項規定之所有條件進行初步評估。相關數位服務協調人嗣後應發送申請以及支援研究人員提交之文件與初步評估，提交予營業據點所在成員國之數位服務協調人。營業據點所在成員國之數位服務協調人應立即決定是否授予研究人員「業經審查之研究人員」之身分。

- (b) they are independent from commercial interests;
- (c) their application discloses the funding of the research;
- (d) they are capable of fulfilling the specific data security and confidentiality requirements corresponding to each request and to protect personal data, and they describe in their request the appropriate technical and organisational measures that they have put in place to this end;
- (e) their application demonstrates that their access to the data and the time frames requested are necessary for, and proportionate to, the purposes of their research, and that the expected results of that research will contribute to the purposes laid down in paragraph 4;
- (f) the planned research activities will be carried out for the purposes laid down in paragraph 4;
- (g) they have committed themselves to making their research results publicly available free of charge, within a reasonable period after the completion of the research, subject to the rights and interests of the recipients of the service concerned, in accordance with Regulation (EU) 2016/679.

Upon receipt of the application pursuant to this paragraph, the Digital Services Coordinator of establishment shall inform the Commission and the Board.

9. Researchers may also submit their application to the Digital Services Coordinator of the Member State of the research organisation to which they are affiliated. Upon receipt of the application pursuant to this paragraph the Digital Services Coordinator shall conduct an initial assessment as to whether the respective researchers meet all of the conditions set out in paragraph 8. The respective Digital Services Coordinator shall subsequently send the application, together with the supporting documents submitted by the respective researchers and the initial assessment, to the Digital

根據前項規定於考量所提供之初步評估時，授予研究人員「業經審查之研究人員」地位之最終決定權，屬於營業據點所在成員國之數位服務協調人。

10. 授予業經審查之研究人員地位並向超大型線上平臺與超大型線上搜尋引擎提供者發出合理資料存取請求，藉以支援業經審查的研究人員之數位服務協調人，如經其主動調查或根據自第三方所接獲的資訊進行調查之後，確定業經審查的研究人員已不再符合第8項所規定之條件，其應通知超大型線上平臺提供者或與該決定有關之超大型線上搜尋引擎提供者，發布終止近用之決定。在終止近用之前，數位服務協調人應允許業經審查之研究人員，對其調查結果及其終止近用之構想進行回應。
11. 營業據點所在成員國之數位服務協調人應向歐洲數位服務委員會通報其根據第8項規定所授予「業經審查之研究人員」身分之自然人或實體之姓名與聯繫資訊，以及其研究之目的。就提出之申請而言，若相關人員已根據第10項規定終止對有關資訊之近用，則將該等資訊向歐洲數位服務委員會進行通報。
12. 超大型線上平臺或超大型線上搜尋引擎提供者應立即提供針對資料之近用，包括在技術可行之下提供當前之資料，前提係研究人員可得

Services Coordinator of establishment. The Digital Services Coordinator of establishment shall take a decision whether to award a researcher the status of ‘vetted researcher’ without undue delay.

While taking due account of the initial assessment provided, the final decision to award a researcher the status of ‘vetted researcher’ lies within the competence of Digital Services Coordinator of establishment, pursuant to paragraph 8.

10. The Digital Services Coordinator that awarded the status of vetted researcher and issued the reasoned request for data access to the providers of very large online platforms or of very large online search engines in favour of a vetted researcher shall issue a decision terminating the access if it determines, following an investigation either on its own initiative or on the basis of information received from third parties, that the vetted researcher no longer meets the conditions set out in paragraph 8, and shall inform the provider of the very large online platform or of the very large online search engine concerned of the decision. Before terminating the access, the Digital Services Coordinator shall allow the vetted researcher to react to the findings of its investigation and to its intention to terminate the access.
11. Digital Services Coordinators of establishment shall communicate to the Board the names and contact information of the natural persons or entities to which they have awarded the status of ‘vetted researcher’ in accordance with paragraph 8, as well as the purpose of the research in respect of which the application was made or, where they have terminated the access to the data in accordance with paragraph 10, communicate that information to the Board.
12. Providers of very large online platforms or of very large online search engines shall give access without undue delay to data, including, where

於其線上介面公開近用相關資料，包括隸屬於非營利組織、組織與協會，符合第 8 項第 (b) 款、第 (c) 款、第 (d) 款及第 (e) 款規定之條件，以及僅將相關資料應用於進行研究之人員，且有助於根據第 34 條第 1 項規定檢測、識別與了解歐盟境內之系統性風險。

13. 歐盟執委會應於諮詢歐洲數位服務委員會後，制定授權法規補充本法，規定超大型線上平臺或超大型線上搜尋引擎提供者根據第 1 項及第 4 項規定共享資料之技術條件、資料之使用目的。相關授權法規應明定與研究人員共享資料之具體條件及相關之客觀指標、程序，以及在確有必要時之獨立諮詢機制，以符合 2016/679 規則之要求。資料共享應當將超大型線上平臺、超大型線上搜尋引擎提供者及相關服務之接受者之權利與利益納為考量。

第 41 條

法律遵循部門

1. 超大型線上平臺或超大型線上搜尋引擎提供者應設立法律遵循部門，該部門應獨立於業務部門之外，並由一名或多名法律遵循人員組成，其中包括法律遵循部門之負責人。應當使法律遵循部門擁有足夠之權力、地位與資源，並且可得接觸超大型線上平臺或超大型線上搜尋引

technically possible, to real-time data, provided that the data is publicly accessible in their online interface by researchers, including those affiliated to not for profit bodies, organisations and associations, who comply with the conditions set out in paragraph 8, points (b), (c), (d) and (e), and who use the data solely for performing research that contributes to the detection, identification and understanding of systemic risks in the Union pursuant to Article 34(1).

13. The Commission shall, after consulting the Board, adopt delegated acts supplementing this Regulation by laying down the technical conditions under which providers of very large online platforms or of very large online search engines are to share data pursuant to paragraphs 1 and 4 and the purposes for which the data may be used. Those delegated acts shall lay down the specific conditions under which such sharing of data with researchers can take place in compliance with Regulation (EU) 2016/679, as well as relevant objective indicators, procedures and, where necessary, independent advisory mechanisms in support of sharing of data, taking into account the rights and interests of the providers of very large online platforms or of very large online search engines and the recipients of the service concerned, including the protection of confidential information, in particular trade secrets, and maintaining the security of their service.

Article 41

Compliance function

1. Providers of very large online platforms or of very large online search engines shall establish a compliance function, which is independent from their operational functions and composed of one or more compliance officers, including the head of the compliance function. That compliance

擎提供者之管理階層，以利監督超大型線上平臺或超大型線上搜尋引擎提供者遵循本法。

2. 超大型線上平臺或超大型線上搜尋引擎提供者之管理階層，應確保法律遵循人員具備完成第 3 項所述的職務所需之專業資格、知識、經驗與能力。

超大型線上平臺、超大型線上搜尋引擎提供者之管理階層，應確保法律遵循部門之負責人，係具獨立地位之高階管理人員，並且對法律遵循部門負有明確之責任。

法律遵循部門負責人應直接向超大型線上平臺或超大型線上搜尋引擎提供者之管理階層進行報告，若其發現存有第 34 條所述之風險或違規行為，可得向管理階層提出關注並警示受本法實際影響或可能影響之相關超大型線上平臺或超大型線上搜尋引擎提供者，但不影響管理階層之監督與管理職能職責。

未經超大型線上平臺或超大型線上搜尋引擎提供者之管理階層事先同意，不得罷黜法律遵循部門負責人。

3. 法律遵循人員應當履行下述職務：
 - (a) 出於履行本法之目的，與營業據點所在成員國之數位服務協調人與歐盟執委會進行合作；
 - (b) 確保識別並正確報告第 34 條規定所述之所有風險，並根據第 35 條規定採取合理、相稱與有效之風險緩解措施；

function shall have sufficient authority, stature and resources, as well as access to the management body of the provider of the very large online platform or of the very large online search engine to monitor the compliance of that provider with this Regulation.

2. The management body of the provider of the very large online platform or of the very large online search engine shall ensure that compliance officers have the professional qualifications, knowledge, experience and ability necessary to fulfil the tasks referred to in paragraph 3.

The management body of the provider of the very large online platform or of the very large online search engine shall ensure that the head of the compliance function is an independent senior manager with distinct responsibility for the compliance function.

The head of the compliance function shall report directly to the management body of the provider of the very large online platform or of the very large online search engine, and may raise concerns and warn that body where risks referred to in Article 34 or non-compliance with this Regulation affect or may affect the provider of the very large online platform or of the very large online search engine concerned, without prejudice to the responsibilities of the management body in its supervisory and managerial functions.

The head of the compliance function shall not be removed without prior approval of the management body of the provider of the very large online platform or of the very large online search engine.

3. Compliance officers shall have the following tasks:
 - (a) cooperating with the Digital Services Coordinator of establishment and the Commission for the purpose of this Regulation;
 - (b) ensuring that all risks referred to in Article 34 are identified and properly reported on and that reasonable, proportionate and effective risk-mit-

- (c) 組織並監督超大型線上平臺或超大型線上搜尋引擎提供者，根據第 37 條規定進行獨立之審計活動：
 - (d) 向超大型線上平臺或超大型線上搜尋引擎提供者之管理階層與一般員工，告知本法所規定之相關義務並提供建議：
 - (e) 監督超大型線上平臺或超大型線上搜尋引擎提供者對本法所定義義務之遵循情形：
 - (f) 在實際適用之下，監督超大型線上平臺或超大型線上搜尋引擎提供者是否遵循根據第 45 條與第 46 條規定所制定之行為準則，或根據第 48 條規定之危機協議所作出之承諾。
4. 超大型線上平臺或超大型線上搜尋引擎提供者應將法律遵循部門負責人之姓名與聯絡資訊，告知營業據點所在成員國之數位服務協調人與歐盟執委會。
 5. 超大型線上平臺或超大型線上搜尋引擎提供者之管理階層應界定、監督並負責提供者治理規劃之實施，以確保法律遵循部門之獨立性，包括法律遵循部門在超大型線上平臺或超大型線上搜尋引擎提供者之組織內部職責劃分，以防止利益衝突情形，並針對根據第 34 條規定所確定之系統性風險進行健全管理。
 6. 管理階層應至少每年一次定期審批與審查用於承擔、管理、監測與減輕根據第 34 條規定所識別之超大型線上平臺或超大型線上搜尋引擎

- igation measures are taken pursuant to Article 35;
- (c) organising and supervising the activities of the provider of the very large online platform or of the very large online search engine relating to the independent audit pursuant to Article 37;
 - (d) informing and advising the management and employees of the provider of the very large online platform or of the very large online search engine about relevant obligations under this Regulation;
 - (e) monitoring the compliance of the provider of the very large online platform or of the very large online search engine with its obligations under this Regulation;
 - (f) where applicable, monitoring the compliance of the provider of the very large online platform or of the very large online search engine with commitments made under the codes of conduct pursuant to Articles 45 and 46 or the crisis protocols pursuant to Article 48.
4. Providers of very large online platforms or of very large online search engines shall communicate the name and contact details of the head of the compliance function to the Digital Services Coordinator of establishment and to the Commission.
 5. The management body of the provider of the very large online platform or of the very large online search engine shall define, oversee and be accountable for the implementation of the provider's governance arrangements that ensure the independence of the compliance function, including the division of responsibilities within the organisation of the provider of very large online platform or of very large online search engine, the prevention of conflicts of interest, and sound management of systemic risks identified pursuant to Article 34.
 6. The management body shall approve and review periodically, at least once a year, the strategies and policies for taking up, managing, monitoring

提供者應對可能面臨的風險之對策與政策。

7. 管理階層應投入充分時間，思考風險管理之有關措施。其應積極參與風險管理相關決策，並應針對根據第 34 條規定所識別的風險之管理工作，確保配置充分之資源。

第 42 條

透明度報告義務

1. 超大型線上平臺或超大型線上搜尋引擎提供者應至遲於第 33 條第 6 項之第 2 分項所述之申請之日起二個月內，公布第 15 條規定所述之報告，之後應每六個月公布前揭報告。
2. 超大型線上平臺根據前項規定所公布之報告，除第 15 條與第 24 條第 1 項規定所述之資訊外，尚應說明：
 - (a) 超大型線上平臺提供者於歐盟境內提供之服務，專門針對內容審核所配置之人力資源，並應按成員國個別適用之官方語言加以細分，包括遵循第 16 條與第 22 條所規定之義務，以及遵循第 20 條所規定之義務；
 - (b) 從事第 (a) 款所述活動的人員之資格與語言方面之專業知識，以及針對此類工作人員所提供之培訓與支援；

and mitigating the risks identified pursuant to Article 34 to which the very large online platform or the very large online search engine is or might be exposed to.

7. The management body shall devote sufficient time to the consideration of the measures related to risk management. It shall be actively involved in the decisions related to risk management, and shall ensure that adequate resources are allocated to the management of the risks identified in accordance with Article 34.

Article 42

Transparency reporting obligations

1. Providers of very large online platforms or of very large online search engines shall publish the reports referred to in Article 15 at the latest by two months from the date of application referred to in Article 33(6), second subparagraph, and thereafter at least every six months.
2. The reports referred to in paragraph 1 of this Article published by providers of very large online platforms shall, in addition to the information referred to in Article 15 and Article 24(1), specify:
 - (a) the human resources that the provider of very large online platforms dedicates to content moderation in respect of the service offered in the Union, broken down by each applicable official language of the Member States, including for compliance with the obligations set out in Articles 16 and 22, as well as for compliance with the obligations set out in Article 20;
 - (b) the qualifications and linguistic expertise of the persons carrying out the activities referred to in point (a), as well as the training and support given to such staff;

(c) 第 15 條第 1 項第 (e) 款規定所述之準確性指標與關聯資訊，並應按成員國個別官方語言加以細分。

報告應至少以一種成員國官方語言加以發布。

3. 除第 24 條第 2 項規定所述之資訊，超大型線上平臺或超大型線上搜尋引擎提供者亦應於第 1 項所述之報告中，就個別成員國所提供之服務，納入其平均每月接受者人數之資訊。

4. 超大型線上平臺或超大型線上搜尋引擎提供者應於完成第 37 條第 4 項規定之審計報告後，立即提交予營業據點所在成員國之數位服務協調人與歐盟執委會，並應於收受後至遲 3 個月內公開下述資訊：

(a) 根據第 34 條規定所臚列之風險評估結果之報告；

(b) 根據第 35 條第 1 項規定所採取之具體緩解措施；

(c) 第 37 條第 4 項規定之審計報告；

(d) 第 37 條第 6 項規定之審計實施報告；

(e) 於實際適用時，有關提供者為支持風險評估與風險緩解措施之設計，所實際進行諮商之資訊。

5. 超大型線上平臺或超大型線上搜尋引擎提供者若認為根據前項規定所發布之資訊，可能導致該提供者或服務接受者之機密資訊外洩，從而導致其服務安全出現重大漏洞、破壞公共安全或損害服務接受者之利益，提供者可得自公開報告中刪除此類資訊。在此一情形下，提供者應將完整的報告提交予營業據點所在成員國之數位服務協調人與歐盟

(c) the indicators of accuracy and related information referred to in Article 15(1), point (e), broken down by each official language of the Member States.

The reports shall be published in at least one of the official languages of the Member States.

3. In addition to the information referred to in Articles 24(2), the providers of very large online platforms or of very large online search engines shall include in the reports referred to in paragraph 1 of this Article the information on the average monthly recipients of the service for each Member State.
4. Providers of very large online platforms or of very large online search engines shall transmit to the Digital Services Coordinator of establishment and the Commission, without undue delay upon completion, and make publicly available at the latest three months after the receipt of each audit report pursuant to Article 37(4):
 - (a) a report setting out the results of the risk assessment pursuant to Article 34;
 - (b) the specific mitigation measures put in place pursuant to Article 35(1);
 - (c) the audit report provided for in Article 37(4);
 - (d) the audit implementation report provided for in Article 37(6);
 - (e) where applicable, information about the consultations conducted by the provider in support of the risk assessments and design of the risk mitigation measures.
5. Where a provider of very large online platform or of very large online search engine considers that the publication of information pursuant to paragraph 4 might result in the disclosure of confidential information of that provider or of the recipients of the service, cause significant vulnerabilities for the security of its service, undermine public security

執委會，並附上自公開報告中刪除特定資訊之原因說明。

第 43 條 監管費用

1. 歐盟執委會應根據第 33 條規定之指定，向超大型線上平臺或超大型線上搜尋引擎提供者收取年度監管費用。
2. 年度監管費用之總額，應涵蓋歐盟執委會根據本法執行監管任務所產生之估算費用，特別是與依據第 33 條規定之指定、設立、維護與經營、依據第 24 條第 5 項規定建立之資料庫、依據第 85 條規定建立之資訊共享系統、依據第 59 條規定之轉嫁、依據第 62 條規定對歐洲數位服務委員會之支援，以及依據第 56 條與本章第 4 節所定監督任務有關之費用。
3. 超大型線上平臺或超大型線上搜尋引擎提供者應每年就其依據第 33 條規定受指定之個別服務，繳納監管費用。

執委會應通過執行法規，確定個別超大型線上平臺或超大型線上搜尋引擎提供者之年度監管費用金額。於制定相關執行法規時，歐盟執委會應採用本條第 4 項規定所述之執行法規之規範方式，並應尊重本條第 5 項規定所定原則。相關授權法規應依據第 88 條規定所述諮詢程序加以通過。

or harm recipients, the provider may remove such information from the publicly available reports. In that case, the provider shall transmit the complete reports to the Digital Services Coordinator of establishment and the Commission, accompanied by a statement of the reasons for removing the information from the publicly available reports.

Article 43

Supervisory fee

1. The Commission shall charge providers of very large online platforms and of very large online search engines an annual supervisory fee upon their designation pursuant to Article 33.
2. The overall amount of the annual supervisory fees shall cover the estimated costs that the Commission incurs in relation to its supervisory tasks under this Regulation, in particular costs related to the designation pursuant to Article 33, to the set-up, maintenance and operation of the database pursuant to Article 24(5) and to the information sharing system pursuant to Article 85, to referrals pursuant to Article 59, to supporting the Board pursuant to Article 62 and to the supervisory tasks pursuant to Article 56 and Section 4 of Chapter IV.
3. The providers of very large online platforms and of very large online search engines shall be charged annually a supervisory fee for each service for which they have been designated pursuant to Article 33.

The Commission shall adopt implementing acts establishing the amount of the annual supervisory fee in respect of each provider of very large online platform or of very large online search engine. When adopting those implementing acts, the Commission shall apply the methodology laid down in the delegated act referred to in paragraph 4 of this Article

4. 歐盟執委會應依據第 87 條規定制定授權法規，明定下述詳細之方法與程序：
 - (a) 確定第 2 項規定之估算費用；
 - (b) 確定第 5 項第 (b) 款與第 (c) 款規定所述之個別年度監管費用；
 - (c) 決定第 5 項第 (c) 款所定義之最大總體限值；以及
 - (d) 有關繳納款項所必要之細部安排。於制定相關授權法規時，歐盟執委會應尊重本條第 5 項規定所定原則。
5. 第 3 項所述之執行法規以及第 4 項所述之授權法規，應遵循下列原則：
 - (a) 年度監管費用總額之估算，應將上一年所發生費用納為考量；
 - (b) 個別超大型線上平臺或超大型線上搜尋引擎提供者之年度監管費用，與其根據第 33 條規定之歐盟境內平均每月活躍接受者之數量，兩者之間應符合比例原則；
 - (c) 在任何情況下，針對特定超大型線上平臺或超大型線上搜尋引擎提供者所收取之年度監管費用總額，不得超過其上一財政年度之全球年度淨利之 0.05%。
6. 根據第 1 項規定所收取之個別年度監管費用，應視為 2018/1046 號規則第 21 條第 5 項規定所稱之外部分配收入。

and shall respect the principles set out in paragraph 5 of this Article. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 88.

4. The Commission shall adopt delegated acts, in accordance with Article 87, laying down the detailed methodology and procedures for:
 - (a) the determination of the estimated costs referred to in paragraph 2;
 - (b) the determination of the individual annual supervisory fees referred to in paragraph 5, points (b) and (c);
 - (c) the determination of the maximum overall limit defined in paragraph 5, point (c); and
 - (d) the detailed arrangements necessary to make payments.

When adopting those delegated acts, the Commission shall respect the principles set out in paragraph 5 of this Article.

5. The implementing act referred to in paragraph 3 and the delegated act referred to in paragraph 4 shall respect the following principles:
 - (a) the estimation of the overall amount of the annual supervisory fee takes into account the costs incurred in the previous year;
 - (b) the annual supervisory fee is proportionate to the number of average monthly active recipients in the Union of each very large online platform or each very large online search engine designated pursuant to Article 33;
 - (c) the overall amount of the annual supervisory fee charged on a given provider of very large online platform or very large search engine does not, in any case, exceed 0,05 % of its worldwide annual net income in the preceding financial year.
6. The individual annual supervisory fees charged pursuant to paragraph 1 of this Article shall constitute external assigned revenue in accordance with Article 21(5) of Regulation (EU, Euratom) 2018/1046 of the European

7. 歐盟執委會應每年向歐洲議會與歐盟理事會報告為執行本法所規定之任務從而產生之費用總額，以及上一年度所收取之個別年度監管費用總額。

第六節

有關盡職調查義務之其他規定

第 44 條

標準

1. 歐盟執委會應諮詢歐洲數位服務委員會，並應於至少下述層面，支持與促進相關歐洲與國際標準化機構制定與實施自願性標準：
 - (a) 根據第 16 條規定以電子方式提交通知；
 - (b) 以用戶友善方式，針對條款與條件暨其變更所產生之限制，與服務接受者協商其範本、設計與流程標準；
 - (c) 由可信賴檢舉人根據第 22 條規定以電子方式提交通報，包括透過應用程式介面方式；
 - (d) 包括應用程式界面在內之特定接口，以促進遵循第 39 條與第 40 條所規定之義務；
 - (e) 根據第 37 條規定針對超大型線上平臺與超大型線上搜尋引擎進行審計；
 - (f) 第 39 條第 2 項規定所述之廣告儲存庫之互通性；

Parliament and of the Council.

7. The Commission shall report annually to the European Parliament and to the Council on the overall amount of the costs incurred for the fulfilment of the tasks under this Regulation and the total amount of the individual annual supervisory fees charged in the preceding year.

SECTION 6

Other provisions concerning due diligence obligations

Article 44

Standards

1. The Commission shall consult the Board, and shall support and promote the development and implementation of voluntary standards set by relevant European and international standardisation bodies, at least in respect of the following:
 - (a) electronic submission of notices under Article 16;
 - (b) templates, design and process standards for communicating with the recipients of the service in a user-friendly manner on restrictions resulting from terms and conditions and changes thereto;
 - (c) electronic submission of notices by trusted flaggers under Article 22, including through application programming interfaces;
 - (d) specific interfaces, including application programming interfaces, to facilitate compliance with the obligations set out in Articles 39 and 40;
 - (e) auditing of very large online platforms and of very large online search engines pursuant to Article 37;
 - (f) interoperability of the advertisement repositories referred to in Article 39(2);

- (g) 根據第 26 條第 1 項第 (b) 款、第 (c) 款與第 (d) 款，於廣告中介機構之間傳輸資料，藉以支持透明度義務；
 - (h) 相關技術措施，藉以確保遵守本法中與廣告有關之義務，包括第 26 條規定所述、有關廣告與商業通訊之顯著標記之義務；
 - (i) 根據第 27 條與第 38 條規定，不同類型的推薦系統之主要參數選擇介面與資訊之呈現；
 - (j) 保護未成年人上網之針對性措施標準。
2. 歐盟執委會應根據技術發展與服務接受者之行為，支持標準之更新。標準更新之相關資訊應公開並且易於取得。

第 45 條 行為準則

1. 歐盟執委會與歐洲數位服務委員會應鼓勵並促進歐盟層級之自願性行為準則之制定，藉以促進本法之適當適用，尤其應考量對不同類型的非法內容與系統性風險帶來之具體挑戰，並符合歐盟相關立法，特別是有關競爭與個人資料保護之立法。
2. 當出現第 34 條第 1 項所定義之重大系統性風險並涉及多個超大型線上平臺或超大型線上搜尋引擎，歐盟執委會可斟酌情形，邀請相關超大型線上平臺或超大型線上搜尋引擎提供者、超大型線上平臺、超大型線上搜尋引擎、線上平臺、其他中介服務之其他提供者，以及相關主管部門、民間社會組織與其他利害關係人等，參與行為準則之制定，

- (g) transmission of data between advertising intermediaries in support of transparency obligations pursuant to Article 26(1), points (b), (c) and (d);
 - (h) technical measures to enable compliance with obligations relating to advertising contained in this Regulation, including the obligations regarding prominent markings for advertisements and commercial communications referred to in Article 26;
 - (i) choice interfaces and presentation of information on the main parameters of different types of recommender systems, in accordance with Articles 27 and 38;
 - (j) standards for targeted measures to protect minors online.
2. The Commission shall support the update of the standards in the light of technological developments and the behaviour of the recipients of the services in question. The relevant information regarding the update of the standards shall be publicly available and easily accessible.

Article 45

Codes of conduct

1. The Commission and the Board shall encourage and facilitate the drawing up of voluntary codes of conduct at Union level to contribute to the proper application of this Regulation, taking into account in particular the specific challenges of tackling different types of illegal content and systemic risks, in accordance with Union law in particular on competition and the protection of personal data.
2. Where significant systemic risk within the meaning of Article 34(1) emerge and concern several very large online platforms or very large online search engines, the Commission may invite the providers of very large online platforms concerned or the providers of very large online search engines concerned, and other providers of very large online platforms, of very

包括承諾採取具體風險緩解措施，並針對所採取之措施暨其結果，制定定期性報告架構。

3. 於實施第 1 項與第 2 項規定時，歐盟執委會與歐洲數位服務委員會及其他關聯機構，應致力於確保行為準則明確地陳述其具體目標，包含衡量相關目標實踐情形之關鍵績效指標，並適當考量歐盟層級之所有利害相關人，特別是公民之需求與利益。歐盟執委會與歐洲數位服務委員會尚應致力於確保參與者，定期向歐盟執委會及其各該營業據點所在成員國之數位服務協調人報告所採取之措施暨其結果，並根據其中之關鍵績效指標進行衡量。關鍵績效指標與報告承諾，應當考慮不同參與者之間在規模與能力方面之差異。

4. 歐盟執委會與歐洲數位服務委員會應評估行為準則是否符合第 1 項與第 3 項規定之目標，並應定期監測與評估目標之實踐情形，同時考慮其中可能包含之關鍵績效指標。歐盟執委會與委員會應公布其所作結論。

委員會與歐洲數位服務委員會亦應鼓勵並促進針對行為準則之定期審查與調整。

若出現系統性地未遵循行為準則之情形，歐盟執委會與歐洲數位服務委員會可促請行為準則之簽署者採取必要之行動。

large online search engines, of online platforms and of other intermediary services, as appropriate, as well as relevant competent authorities, civil society organisations and other relevant stakeholders, to participate in the drawing up of codes of conduct, including by setting out commitments to take specific risk mitigation measures, as well as a regular reporting framework on any measures taken and their outcomes.

3. When giving effect to paragraphs 1 and 2, the Commission and the Board, and where relevant other bodies, shall aim to ensure that the codes of conduct clearly set out their specific objectives, contain key performance indicators to measure the achievement of those objectives and take due account of the needs and interests of all interested parties, and in particular citizens, at Union level. The Commission and the Board shall also aim to ensure that participants report regularly to the Commission and their respective Digital Services Coordinators of establishment on any measures taken and their outcomes, as measured against the key performance indicators that they contain. Key performance indicators and reporting commitments shall take into account differences in size and capacity between different participants.
4. The Commission and the Board shall assess whether the codes of conduct meet the aims specified in paragraphs 1 and 3, and shall regularly monitor and evaluate the achievement of their objectives, having regard to the key performance indicators that they might contain. They shall publish their conclusions.

The Commission and the Board shall also encourage and facilitate regular review and adaptation of the codes of conduct.

In the case of systematic failure to comply with the codes of conduct, the Commission and the Board may invite the signatories to the codes of conduct to take the necessary action.

第 46 條

有關網路廣告之行為準則

1. 歐盟執委會應鼓勵並促進線上平臺提供者與其他關聯服務提供者（諸如線上廣告中介服務提供者、程式化廣告價值鏈中所涉及之其他參與者）制定歐盟層級之自願性行為準則，或代表服務接受者之組織、民間社會組織或相關主管機關，除第 26 條與第 39 條規定之要求外，進一步促進網路廣告價值鏈中之參與者之透明度。

2. 歐盟執委會之目標係確保行為準則追求有效率之資訊傳輸，充分尊重所有相關利害關係人之權利與利益，以及競爭、透明與公平之環境，符合歐盟與成員國立法，特別是有關競爭及隱私與個人資料保護之法律。歐盟執委會應致力於確保行為準則解決至少下述問題：
 - (a) 根據第 26 條第 1 項第 (b) 款、第 (c) 款及第 (d) 款規定，將網路廣告中介提供者所保護之資訊，傳輸予服務接受者；
 - (b) 根據第 39 條規定，將網路廣告中介提供者保有之資訊，傳輸至儲存庫；
 - (c) 有關資料貨幣化議題之富有意義之資訊。
3. 歐盟執委會應鼓勵在 2025 年 2 月 18 日之前制定行為準則，並在 2025 年 8 月 18 日之前實施。
4. 歐盟執委會應鼓勵第 1 項規定所述之網路廣告價值鏈中之所有參與者，認可並承諾遵循行為準則。

Article 46

Codes of conduct for online advertising

1. The Commission shall encourage and facilitate the drawing up of voluntary codes of conduct at Union level by providers of online platforms and other relevant service providers, such as providers of online advertising intermediary services, other actors involved in the programmatic advertising value chain, or organisations representing recipients of the service and civil society organisations or relevant authorities to contribute to further transparency for actors in the online advertising value chain beyond the requirements of Articles 26 and 39.
2. The Commission shall aim to ensure that the codes of conduct pursue an effective transmission of information that fully respects the rights and interests of all parties involved, as well as a competitive, transparent and fair environment in online advertising, in accordance with Union and national law, in particular on competition and the protection of privacy and personal data. The Commission shall aim to ensure that the codes of conduct at least address the following:
 - (a) the transmission of information held by providers of online advertising intermediaries to recipients of the service concerning the requirements set in Article 26(1), points (b), (c) and (d);
 - (b) the transmission of information held by providers of online advertising intermediaries to the repositories pursuant to Article 39;
 - (c) meaningful information on data monetisation.
3. The Commission shall encourage the development of the codes of conduct by 18 February 2025 and their application by 18 August 2025.
4. The Commission shall encourage all the actors in the online advertising value chain referred to in paragraph 1 to endorse the commitments stated in the codes of conduct, and to comply with them.

第 47 條 有關無障礙之行為準則

1. 歐盟執委會應鼓勵並促進線上平臺提供者與其他關聯服務提供者、代表服務接受者之組織、民間社會組織或有關主管機關，參與歐盟層級之行為準則之制定，藉以促進全面有效之平等參與，透過改善線上服務之近用，包括其原始設計或嗣後之調整，促進充分、富有效率及平等之參與，滿足身心障礙者之特殊需求。

2. 歐盟執委會應致力於確保行為守則之目標，係確保相關服務符合歐聯與成員國立法中有關無障礙之目標，以利最大限度地為身心障礙者提供可預見之服務。歐盟執委會應致力於確保行為準則至少達成下述目標：
 - (a) 設計與調整服務，使相關服務可感知、可操作、可理解與穩健，從而便於身心障礙者使用；

 - (b) 解釋相關服務如何滿足所適用之無障礙要求，並以方便身心障礙者使用之方式，向公眾提供有關資訊；

 - (c) 便利身心障礙者查找、理解與使用依據本法所提供之資訊、表格與措施。

3. 歐盟執委會應鼓勵在 2025 年 2 月 18 日之前制定行為準則，並在 2025 年 8 月 18 日之前實施。

Article 47

Codes of conduct for accessibility

1. The Commission shall encourage and facilitate the drawing up of codes of conduct at Union level with the involvement of providers of online platforms and other relevant service providers, organisations representing recipients of the service and civil society organisations or relevant authorities to promote full and effective, equal participation, by improving access to online services that, through their initial design or subsequent adaptation, address the particular needs of persons with disabilities.
2. The Commission shall aim to ensure that the codes of conduct pursue the objective of ensuring that those services are accessible in compliance with Union and national law, in order to maximise their foreseeable use by persons with disabilities. The Commission shall aim to ensure that the codes of conduct address at least the following objectives:
 - (a) designing and adapting services to make them accessible to persons with disabilities by making them perceivable, operable, understandable and robust;
 - (b) explaining how the services meet the applicable accessibility requirements and making this information available to the public in an accessible manner for persons with disabilities;
 - (c) making information, forms and measures provided pursuant to this Regulation available in such a manner that they are easy to find, easy to understand, and accessible to persons with disabilities.
3. The Commission shall encourage the development of the codes of conduct by 18 February 2025 and their application by 18 August 2025.

第 48 條 危機協議

1. 歐洲數位服務委員會可建議歐盟執委會根據第 2 項、第 3 項與第 4 項規定，起草應對危機情形之自願性危機協議。相關情形應嚴格限於影響公共安全或公共衛生之特殊情形。
2. 歐盟執委會應鼓勵並便利超大型線上平臺提供者、超大型線上搜尋引擎提供者，以及在適當情況下之其他線上平臺或線上搜尋引擎提供者參與相關危機協議之制定、測試與應用。歐盟執委會應致力於確保相關危機協議，納入下述一項或多項措施：
 - (a) 顯著地突顯由成員國主管機關或歐盟層級所提供、有關危機情形之資訊，或根據危機情形，由其他相關可靠機構所提供之資訊；
 - (b) 確保中介服務提供者針對危機管理指定具體之聯繫窗口；在相關情況下，其可得為第 11 條規定所述之電子聯繫窗口，或對超大型線上平臺提供者或超大型線上搜尋引擎提供者而言，可得為第 41 條規定所述之法律遵循人員；
 - (c) 在實際適用之下，根據危機情形之需要，調整專門用於遵循第 16 條、第 20 條、第 22 條、第 23 條與第 35 條規定所定義務之資源。
3. 針對危機協議之起草、測試與實施之監督，歐盟執委會應審酌情形，使成員國主管機關參與，亦可讓歐盟機關、辦公室與機構參與。出於必要與適當情形，歐盟執委會亦可以讓民間組織或其他相關組織，參與危機協議之起草。

Article 48

Crisis protocols

1. The Board may recommend that the Commission initiate the drawing up, in accordance with paragraphs 2, 3 and 4, of voluntary crisis protocols for addressing crisis situations. Those situations shall be strictly limited to extraordinary circumstances affecting public security or public health.
2. The Commission shall encourage and facilitate the providers of very large online platforms, of very large online search engines and, where appropriate, the providers of other online platforms or of other online search engines, to participate in the drawing up, testing and application of those crisis protocols. The Commission shall aim to ensure that those crisis protocols include one or more of the following measures:
 - (a) prominently displaying information on the crisis situation provided by Member States' authorities or at Union level, or, depending on the context of the crisis, by other relevant reliable bodies;
 - (b) ensuring that the provider of intermediary services designates a specific point of contact for crisis management; where relevant, this may be the electronic point of contact referred to in Article 11 or, in the case of providers of very large online platforms or of very large online search engines, the compliance officer referred to in Article 41;
 - (c) where applicable, adapt the resources dedicated to compliance with the obligations set out in Articles 16, 20, 22, 23 and 35 to the needs arising from the crisis situation.
3. The Commission shall, as appropriate, involve Member States' authorities, and may also involve Union bodies, offices and agencies in drawing up, testing and supervising the application of the crisis protocols. The Commission may, where necessary and appropriate, also involve civil

4. 歐盟執委會應致力於確保危機協議，明確規定下述所有內容：
 - (a) 確定危機協議尋求解決之特殊情形，其具體參數及其所追求之目標；
 - (b) 個別參與者之角色，以及其於危機協議準備過程中及正式啟動後所應採取之措施；
 - (c) 確定應於何時啟動危機協議之明確程序；
 - (d) 制定明確之程序，確定危機協議啟動後所應採取之措施之具體期限，該期限應嚴格限於解決有關特殊情形之所需時間；
 - (e) 採取保障措施，解決對歐盟憲章載明之基本權利之保障，特別是言論暨資訊自由以及不受歧視之權利所產生之負面影響；
 - (f) 在危機情形結束後，公開所採取之任何措施、其持續時間與結果過程。
5. 若歐盟執委會認為危機協議未能有效解決危機情形，或未能保障第4項第(e)款所述之基本權利之行使，其應要求參與者修正危機協議，包括採取額外措施。

- society organisations or other relevant organisations in drawing up the crisis protocols.
4. The Commission shall aim to ensure that the crisis protocols set out clearly all of the following:
 - (a) the specific parameters to determine what constitutes the specific extraordinary circumstance the crisis protocol seeks to address and the objectives it pursues;
 - (b) the role of each participant and the measures they are to put in place in preparation and once the crisis protocol has been activated;
 - (c) a clear procedure for determining when the crisis protocol is to be activated;
 - (d) a clear procedure for determining the period during which the measures to be taken once the crisis protocol has been activated are to be taken, which is strictly limited to what is necessary for addressing the specific extraordinary circumstances concerned;
 - (e) safeguards to address any negative effects on the exercise of the fundamental rights enshrined in the Charter, in particular the freedom of expression and information and the right to non-discrimination;
 - (f) a process to publicly report on any measures taken, their duration and their outcomes, upon the termination of the crisis situation.
 5. If the Commission considers that a crisis protocol fails to effectively address the crisis situation, or to safeguard the exercise of fundamental rights as referred to in paragraph 4, point (e), it shall request the participants to revise the crisis protocol, including by taking additional measures.

第四章 實施、合作、罰則與執行

第一節 主管機關與成員國數位服務協調人

第 49 條 主管機關與成員國數位服務協調人

1. 成員國應當指定一個或多個主管機關，負責中介服務提供者之監督與本法之執行（「主管機關」）。
2. 成員國應指定主管機關之一作為數位服務協調人。數位服務協調人應負責該成員國與本法之監督與執行有關之所有事項，除非相關成員國已將特定任務或部門分配予其他主管機關。在任何情形下，數位服務協調人應負責確保在國家層級針對相關事項進行協調，並促進本法在整個歐聯之有效且一致地監督與執行。

基於上述目的，數位服務協調人應相互合作，與其他國家主管機關、歐洲數位服務委員會與歐盟執委會合作，其並不影響成員國在數位服務協調人與其他國家主管機關之間與履行各自任務，建立合作機制與定期交換意見之可能性。

CHAPTER IV
IMPLEMENTATION, COOPERATION, PENALTIES AND
ENFORCEMENT

SECTION 1

Competent authorities and national Digital Services Coordinators

Article 49

Competent authorities and Digital Services Coordinators

1. Member States shall designate one or more competent authorities to be responsible for the supervision of providers of intermediary services and enforcement of this Regulation ('competent authorities').
2. Member States shall designate one of the competent authorities as their Digital Services Coordinator. The Digital Services Coordinator shall be responsible for all matters relating to supervision and enforcement of this Regulation in that Member State, unless the Member State concerned has assigned certain specific tasks or sectors to other competent authorities. The Digital Services Coordinator shall in any event be responsible for ensuring coordination at national level in respect of those matters and for contributing to the effective and consistent supervision and enforcement of this Regulation throughout the Union.

For that purpose, Digital Services Coordinators shall cooperate with each other, other national competent authorities, the Board and the Commission, without prejudice to the possibility for Member States to provide for cooperation mechanisms and regular exchanges of views between the Digital Services Coordinator and other national authorities where relevant for the performance of their respective tasks.

若成員國除了數位服務協調人之外，另指定一個或多個主管機關，則應確保相關主管機關與數位服務協調人各自所負之任務，獲得明確界定，並確保在其執行任務時，密切且有效地進行合作。

3. 成員國應於 2024 年 2 月 17 日前，指定數位服務協調人。

成員國應公布並向歐盟執委會與歐洲數位服務委員會通報其指定為數位服務協調人之主管機關之名稱，以及如何聯絡該機關之資訊。有關成員國應向歐盟執委會與歐洲數位服務委員會通報第 2 項規定所述之其他主管機關之名稱及其各自所負之任務。

4. 第 50 條、第 51 條與第 56 條規定中適用於數位服務協調人之規定，亦適用於成員國依第 1 項規定所指定之任何其他主管機關。

第 50 條

針對數位服務協調人之要求

1. 成員國應確保其數位服務協調人公正、透明與及時地履行本法所規定之任務。成員國應確保其數位服務協調人擁有執行任務所需之一切必要資源，包括充足之技術、財務與人力資源，藉以充分監督其職權範圍內之所有中介服務提供者。各成員國應確保其數位服務協調人在預算總額內，擁有充分之預算管理自主權，以避免對數位服務協調人之獨立性產生不利影響。

Where a Member State designates one or more competent authorities in addition to the Digital Services Coordinator, it shall ensure that the respective tasks of those authorities and of the Digital Services Coordinator are clearly defined and that they cooperate closely and effectively when performing their tasks.

3. Member States shall designate the Digital Services Coordinators by 17 February 2024.

Member States shall make publicly available, and communicate to the Commission and the Board, the name of their competent authority designated as Digital Services Coordinator and information on how it can be contacted. The Member State concerned shall communicate to the Commission and the Board the name of the other competent authorities referred to in paragraph 2, as well as their respective tasks.

4. The provisions applicable to Digital Services Coordinators set out in Articles 50, 51 and 56 shall also apply to any other competent authorities that the Member States designate pursuant to paragraph 1 of this Article.

Article 50

Requirements for Digital Services Coordinators

1. Member States shall ensure that their Digital Services Coordinators perform their tasks under this Regulation in an impartial, transparent and timely manner. Member States shall ensure that their Digital Services Coordinators have all necessary resources to carry out their tasks, including sufficient technical, financial and human resources to adequately supervise all providers of intermediary services falling within their competence. Each Member State shall ensure that its Digital Services Coordinator has sufficient autonomy in managing its budget within the budget's overall

2. 數位服務協調人於根據本法執行任務與行使權力時，應完全獨立行事。其應免受任何直接或間接外部影響，並且不得尋求或接受任何公務機關或非公機關之指示。

3. 第 2 項規定不影響數位服務協調人就本法規定之監督與執法體系內之任務，根據第 49 條第 2 項規定與其他主管機關進行合作。第 2 項規定不應妨礙司法審查之行使，也不應妨礙數位服務協調人之通常活動，諸如財務支出或向國會進行報告之相應問責要求，惟其前提係相關要求不得損害本法目標之實現。

第 51 條

數位服務協調人之權力

1. 於執行本法所定任務之必要情形下，數位服務協調人針對其成員國權限範圍內之中間服務提供者之行為，應擁有下述之調查權力：
 - (a) 有權要求相關提供者，以及其他個人出於貿易、業務、工藝或職業等有關目的而可能合理地了解與涉嫌違反本法之行為有關之資訊，包括執行第 37 條與第 75 條第 2 項所述之審計之組織，並應及時提供此類資訊；

limits, in order not to adversely affect the independence of the Digital Services Coordinator.

2. When carrying out their tasks and exercising their powers in accordance with this Regulation, the Digital Services Coordinators shall act with complete independence. They shall remain free from any external influence, whether direct or indirect, and shall neither seek nor take instructions from any other public authority or any private party.
3. Paragraph 2 of this Article is without prejudice to the tasks of Digital Services Coordinators within the system of supervision and enforcement provided for in this Regulation and the cooperation with other competent authorities in accordance with Article 49(2). Paragraph 2 of this Article shall not prevent the exercise of judicial review and shall also be without prejudice to proportionate accountability requirements regarding the general activities of the Digital Services Coordinators, such as financial expenditure or reporting to national parliaments, provided that those requirements do not undermine the achievement of the objectives of this Regulation.

Article 51

Powers of Digital Services Coordinators

1. Where needed in order to carry out their tasks under this Regulation, Digital Services Coordinators shall have the following powers of investigation, in respect of conduct by providers of intermediary services falling within the competence of their Member State:
 - (a) the power to require those providers, as well as any other persons acting for purposes related to their trade, business, craft or profession that may reasonably be aware of information relating to a suspected infringement of this Regulation, including organisations performing the

- (b) 有權針對相關提供者或其個人用於與貿易、商業、工藝或職業有關目的之任何場所進行檢查，或要求其成員國之司法當局下令檢查，或要求其他公務機關進行，以利以任何形式檢查、扣押、獲取或取得涉有侵權資訊之副本，無論其儲存媒介為何；
 - (c) 有權要求相關提供者或個人之任何工作人員或代表，針對涉有侵權之任何資訊進行解釋，並在徵得同意之下，以任何技術手段記錄其答案。
2. 於執行本法所定任務之必要情形下，數位服務協調人針對其成員國權限範圍內之中間服務提供者之行為，應擁有下述之執法權力：
- (a) 有權接受相關提供者就其遵循本法所作出之承諾，並使相關承諾具備拘束力；
 - (b) 有權命令停止侵權行為，並在適當情況下採取與侵權行為符合比例之補救措施，以有效終止侵權行為，或請求其成員國之司法主管機關為之；
 - (c) 有權根據第 52 條規定，針對未遵循根據第 1 項規定所發出之任何調查令狀之行為處以罰款，或請求其成員國司法機關為之；

- audits referred to in Article 37 and Article 75(2), to provide such information without undue delay;
- (b) the power to carry out, or to request a judicial authority in their Member State to order, inspections of any premises that those providers or those persons use for purposes related to their trade, business, craft or profession, or to request other public authorities to do so, in order to examine, seize, take or obtain copies of information relating to a suspected infringement in any form, irrespective of the storage medium;
 - (c) the power to ask any member of staff or representative of those providers or those persons to give explanations in respect of any information relating to a suspected infringement and to record the answers with their consent by any technical means.
2. Where needed for carrying out their tasks under this Regulation, Digital Services Coordinators shall have the following enforcement powers, in respect of providers of intermediary services falling within the competence of their Member State:
- (a) the power to accept the commitments offered by those providers in relation to their compliance with this Regulation and to make those commitments binding;
 - (b) the power to order the cessation of infringements and, where appropriate, to impose remedies proportionate to the infringement and necessary to bring the infringement effectively to an end, or to request a judicial authority in their Member State to do so;
 - (c) the power to impose fines, or to request a judicial authority in their Member State to do so, in accordance with Article 52 for failure to comply with this Regulation, including with any of the investigative orders issued pursuant to paragraph 1 of this Article;

(d) 根據第 52 條規定實施定期罰款，或請求其成員國司法機關為之，以確保按第 (b) 款規定所發出之命令終止侵權行為，或因未能遵循根據第 1 項規定所發出之任何調查命令而終止侵權行為；

(e) 有權採取臨時措施，或請求其成員國司法機關為之，以避免嚴重損害之風險。

就第 1 分項第 (c) 款與第 (d) 款規定而言，數位服務協調人尚應針對第 1 項規定中所述之其他人員，於未遵循所發出之任何命令時，也擁有相關規定中所明定之執法權力。數位服務協調人僅於及時向其他人提供與此類命令有關之所有資訊後，甫能行使有關之執法權力，包括適用期限、因未遵循而可裁處之罰款、分期繳納罰款及補救措施之可能性。

3. 於執行本法所規定之任務之必要時，對於隸屬於其成員國權限範圍內之中介服務提供者，數位服務協調人應根據本條所賦予所有權力，停止其侵權行為。若已經用盡歐盟或成員國立法所規定之其他權力，而侵權行為尚未得到矯正或仍持續中，並且正造成嚴重損害時，其亦有權採取下述措施：

(a) 要求相關提供者之管理機構應立即審視情況，通過並提交一份行動計畫，條列終止侵權之必要措施，確保提供者採取相關措施並報告所採取之措施；

- (d) the power to impose a periodic penalty payment, or to request a judicial authority in their Member State to do so, in accordance with Article 52 to ensure that an infringement is terminated in compliance with an order issued pursuant to point (b) of this subparagraph or for failure to comply with any of the investigative orders issued pursuant to paragraph 1 of this Article;
- (e) the power to adopt interim measures or to request the competent national judicial authority in their Member State to do so, to avoid the risk of serious harm.

As regards the first subparagraph, points (c) and (d), Digital Services Coordinators shall also have the enforcement powers set out in those points in respect of the other persons referred to in paragraph 1 for failure to comply with any of the orders issued to them pursuant to that paragraph. They shall only exercise those enforcement powers after providing those other persons in good time with all relevant information relating to such orders, including the applicable period, the fines or periodic payments that may be imposed for failure to comply and the possibilities for redress.

3. Where needed for carrying out their tasks under this Regulation, Digital Services Coordinators shall, in respect of providers of intermediary services falling within the competence of their Member State, where all other powers pursuant to this Article to bring about the cessation of an infringement have been exhausted and the infringement has not been remedied or is continuing and is causing serious harm which cannot be avoided through the exercise of other powers available under Union or national law, also have the power to take the following measures:
 - (a) to require the management body of those providers, without undue delay, to examine the situation, adopt and submit an action plan setting out the necessary measures to terminate the infringement, ensure that the provider

- (b) 若數位服務協調人認為中介服務提供者並未充分遵循第(a)款所述之要求，同時侵權行為尚未得到矯正或仍持續中，刻正造成嚴重損害，且該侵權行為業已構成涉及威脅人員生命或安全之刑事犯罪行為，應請求其成員國司法主管機關下令暫時限制接受者近用涉有侵權之相關服務，或者僅在技術顯不可行之下，限制接受者近用發生侵權行為之中介服務提供者之線上介面。

除非數位服務協調員根據第82條規定所述之歐盟執委會之請求採取行動，否則在提交本項第一分項第(b)款所述之請求之前，應邀請相關利害關係人在不得少於二週之特定時間內，提交書面意見，說明其擬請求採取之措施，並確定其預期之收件人。中介服務提供者、預期之收件人以及任何其他表明合法利益之第三方，均有權向司法主管機關表明參加訴訟。命令所採取之任何措施，應與侵權行為之性質、嚴重性、重複發生率與持續時間符合比例，並不得當限制相關服務之接受者獲取合法資訊。

近用所受限制之期限為四周，司法主管機關得以命令方式，允許數位服務協調人以相同期間延長前揭期限，但不得超過司法主管機關所定之延長期間之上限。數位服務協調人僅應於考量受到該限制影響之所有利害關係人之權利與利益，以及所有相關情況（包括中介服務提供者、收件人與任何其他第三方所提供之資訊）之情形下，認定滿足下

takes those measures, and report on the measures taken;

- (b) where the Digital Services Coordinator considers that a provider of intermediary services has not sufficiently complied with the requirements referred to in point (a), that the infringement has not been remedied or is continuing and is causing serious harm, and that that infringement entails a criminal offence involving a threat to the life or safety of persons, to request that the competent judicial authority of its Member State order the temporary restriction of access of recipients to the service concerned by the infringement or, only where that is not technically feasible, to the online interface of the provider of intermediary services on which the infringement takes place.

The Digital Services Coordinator shall, except where it acts upon the Commission's request referred to in Article 82, prior to submitting the request referred to in the first subparagraph, point (b), of this paragraph invite interested parties to submit written observations within a period that shall not be less than two weeks, describing the measures that it intends to request and identifying the intended addressee or addressees thereof. The provider of intermediary services, the intended addressee or addressees and any other third party demonstrating a legitimate interest shall be entitled to participate in the proceedings before the competent judicial authority. Any measure ordered shall be proportionate to the nature, gravity, recurrence and duration of the infringement, without unduly restricting access to lawful information by recipients of the service concerned.

The restriction of access shall be for a period of four weeks, subject to the possibility for the competent judicial authority, in its order, to allow the Digital Services Coordinator to extend that period for further periods of the same lengths, subject to a maximum number of extensions set by that judicial authority. The Digital Services Coordinator shall only extend the

述二款條件時，始得延長期限：

- (a) 中介服務提供者並未採取必要措施終止侵權行為；
- (b) 考量受影響之接受者之數量，以及是否存在任何適當且易於獲取之替代方案，臨時限制不至於不當地限制服務接受者獲取合法資訊。

若數位服務協調人認為業已符合本項之第3分項第(a)款與第(b)款所規定之條件，但無法根據第3分項規定進一步延長期限時，則應根據第1分項第(b)款規定向司法主管機關提出新的請求。

- 4. 第1項、第2項與第3項規定所臚列之權力，不影響第3條規定。
- 5. 數位服務協調人於行使第1項、第2項與第3項規定所臚列之權力時，所採取之措施應係有效、具勸阻性與符合比例的，尤其應考慮相關措施所涉及之侵權行為或疑似侵權行為之性質、嚴重性、重複發生機率、持續時間，以及相關中介服務提供者之經濟、技術與經營能力。
- 6. 成員國應針對第1項、第2項與第3項規定所臚列之權力，制定其行使之具體規則與程序，並應確保相關權力之行使，均符合歐盟憲章與歐盟立法之一般原則，並受所適用成員國法律規定之充分保障。特別

period where, having regard to the rights and interests of all parties affected by that restriction and all relevant circumstances, including any information that the provider of intermediary services, the addressee or addressees and any other third party that demonstrated a legitimate interest may provide to it, it considers that both of the following conditions have been met:

- (a) the provider of intermediary services has failed to take the necessary measures to terminate the infringement;
- (b) the temporary restriction does not unduly restrict access to lawful information by recipients of the service, having regard to the number of recipients affected and whether any adequate and readily accessible alternatives exist.

Where the Digital Services Coordinator considers that the conditions set out in the third subparagraph, points (a) and (b), have been met but it cannot further extend the period pursuant to the third subparagraph, it shall submit a new request to the competent judicial authority, as referred to in the first subparagraph, point (b).

4. The powers listed in paragraphs 1, 2 and 3 shall be without prejudice to Section 3.
5. The measures taken by the Digital Services Coordinators in the exercise of their powers listed in paragraphs 1, 2 and 3 shall be effective, dissuasive and proportionate, having regard, in particular, to the nature, gravity, recurrence and duration of the infringement or suspected infringement to which those measures relate, as well as the economic, technical and operational capacity of the provider of the intermediary services concerned where relevant.
6. Member States shall lay down specific rules and procedures for the exercise of the powers pursuant to paragraphs 1, 2 and 3 and shall ensure that any exercise of those powers is subject to adequate safeguards laid down in

是相關措施僅能根據尊重私人生活之權利與辯護權，包括發表意見與調閱卷宗之權利，並須遵守使所有人獲得有效司法救濟之權利。

第 52 條 罰則

1. 成員國應於其權限範圍內，制定適用於中介服務提供者違反本法行為之處罰規定，並應採取一切必要措施，確保其依第 51 條規定加以實施。
2. 罰則應有效、符合比例並具勸誡性。成員國應將相關規則與措施通知歐盟執委會，並應毫無遲延地將影響相關規則與措施之任何後續修正通知歐盟執委會。
3. 成員國應確保對於未遵循本法規定之義務，而可得裁處之罰款之最高金額，係相關中介服務提供者上一財政年度之全球年營業額之 6%。成員國應確保，對於提供不正確、不完整或誤導性資訊、未答復或糾正不正確、不完整或誤導性資訊，以及未接受檢查而可得裁處之罰款之最高金額，係相關中介服務提供者上一財政年度之全球年營業額之 1%。
4. 成員國應確保分期繳納罰款之最高金額，係相關中介服務提供者上一財政年度之全球日營業額或日收入之 5%，從有關決定所定日期起算。

the applicable national law in compliance with the Charter and with the general principles of Union law. In particular, those measures shall only be taken in accordance with the right to respect for private life and the rights of defence, including the rights to be heard and of access to the file, and subject to the right to an effective judicial remedy of all affected parties.

Article 52

Penalties

1. Member States shall lay down the rules on penalties applicable to infringements of this Regulation by providers of intermediary services within their competence and shall take all the necessary measures to ensure that they are implemented in accordance with Article 51.
2. Penalties shall be effective, proportionate and dissuasive. Member States shall notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendments affecting them.
3. Member States shall ensure that the maximum amount of fines that may be imposed for a failure to comply with an obligation laid down in this Regulation shall be 6 % of the annual worldwide turnover of the provider of intermediary services concerned in the preceding financial year. Member States shall ensure that the maximum amount of the fine that may be imposed for the supply of incorrect, incomplete or misleading information, failure to reply or rectify incorrect, incomplete or misleading information and failure to submit to an inspection shall be 1 % of the annual income or worldwide turnover of the provider of intermediary services or person concerned in the preceding financial year.
4. Member States shall ensure that the maximum amount of a periodic penalty payment shall be 5 % of the average daily worldwide turnover or income of

第 53 條 提出申訴之權利

服務接受者及經授權代表其行使本法所賦予之權利之任何機關、組織或協會，均有權向服務接受者實際所在或營業據點所在成員國之數位服務協調人，針對涉有違反本法規定之中介服務提供者提出投訴。數位服務協調人應針對設訴進行評估，並在適當之情況下，將其移轉予設立地之數位服務協調人，並在適當情況下檢附意見。若投訴應由成員國之另一個主管機關負責，則接獲投訴之數位服務協調人應將其移轉予該機關。在相關訴訟過程中，雙方均有權根據成員國法律，聽取意見並獲取有關申訴情形之適當資訊。

第 54 條 賠償

對於因中介服務提供者違反本法規定之義務從而遭受之任何損害或損失，服務接受者有權根據歐盟與成員國立法，向中介服務提供者尋求賠償。

the provider of intermediary services concerned in the preceding financial year per day, calculated from the date specified in the decision concerned.

Article 53

Right to lodge a complaint

Recipients of the service and any body, organisation or association mandated to exercise the rights conferred by this Regulation on their behalf shall have the right to lodge a complaint against providers of intermediary services alleging an infringement of this Regulation with the Digital Services Coordinator of the Member State where the recipient of the service is located or established. The Digital Services Coordinator shall assess the complaint and, where appropriate, transmit it to the Digital Services Coordinator of establishment, accompanied, where considered appropriate, by an opinion. Where the complaint falls under the responsibility of another competent authority in its Member State, the Digital Services Coordinator receiving the complaint shall transmit it to that authority. During these proceedings, both parties shall have the right to be heard and receive appropriate information about the status of the complaint, in accordance with national law.

Article 54

Compensation

Recipients of the service shall have the right to seek, in accordance with Union and national law, compensation from providers of intermediary services, in respect of any damage or loss suffered due to an infringement by those providers of their obligations under this Regulation.

第 55 條 活動報告

1. 數位服務協調人應針對根據本法所發起之活動撰寫年度報告，包括根據第 53 條規定所接獲之投訴數量暨其後續行動之概述。數位服務協調人應依據第 84 條規定之資訊保密適用規則，以機器可判讀之格式向公眾提供年度報告，並應將之通報予歐盟執委會與歐洲數位服務委員會。

2. 上揭年度報告應包括下述內容：
 - (a) 數位服務協調人之成員國之任何國家司法或行政主管機關，根據第 9 條與第 10 條規定所發布之打擊非法內容之命令與提供資訊之命令之數量與主題；

 - (b) 根據第 9 條與第 10 條規定通報予數位服務協調人之相關命令之所生影響。

3. 若成員國根據第 49 條規定指定了多個主管機關，則應當確保數位服務協調人起草一份涵蓋所有主管機關活動之單一報告，並確保數位服務協調人自其他相關主管機關，收到所需的所有資訊與支持。

第二節 能力、協調調查與一致性機制

第 56 條 能力

Article 55

Activity reports

1. Digital Services Coordinators shall draw up annual reports on their activities under this Regulation, including the number of complaints received pursuant to Article 53 and an overview of their follow-up. The Digital Services Coordinators shall make the annual reports available to the public in a machine-readable format, subject to the applicable rules on the confidentiality of information pursuant to Article 84, and shall communicate them to the Commission and to the Board.
2. The annual report shall also include the following information:
 - (a) the number and subject matter of orders to act against illegal content and orders to provide information issued in accordance with Articles 9 and 10 by any national judicial or administrative authority of the Member State of the Digital Services Coordinator concerned;
 - (b) the effects given to those orders, as communicated to the Digital Services Coordinator pursuant to Articles 9 and 10.
3. Where a Member State has designated several competent authorities pursuant to Article 49, it shall ensure that the Digital Services Coordinator draws up a single report covering the activities of all competent authorities and that the Digital Services Coordinator receives all relevant information and support needed to that effect from the other competent authorities concerned.

SECTION 2

Competences, coordinated investigation and consistency mechanisms

Article 56

Competences

1. 除第 2 項、第 3 項及第 4 項所規定之權力，中介服務提供者之營業據點所在成員國擁有監督與執行本法之專屬權力。
2. 歐洲數位服務委員會擁有監督與執行第 3 章第 5 節規定之專屬權力。
3. 除第 3 章第 5 節規定，歐洲數位服務委員會有權針對超大型線上平臺與超大型線上搜尋引擎提供者監督與執行本法規定。
4. 除第 3 章第 5 節規定之義務，若歐盟執委會並未針對同一侵權行為提起訴訟，超大型線上平臺與超大型線上搜尋引擎提供者之營業據點所在成員國，應有權監督與執行本法規定之義務。
5. 成員國與歐盟執委會應密切合作監督與執行本法規定。
6. 若中介服務提供者在歐盟並無實際營業據點，則其法定代表人之居所或設定住所之成員國或歐盟執委會，應有權根據第 1 項與第 4 項規定，審酌情況監督與執行本法所規定之相關義務。
7. 若中介服務提供者並未根據第 13 條規定指定法定代表人，所有歐盟成員國均有權監督與執行本法，若其屬於超大型線上平臺與超大型線上搜尋引擎提供者，則執委會亦有權監督與執行本法。

1. The Member State in which the main establishment of the provider of intermediary services is located shall have exclusive powers to supervise and enforce this Regulation, except for the powers provided for in paragraphs 2, 3 and 4.
2. The Commission shall have exclusive powers to supervise and enforce Section 5 of Chapter III.
3. The Commission shall have powers to supervise and enforce this Regulation, other than those laid down in Section 5 of Chapter III thereof, against providers of very large online platforms and of very large online search engines.
4. Where the Commission has not initiated proceedings for the same infringement, the Member State in which the main establishment of the provider of very large online platform or of very large online search engine is located shall have powers to supervise and enforce the obligations under this Regulation, other than those laid down in Section 5 of Chapter III, with respect to those providers.
5. Member States and the Commission shall supervise and enforce the provisions of this Regulation in close cooperation.
6. Where a provider of intermediary services does not have an establishment in the Union, the Member State where its legal representative resides or is established or the Commission shall have powers, as applicable, in accordance with paragraphs 1 and 4 of this Article, to supervise and enforce the relevant obligations under this Regulation.
7. Where a provider of intermediary services fails to appoint a legal representative in accordance with Article 13, all Member States and, in case of a provider of a very large online platform or very large online search engine, the Commission shall have powers to supervise and enforce in accordance with this Article.

如果數位服務協調人擬根據本項規定行使其權力，其應通知所有其他數位服務協調人與歐盟執委會，並確保尊重歐盟憲章賦予之一般保障措施，特別是避免因違反本法規定之義務而對同一行為進行多次制裁。若歐盟執委會擬根據本項規定行使其權力，則應將其構想通知所有其他數位服務協調人。在根據本項規定發出通知後，其他成員國即不得就通知中所提及之相同侵權行為提起訴訟。

第 57 條 相互協助

1. 數位服務協調人與歐盟執委會應密切合作並相互協助，以利以一致與有效之方式適用本法規定。相互協助尤應包括根據本條規定交換資訊，以及營業據點所在成員國之數位服務協調人負有義務向目的地之所有數位服務協調人、歐洲數位服務委員會與執員會通報進行調查及作成最終決定，包括其評估之構想。
2. 出於調查目的，營業據點所在成員國之數位服務協調人可得要求其他數位服務協調人提供其所掌握、有關特定中介服務提供者之具體資訊，或針對有關位於其成員國之具體資訊，行使第 51 條第 1 項規定所述之調查權力。在適當情況下，接獲請求之數位服務協調人，可得涉及有關成員國之其他主管機關或其他公務機關。

Where a Digital Services Coordinator intends to exercise its powers under this paragraph, it shall notify all other Digital Services Coordinators and the Commission, and ensure that the applicable safeguards afforded by the Charter are respected, in particular to avoid that the same conduct is sanctioned more than once for the infringement of the obligations laid down in this Regulation. Where the Commission intends to exercise its powers under this paragraph, it shall notify all other Digital Services Coordinators of that intention. Following the notification pursuant to this paragraph, other Member States shall not initiate proceedings for the same infringement as that referred to in the notification.

Article 57

Mutual assistance

1. Digital Services Coordinators and the Commission shall cooperate closely and provide each other with mutual assistance in order to apply this Regulation in a consistent and efficient manner. Mutual assistance shall include, in particular, exchange of information in accordance with this Article and the duty of the Digital Services Coordinator of establishment to inform all Digital Services Coordinators of destination, the Board and the Commission about the opening of an investigation and the intention to take a final decision, including its assessment, in respect of a specific provider of intermediary services.
2. For the purpose of an investigation, the Digital Services Coordinator of establishment may request other Digital Services Coordinators to provide specific information in their possession as regards a specific provider of intermediary services or to exercise their investigative powers referred to in Article 51(1) with regard to specific information located in their Member

3. 根據第 2 項規定接獲請求之數位服務協調人應遵循該等請求，並在接獲請求後 2 個月內，除有下述情形，應立即通知營業據點所在成員國之數位服務協調人採取行動：
 - (a) 就調查目的而言，請求之範圍或主題並未充分明確、未臻合理或不符比例；或
 - (b) 所請求之數位服務協調人或該成員國之其他主管機關或其他公務機關，均未擁有所請求之訊息，也無法近用該等資訊；或
 - (c) 該等請求獲得遵循，即違反歐盟或成員國立法。

接獲請求之數位服務協調人，應於本項之第 1 分項規定之期限內提交合理答覆，以證明其拒絕之理由。

第 58 條

數位服務協調人之間之跨境合作

1. 除非歐盟執委會已針對同一涉有侵權之行為啟動調查，否則目的地之數位服務協調人有理由懷疑中介服務提供者違反本法，從而對該數位服務協調人所在之成員國產生負面影響，其可要求營業據點所在成員國之數位服務協調人對該事項進行評估，並採取必要之調查與執法措施，藉以確保遵循本法。

State. Where appropriate, the Digital Services Coordinator receiving the request may involve other competent authorities or other public authorities of the Member State in question.

3. The Digital Services Coordinator receiving the request pursuant to paragraph 2 shall comply with such request and inform the Digital Services Coordinator of establishment about the action taken, without undue delay and no later than two months after its receipt, unless:
 - (a) the scope or the subject matter of the request is not sufficiently specified, justified or proportionate in view of the investigative purposes; or
 - (b) neither the requested Digital Service Coordinator nor other competent authority or other public authority of that Member State is in possession of the requested information nor can have access to it; or
 - (c) the request cannot be complied with without infringing Union or national law.

The Digital Services Coordinator receiving the request shall justify its refusal by submitting a reasoned reply, within the period set out in the first subparagraph.

Article 58

Cross-border cooperation among Digital Services Coordinators

1. Unless the Commission has initiated an investigation for the same alleged infringement, where a Digital Services Coordinator of destination has reason to suspect that a provider of an intermediary service has infringed this Regulation in a manner negatively affecting the recipients of the service in the Member State of that Digital Services Coordinator, it may request the Digital Services Coordinator of establishment to assess the matter and to take the necessary investigatory and enforcement measures to ensure compliance with this Regulation.

2. 除非歐盟執委會已針對同一涉有侵權之行為啟動調查，並且至少有一位目的地之數位服務協調人之請求，且有理由懷疑特定中介服務提供者違反本法規定，從而對其提供服務之成員國之接受者產生負面影響，歐洲數位服務委員會可得要求營業據點所在成員國之數位服務協調人評估此一事項，並採取必要之調查與執法措施，藉以確保遵循本法。
3. 根據第 1 項或前項規定所提出之請求，應適當說明理由並至少應表明下述事項：
 - (a) 第 11 條規定之相關中介服務提供者之聯繫窗口；
 - (b) 針對相關事實、所涉及之本法規定以及發出請求之數位服務協調人或歐洲數位服務委員會懷疑提供者違反本法規定之原因之描述，包括對系爭侵權行為之負面影響之描述；
 - (c) 發送請求之數位服務協調人或歐洲數位服務委員會認為有關之其他資訊，包括在適當情況下，主動蒐集之資訊或針對所擬採取之具體調查或執法措施，包括臨時措施在內之建議。
4. 營業據點所在成員國之數位服務協調人應最大限度地考慮根據第 1 項或第 2 項規定提出之請求。若其認為並未有充分資訊以利根據請求採取行動，並有理由認為發送請求之數位服務協調人或歐洲數位服務委員會可得提供額外資訊，則營業據點所在成員國之數位服務協調人，可得根據第 57 條規定請求此類資訊，或可得根據第 60 條第 1 項規定，與所涉及之數位服務協調人發起聯合調查。第 5 項規定之期限應暫停，

2. Unless the Commission has initiated an investigation for the same alleged infringement, and at the request of at least three Digital Services Coordinators of destination that have reason to suspect that a specific provider of intermediary services infringed this Regulation in a manner negatively affecting recipients of the service in their Member States, the Board may request the Digital Services Coordinator of establishment to assess the matter and take the necessary investigatory and enforcement measures to ensure compliance with this Regulation.
3. A request pursuant to paragraph 1 or 2 shall be duly reasoned, and shall at least indicate:
 - (a) the point of contact of the provider of the intermediary services concerned as provided for in Article 11;
 - (b) a description of the relevant facts, the provisions of this Regulation concerned and the reasons why the Digital Services Coordinator that sent the request, or the Board, suspects that the provider infringed this Regulation, including the description of the negative effects of the alleged infringement;
 - (c) any other information that the Digital Services Coordinator that sent the request, or the Board, considers relevant, including, where appropriate, information gathered on its own initiative or suggestions for specific investigatory or enforcement measures to be taken, including interim measures.
4. The Digital Services Coordinator of establishment shall take utmost account of the request pursuant to paragraphs 1 or 2 of this Article. Where it considers that it has insufficient information to act upon the request and has reasons to consider that the Digital Services Coordinator that sent the request, or the Board, could provide additional information, the Digital Services Coordinator of establishment may either request such information

直至提供補充資料，或就參加聯合調查之邀請表示拒絕為止。

5. 營業據點所在成員國之數位服務協調人，應於不無故拖延之下，無論於何種情形接獲根據第 1 項或第 2 項所提出之請求後 2 個月內，向發送請求之數位服務協調人與歐洲數位服務委員會，解釋說明對涉嫌侵權行為之評估以及為確保遵循本法所採取或設想之任何調查或執法措施。

第 59 條

移轉予歐盟執委會

1. 若於第 58 條第 5 項規定之期限內並未進行通報，如歐洲數位服務委員會不同意根據第 58 條第 5 項規定所進行之評估或所採取或設想之措施，或在第 60 條第 3 項規定之情形下，歐洲數位服務委員會可將此事項移轉予歐盟執委會，並提供所有資訊。相關資訊應至少包括發送予營業據點所在成員國之數位服務協調人之請求或建議、該數位服務協調人之評估、分歧之原因以及支持移轉之任何其他資訊。
2. 歐盟執委會應在諮詢營業據點所在成員國之數位服務協調人後，於根據第 1 項規定提交此事項後 2 個月內評估該事項。

in accordance with Article 57 or, alternatively, may launch a joint investigation pursuant to Article 60(1) involving at least the requesting Digital Services Coordinator. The period laid down in paragraph 5 of this Article shall be suspended until that additional information is provided or until the invitation to participate in the joint investigation is refused.

5. The Digital Services Coordinator of establishment shall, without undue delay and in any event not later than two months following receipt of the request pursuant to paragraph 1 or 2, communicate to the Digital Services Coordinator that sent the request, and the Board, the assessment of the suspected infringement and an explanation of any investigatory or enforcement measures taken or envisaged in relation thereto to ensure compliance with this Regulation.

Article 59

Referral to the Commission

1. In the absence of a communication within the period laid down in Article 58(5), in the case of a disagreement of the Board with the assessment or the measures taken or envisaged pursuant to Article 58(5) or in the cases referred to in Article 60(3), the Board may refer the matter to the Commission, providing all relevant information. That information shall include at least the request or recommendation sent to the Digital Services Coordinator of establishment, the assessment by that Digital Services Coordinator, the reasons for the disagreement and any additional information supporting the referral.
2. The Commission shall assess the matter within two months following the referral of the matter pursuant to paragraph 1, after having consulted the Digital Services Coordinator of establishment.

3. 根據前項規定，若歐盟執委會認為根據第 58 條第 5 項規定所採取或設想之評估、調查或執行措施，不足以確保有效執行，或在其他層面不符本法規定，歐盟執委會應將其意見通報予營業據點所在成員國之數位服務協調人與歐洲數位服務委員會，並要求營業據點所在成員國之數位服務協調人審查此一事項。

營業據點所在成員國之數位服務協調人應採取必要之調查或執法措施，藉以確保遵循本法規定，並最大限度地考量歐盟執委會之意見與審查請求。營業據點所在成員國之數位服務協調人應向歐盟執委會及提出請求之數位服務協調人，或根據第 58 條第 1 項或第 2 項規定採取行動之歐盟執委會，通報在提出審查請求後 2 個月內所採取之措施。

第 60 條 聯合調查

1. 營業據點所在成員國之數位服務協調人可得於一名或多名其他相關數位服務協調人之參與下，發起並領導聯合調查：
 - (a) 主動調查多個成員國中特定中介服務提供者涉嫌違反本條例的行為；或
 - (b) 根據歐洲數位服務委員會之建議，及至少三位數位服務協調人之請求，且有理由懷疑特定中介服務提供者之侵權行為，對其提供服務之成員國之接受者產生負面影響。

3. Where, pursuant to paragraph 2 of this Article, the Commission considers that the assessment or the investigatory or enforcement measures taken or envisaged pursuant to Article 58(5) are insufficient to ensure effective enforcement or otherwise incompatible with this Regulation, it shall communicate its views to the Digital Services Coordinator of establishment and the Board and request the Digital Services Coordinator of establishment to review the matter.

The Digital Services Coordinator of establishment shall take the necessary investigatory or enforcement measures to ensure compliance with this Regulation, taking utmost account of the views and request for review by the Commission. The Digital Services Coordinator of establishment shall inform the Commission, as well as the requesting Digital Services Coordinator or the Board that took action pursuant to Article 58(1) or (2), about the measures taken within two months from that request for review.

Article 60

Joint investigations

1. The Digital Services Coordinator of establishment may launch and lead joint investigations with the participation of one or more other Digital Services Coordinators concerned:
 - (a) at its own initiative, to investigate an alleged infringement of this Regulation by a given provider of intermediary services in several Member States; or
 - (b) upon recommendation of the Board, acting on the request of at least three Digital Services Coordinators alleging, based on a reasonable suspicion, an infringement by a given provider of intermediary services affecting recipients of the service in their Member States.

2. 任何數位服務協調人若可證明其具有參與前項規定之聯合調查之合法權益，其可提出請求。除非參與者之間另有約定，聯合調查應在啟動後 3 個月內完成。

營業據點所在成員國之數位服務協調人應在本項第 1 分項之截止日期結束後 1 個月內，向所有數位服務協調人、歐盟執委會與歐洲數位服務委員會通報其針對涉嫌侵權行為之初步立場。初步立場應考量參與聯合調查之所有其他數位服務協調人之觀點。在實際適用之情形下，此一初步立場亦應陳明所構想之執行措施。

3. 當有下列情形，歐洲數位服務委員會得依第 59 條規定將此一事項移轉予歐盟執委會：
 - (a) 營業據點所在成員國之數位服務協調人未能在第 2 項規定之期限內，通報其初步立場；
 - (b) 歐洲數位服務委員會嚴重不同意營業據點所在成員國之數位服務協調人所通報之初步立場；或
 - (c) 營業據點所在成員國之數位服務協調人未能依歐洲數位服務委員會根據第 1 項第 (b) 款規定所提出之建議，立即啟動聯合調查。
4. 於啟動聯合調查時，實際參與之數位服務協調人應真誠合作，並在實際適用之下考慮營業據點所在成員國之數位服務協調人之指示與執委會之建議。參與聯合調查之目的地數位服務協調人有權因應營業據點所在成員國之數位服務協調員之要求，或在徵詢該位數位服務協調人後，就位處於其領域內之資訊與場所，按涉嫌侵權之有關服務，對中介機構提供者行使第 51 條第 1 項規定所述之調查權力。

2. Any Digital Services Coordinator that proves that it has a legitimate interest in participating in a joint investigation pursuant to paragraph 1 may request to do so. The joint investigation shall be concluded within three months from its launch, unless otherwise agreed amongst the participants. The Digital Services Coordinator of establishment shall communicate its preliminary position on the alleged infringement no later than one month after the end of the deadline referred to in the first subparagraph to all Digital Services Coordinators, the Commission and the Board. The preliminary position shall take into account the views of all other Digital Services Coordinators participating in the joint investigation. Where applicable, this preliminary position shall also set out the enforcement measures envisaged.
3. The Board may refer the matter to the Commission pursuant to Article 59, where:
 - (a) the Digital Services Coordinator of establishment failed to communicate its preliminary position within the deadline set out in paragraph 2;
 - (b) the Board substantially disagrees with the preliminary position communicated by the Digital Services Coordinator of establishment; or
 - (c) the Digital Services Coordinator of establishment failed to initiate the joint investigation promptly following the recommendation by the Board pursuant to paragraph 1, point (b).
4. In carrying out the joint investigation, the participating Digital Services Coordinators shall cooperate in good faith, taking into account, where applicable, the indications of the Digital Services Coordinator of establishment and the Board's recommendation. The Digital Services Coordinators of destination participating in the joint investigation shall be entitled, at the request of or after having consulted the Digital Services Coordinator of establishment, to exercise their investigative powers

第三節

歐洲數位服務委員會

第 61 條

歐洲數位服務委員會

1. 成立一個由數位服務協調人所組成之獨立諮詢小組，負責監督中介服務提供者，命名為「歐洲數位服務委員會」（「委員會」）。
2. 歐洲數位服務委員會應根據本法規定向數位服務協調人與歐盟執委會提供建議，藉以實現下述目標：
 - (a) 促進本法之一致性應用以及數位服務協調人與歐盟執委會針對本法所規範之事項進行有效之合作；
 - (b) 協調並協助歐盟執委會、數位服務協調人員以及其他主管機關，針對內部市場中與本法所規範之事項之有關新興問題，提供指導與分析；
 - (c) 協助數位服務協調人與歐盟執委會監督大型線上平臺。

第 62 條

歐洲數位服務委員會之組織結構

referred to in Article 51(1) in respect of the providers of intermediary services concerned by the alleged infringement, with regard to information and premises located within their territory.

SECTION 3

European Board for Digital Services

Article 61

European Board for Digital Services

1. An independent advisory group of Digital Services Coordinators on the supervision of providers of intermediary services named ‘European Board for Digital Services’ (the ‘Board’) is established.
2. The Board shall advise the Digital Services Coordinators and the Commission in accordance with this Regulation to achieve the following objectives:
 - (a) contributing to the consistent application of this Regulation and effective cooperation of the Digital Services Coordinators and the Commission with regard to matters covered by this Regulation;
 - (b) coordinating and contributing to guidelines and analysis of the Commission and Digital Services Coordinators and other competent authorities on emerging issues across the internal market with regard to matters covered by this Regulation;
 - (c) assisting the Digital Services Coordinators and the Commission in the supervision of very large online platforms.

Article 62

Structure of the Board

1. 歐洲數位服務委員會應由數位服務協調人組成，數位服務協調人則應由高階官員代表。若一個或多個成員國未能指定數位服務協調人，並不妨礙歐洲數位服務委員會履行本法所規定之任務。根據成員國立法規定，受託與數位服務協調人共同負責實施與執行本法之具體職責之其他主管機關，可得參加歐洲數位服務委員會。當所討論之議題與其他國家主管機關有關時，其可能受邀參與會議。
2. 歐洲數位服務委員會由歐盟執委會擔任主席。歐盟執委會應根據本法所規定之歐洲數位服務委員會任務及其議事規則，召集會議並準備議程。當歐盟執委會被要求採納建議時，其應立即透過第 85 條所規定之資訊共享系統，向其他數位服務協調人提出請求。
3. 個別成員國擁有一票之投票權。歐盟執委會則未有投票權。

歐洲數位服務委員會應以單純之多數決方式通過其法案。在透過第 36 條第 1 項之第 1 分項規定所述向歐盟執委會提出建議時，歐洲數位服務委員會應在主席提出請求後 48 小時之內進行投票。

4. 歐盟執委會應依本法規定針對歐洲數位服務委員會之活動提供行政與分析支援。
5. 歐洲數位服務委員會可邀請專家與觀察員出席其會議，並可與其他歐盟機關、辦事處、機構與諮詢小組以及適當之外部專家進行合作。歐洲數位服務委員會應公開合作結果。

1. The Board shall be composed of Digital Services Coordinators who shall be represented by high-level officials. The failure by one or more Member States to designate a Digital Services Coordinator shall not prevent the Board from performing its tasks under this Regulation. Where provided for by national law, other competent authorities entrusted with specific operational responsibilities for the application and enforcement of this Regulation alongside the Digital Services Coordinator may participate in the Board. Other national authorities may be invited to the meetings, where the issues discussed are of relevance for them.
2. The Board shall be chaired by the Commission. The Commission shall convene the meetings and prepare the agenda in accordance with the tasks of the Board pursuant to this Regulation and in line with its rules of procedure. When the Board is requested to adopt a recommendation pursuant to this Regulation, it shall immediately make the request available to other Digital Services Coordinators through the information sharing system set out in Article 85.
3. Each Member State shall have one vote. The Commission shall not have voting rights.
The Board shall adopt its acts by simple majority. When adopting a recommendation to the Commission referred to in Article 36(1), first subparagraph, the Board shall vote within 48 hours after the request of the Chair of the Board.
4. The Commission shall provide administrative and analytical support for the activities of the Board pursuant to this Regulation.
5. The Board may invite experts and observers to attend its meetings, and may cooperate with other Union bodies, offices, agencies and advisory groups, as well as external experts as appropriate. The Board shall make the results of this cooperation publicly available.

6. 歐洲數位服務委員會可徵求有關利害關係人之意見，並應公開意見徵求之結果。
7. 經歐盟執委會同意後，歐洲數位服務委員會應通過其議事規則。

第 63 條

歐洲數位服務委員會之任務

1. 為實現第 61 條第 2 項規定之目標，歐洲數位服務委員會應當：
 - (a) 支持聯合調查之協調；
 - (b) 支援主管機關分析根據本法所通報之超大型線上平臺或超大型線上搜尋引擎之報告與審計結果；
 - (c) 根據本法向數位服務協調人提出意見、建議或建言，特別應考慮中介服務提供者提供服務之自由；
 - (d) 針對第 66 條規定所述之措施，向歐盟執委會提出建議，並根據本法採納有關超大型線上平臺或超大型線上搜尋引擎之意見；
 - (e) 根據本法規定，與相關利害關係人合作，支持與促進歐洲標準、指引、報告、範本與行為準則之制定與實施，包括針對與第 44 條規定有關之事項，發表意見或建議，以及確定與本法所規範之事項有關之新興問題。

6. The Board may consult interested parties, and shall make the results of such consultation publicly available.
7. The Board shall adopt its rules of procedure, following the consent of the Commission.

Article 63

Tasks of the Board

1. Where necessary to meet the objectives set out in Article 61(2), the Board shall in particular:
 - (a) support the coordination of joint investigations;
 - (b) support the competent authorities in the analysis of reports and results of audits of very large online platforms or of very large online search engines to be transmitted pursuant to this Regulation;
 - (c) issue opinions, recommendations or advice to Digital Services Coordinators in accordance with this Regulation, taking into account, in particular, the freedom to provide services of the providers of intermediary service;
 - (d) advise the Commission on the measures referred to in Article 66 and, adopt opinions concerning very large online platforms or very large online search engines in accordance with this Regulation;
 - (e) support and promote the development and implementation of European standards, guidelines, reports, templates and code of conducts in cooperation with relevant stakeholders as provided for in this Regulation, including by issuing opinions or recommendations on matters related to Article 44, as well as the identification of emerging issues, with regard to matters covered by this Regulation.

2. 數位服務協調人與於有適用時之其他主管機關，若未遵循理事會歐洲數位服務委員會對其提出之意見、請求或建議，應根據本法進行報告或審酌情形採取相關決定時，應提供作出此一選擇之理由，包括對其所進行之調查、行動與措施之解釋。

第四節

針對超大型線上平臺與超大型線上搜尋引擎提供者之監督、調查、執法與監管

第 64 條

專業知識與能力之發展

1. 歐盟執委會應與數位服務協調人與歐洲數位服務委員會合作，以利發展歐盟之專業知識與能力，包括審酌情形借調成員國之人員。
2. 此外，歐盟執委會應與數位服務協調人與歐洲數位服務委員會合作，協調對整個歐盟範圍之內與超大型線上平臺或超大型線上搜尋引擎有關之本法所涵蓋之系統性與新出現問題之評估。
3. 歐盟執委會可得要求數位服務協調人、歐洲數位服務委員會與具有相關專業知識之其他歐盟機關、辦事處與機構，支持根據本法評估整個歐盟之系統性與新出現之問題。
4. 成員國應與歐盟執委會合作，特別是透過各自的數位服務協調人與其他主管機關（如有適用），包括提供其專業知識及能力。

2. Digital Services Coordinators and, where applicable, other competent authorities that do not follow the opinions, requests or recommendations addressed to them adopted by the Board shall provide the reasons for this choice, including an explanation on the investigations, actions and the measures that they have implemented, when reporting pursuant to this Regulation or when adopting their relevant decisions, as appropriate.

SECTION 4

Supervision, investigation, enforcement and monitoring in respect of providers of very large online platforms and of very large online search engines

Article 64

Development of expertise and capabilities

1. The Commission, in cooperation with the Digital Services Coordinators and the Board, shall develop Union expertise and capabilities, including, where appropriate, through the secondment of Member States' personnel.
2. In addition, the Commission, in cooperation with the Digital Services Coordinators and the Board, shall coordinate the assessment of systemic and emerging issues across the Union in relation to very large online platforms or very large online search engines with regard to matters covered by this Regulation.
3. The Commission may ask the Digital Services Coordinators, the Board and other Union bodies, offices and agencies with relevant expertise to support the assessment of systemic and emerging issues across the Union under this Regulation.
4. Member States shall cooperate with the Commission, in particular through their respective Digital Services Coordinators and other competent

第 65 條

超大型線上平臺與超大型線上搜尋引擎提供者所負義務之執行

1. 為調查超大型線上平臺與超大型線上搜尋引擎提供者是否遵循本法所規定之義務，歐盟執委會甚至可在依據第 66 條第 2 項規定啟動訴訟之前，行使本節所規定之調查權力。歐盟執委會可主動或根據第 2 款規定之請求行使調查權力。

2. 如果數位服務協調人有理由懷疑超大型線上平臺或超大型線上搜尋引擎提供者違反第 3 章第 5 節之規定，或系統性地違反本法之任何規定，嚴重影響其提供服務之成員國內之接受者時，其可透過第 85 條規定所述之資訊共享系統，向歐盟執委會發送評估此一事項之請求。

3. 依前項規定提出之請求，應適當說明理由，並至少表明：
 - (a) 第 11 條所規定之相關超大型線上平臺或超大型線上搜尋引擎提供者之聯繫窗口；

 - (b) 針對相關事實之描述、本法之相關規定以及發送請求之數位服務協調人懷疑相關超大型線上平臺或超大型線上搜尋引擎提供者違反本法規定之原因，包括對涉嫌侵權之系統性事實之描述；

authorities, where applicable, including by making available their expertise and capabilities.

Article 65

Enforcement of obligations of providers of very large online platforms and of very large online search engines

1. For the purposes of investigating compliance of providers of very large online platforms and of very large online search engines with the obligations laid down in this Regulation, the Commission may exercise the investigatory powers laid down in this Section even before initiating proceedings pursuant to Article 66(2). It may exercise those powers on its own initiative or following a request pursuant to paragraph 2 of this Article.
2. Where a Digital Services Coordinator has reason to suspect that a provider of a very large online platform or of a very large online search engine has infringed the provisions of Section 5 of Chapter III or has systemically infringed any of the provisions of this Regulation in a manner that seriously affects recipients of the service in its Member State, it may send, through the information sharing system referred to in Article 85, a request to the Commission to assess the matter.
3. A request pursuant to paragraph 2 shall be duly reasoned and at least indicate:
 - (a) the point of contact of the provider of the very large online platform or of the very large online search engine concerned as provided for in Article 11;
 - (b) a description of the relevant facts, the provisions of this Regulation concerned and the reasons why the Digital Services Coordinator that sent the request suspects that the provider of the very large online plat-

- (c) 發送請求之數位服務協調人認為有關之其他資訊，包括在適當情況下主動蒐集之資訊。

第 66 條

歐盟執委會採取行動並合作調查

1. 在可能根據第 73 條與第 74 條規定，對超大型線上平臺或超大型線上搜尋引擎提供者之行為作出決定之前提下，歐盟執委會可就違法本法規定之行為採取行動。
2. 若歐盟執委會決定根據前項規定採取行動，其應透過第 85 條規定所述之資訊共享系統，通知所有數位服務協調人、歐洲數位服務委員會以及相關超大型線上平臺或超大型線上搜尋引擎提供者。

數位服務協調人在獲悉採取行動後，應立即向歐盟執委會提交其所掌握之侵權行為有關資訊。

歐盟執委會根據第 1 項規定採取之行動，應解除數位服務協調人或任何實際適用之主管機關，依第 56 條第 4 項規定所擁有之監督與執法權力。

forms or of the very large online search engine concerned infringed this Regulation, including a description of the facts that show that the suspected infringement is of a systemic nature;

- (c) any other information that the Digital Services Coordinator that sent the request considers relevant, including, where appropriate, information gathered on its own initiative.

Article 66

Initiation of proceedings by the Commission and cooperation in investigation

1. The Commission may initiate proceedings in view of the possible adoption of decisions pursuant to Articles 73 and 74 in respect of the relevant conduct by the provider of the very large online platform or of the very large online search engine that the Commission suspect of having infringed any of the provisions of this Regulation.
2. Where the Commission decides to initiate proceedings pursuant to paragraph 1 of this Article, it shall notify all Digital Services Coordinators and the Board through the information sharing system referred to in Article 85, as well as the provider of the very large online platform or of the very large online search engine concerned.

The Digital Services Coordinators shall, without undue delay after being informed of initiation of the proceedings, transmit to the Commission any information they hold about the infringement at stake.

The initiation of proceedings pursuant to paragraph 1 of this Article by the Commission shall relieve the Digital Services Coordinator, or any competent authority where applicable, of its powers to supervise and enforce provided for in this Regulation pursuant to Article 56(4).

3. 於根據本法行使其調查權力時，歐盟執委會得要求與涉嫌侵權行為有關之任何數位服務協調人（包括營業據點所在成員國之數位服務協調人）單獨或共同提供支援。接獲此類請求之數位服務協調人，以及在數位服務協調人實際涉及之下，相關主管機關應真誠及時地與歐盟執委會進行合作，並有權針對超大型線上平臺或超大型線上搜尋引擎提供者於其領域內之資訊、人員與場所，行使第 51 條第 1 項規定之調查權力。

4. 歐盟執委會應向營業據點所在成員國之數位服務協調人與歐洲數位服務委員會提供有關行使第 67 條至第 72 條規定之權力之所有相關資訊，以及第 79 條第 1 項規定所述之初步調查結果。歐盟執委會應於第 79 條第 2 項所規定之期限內，向歐盟執委會提交其對相關初步調查結果之意見。歐盟執委會在其決定中應充分考量歐洲數位服務委員會提出之任何意見。

第 67 條

索取資訊

1. 為執行本節規定所賦予之任務，歐盟執委會得透過簡單之請求或決定，要求相關超大型線上平臺或超大型線上搜尋引擎提供者，以及出於與貿易、業務、工藝或專業有關目的而合理地了解有侵權之虞的行為之相關資訊之其他自然人或法人，包括執行第 37 條與第 75 條第 2 項所述之審計機構，在合理期間內提供此類資訊。

3. In the exercise of its powers of investigation under this Regulation the Commission may request the individual or joint support of any Digital Services Coordinators concerned by the suspected infringement, including the Digital Services Coordinator of establishment. The Digital Services Coordinators that have received such a request, and, where involved by the Digital Services Coordinator, any other competent authority, shall cooperate sincerely and in a timely manner with the Commission and shall be entitled to exercise their investigative powers referred to in Article 51(1) in respect of the provider of the very large online platform or of the very large online search engine at stake, with regard to information, persons and premises located within the territory of their Member State and in accordance with the request.
4. The Commission shall provide the Digital Services Coordinator of establishment and the Board with all relevant information about the exercise of the powers referred to in Articles 67 to 72 and its preliminary findings referred to in Article 79(1). The Board shall submit its views on those preliminary findings to the Commission within the period set pursuant to Article 79(2). The Commission shall take utmost account of any views of the Board in its decision.

Article 67

Requests for information

1. In order to carry out the tasks assigned to it under this Section, the Commission may, by simple request or by decision, require the provider of the very large online platform or of the very large online search engine concerned, as well as any other natural or legal person acting for purposes related to their trade, business, craft or profession that may be reasonably aware of information relating to the suspected infringement, including

2. 歐盟執委會於向超大型線上平臺或超大型線上搜尋引擎提供者，或前項所述之其他人發送簡單之資訊請求時，應說明其請求之法律依據與目的，具體需要哪些資訊，及明定資訊提供之期限，並標示根據第 74 條規定，有關提供不正確、不完整或誤導性資訊之罰金。

3. 若歐盟執委會決定要求超大型線上平臺或超大型線上搜尋引擎提供者，或第 1 項所述之其他人提供資訊時，應說明其要求之法律依據與目的，具體需要哪些資訊，並明定資訊提供之期限。歐盟執委會尚應標示第 74 條所規定之罰款，並標示或裁處第 76 條所規定之分期繳納罰款。歐盟執委會亦應進一步表明有權要求歐盟法院審查該決定之權利。

4. 超大型線上平臺或超大型線上搜尋引擎提供者或第 1 項規定所述之其他人或其代表，若其為法人、公司或事務所，或不具有法人資格，則由法律或憲法授權代表之人，代表超大型線上平臺或超大型線上搜尋引擎提供者或第 1 項規定所述之其他人，提供其被要求提供之資訊。經正式授權之律師可代表其客戶提供資訊。若提供之資訊不完整、不正確或具誤導性，應由後者承擔全部責任。

- organisations performing the audits referred to in Article 37 and Article 75(2), to provide such information within a reasonable period.
2. When sending a simple request for information to the provider of the very large online platform or of the very large online search engine concerned or other person referred to in paragraph 1 of this Article, the Commission shall state the legal basis and the purpose of the request, specify what information is required and set the period within which the information is to be provided, and the fines provided for in Article 74 for supplying incorrect, incomplete or misleading information.
 3. Where the Commission requires the provider of the very large online platform or of the very large online search engine concerned or other person referred to in paragraph 1 of this Article to supply information by decision, it shall state the legal basis and the purpose of the request, specify what information is required and set the period within which it is to be provided. It shall also indicate the fines provided for in Article 74 and indicate or impose the periodic penalty payments provided for in Article 76. It shall further indicate the right to have the decision reviewed by the Court of Justice of the European Union.
 4. The providers of the very large online platform or of the very large online search engine concerned or other person referred to in paragraph 1 or their representatives and, in the case of legal persons, companies or firms, or where they have no legal personality, the persons authorised to represent them by law or by their constitution shall supply the information requested on behalf of the provider of the very large online platform or of the very large online search engine concerned or other person referred to in paragraph 1. 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. 應歐盟執委會要求，數位服務協調人與其他主管機關，應向歐盟執委會提供所有必要之資訊，俾利執行本節規定所賦予之任務。
6. 於發送第 1 項所述之簡單請求或決定之後，歐盟執委會應立即透過第 85 條規定所述之資訊共享系統，將其副本發送予數位服務協調人。

第 68 條

受訪與陳述之權力

1. 為執行本節規定所賦予之任務，歐盟執委會可以訪談任何同意受訪之自然人或法人，以蒐集與調查涉有侵權之虞之有關資訊。歐盟執委會有權透過適當之技術手段，記錄此類訪談。
2. 若前項規定所述之訪談，係於歐盟執委會以外之其他場所進行，則歐盟執委會應通知訪談所在成員國之數位服務協調人。當數位服務協調人提出要求，其官員可協助歐盟執委會授權之官員與其他陪同人員進行訪談。

第 69 條

進行檢查之權力

1. 為執行本節規定所賦予之任務，歐盟執委會可得於超大型線上平臺或超大型線上搜尋引擎提供者或第 67 條第 1 項規定所述之其他人之場

5. At the request of the Commission, the Digital Services Coordinators and other competent authorities shall provide the Commission with all necessary information to carry out the tasks assigned to it under this Section.
6. The Commission shall, without undue delay after sending the simple request or the decision referred to in paragraph 1 of this Article, send a copy thereof to the Digital Services Coordinators, through the information sharing system referred to in Article 85.

Article 68

Power to take interviews and statements

1. In order to carry out the tasks assigned to it under this Section, the Commission may interview any natural or legal person who consents to being interviewed for the purpose of collecting information, relating to the subject-matter of an investigation, in relation to the suspected infringement. The Commission shall be entitled to record such interview by appropriate technical means.
2. If the interview referred to in paragraph 1 is conducted on other premises than those of the Commission, the Commission shall inform the Digital Services Coordinator of the Member State in the territory of which the interview takes place. If so requested by that Digital Services Coordinator, its officials may assist the officials and other accompanying persons authorised by the Commission to conduct the interview.

Article 69

Power to conduct inspections

1. In order to carry out the tasks assigned to it under this Section, the Commission may conduct all necessary inspections at the premises of the

所，進行必要檢查。

2. 歐盟執委會授權進行檢查之官員與其他陪同人員，應有權：

- (a) 進入相關超大型線上平臺或超大型線上搜尋引擎提供者或其他有關人員之任何場所、土地與交通工具；
- (b) 檢查與相關服務提供上有關之帳簿與其他紀錄，無論其儲存媒介為何；
- (c) 以任何形式索取或獲取此類帳簿或其他紀錄之副本或摘要；
- (d) 要求超大型線上平臺或超大型線上搜尋引擎提供者或其他有關人員，提供對其組織、運作、資通訊系統、演算法、資料處理與業務操作之近用與解釋，並記錄或文件化其所提供之解釋；
- (e) 在檢查所需之期間與範圍之內，查封與超大型線上平臺或超大型線上搜尋引擎提供者或其他有關人員之用於貿易、業務、工藝或專業有關目的之任何場所，以及相關帳簿或其他紀錄；
- (f) 向超大型線上平臺或超大型線上搜尋引擎提供者或其他有關人員之任何代表或工作人員，詢問與檢查目的有關之事實或文件之解釋，並記錄其回答；
- (g) 向任何此類代表或工作人員提出與檢查目的有關之問題，並記錄其答案。

- provider of the very large online platform or of the very large online search engine concerned or of another person referred to in Article 67(1).
2. The officials and other accompanying persons authorised by the Commission to conduct an inspection shall be empowered to:
 - (a) enter any premises, land and means of transport of the provider of the very large online platform or of the very large online search engine concerned or of the other person concerned;
 - (b) examine the books and other records related to the provision of the service concerned, irrespective of the medium on which they are stored;
 - (c) take or obtain in any form copies of or extracts from such books or other records;
 - (d) require the provider of the very large online platform or of the very large online search engine or the other person concerned 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;
 - (e) seal any premises used for purposes related to the trade, business, craft or profession of the provider of the very large online platform or of the very large online search engine or of the other person concerned, as well as books or other records, for the period and to the extent necessary for the inspection;
 - (f) ask any representative or member of staff of the provider of the very large online platform or of the very large online search engine or the other person concerned for explanations on facts or documents relating to the subject-matter and purpose of the inspection and to record the answers;
 - (g) address questions to any such representative or member of staff relating to the subject-matter and purpose of the inspection and to record the

3. 檢查可得於歐盟執委會根據第 72 條第 2 項規定任命之審計人員或專家，以及進行檢查之成員國之數位服務協調人員或其他國家之主管機關之協助下進行。
4. 若與服務有關之所需帳簿與其他紀錄並不完整，或對第 2 項所提問題之回答不正確、不完整或具有誤導性，歐盟執委會授權進行檢查之官員與其他陪同人員應於出示書面授權文件後行使其權力，該文件應規定檢查之主題、目的以及第 74 條與第 76 條所規定之罰款。在實際檢查之前，歐盟執委會應及時通知檢查所涉成員國之數位服務協調人。
5. 於檢查期間，執委會授權之官員與其他陪同人員、歐盟執委會任命之審計人員與專家、數位服務協調人或進行檢查之成員國其他主管機關，可得要求超大型線上平臺或超大型線上搜尋引擎提供者或其他有關人員，針對其組織、運作、資通訊系統、演算法、資料處理與業務行為提供解釋，並可得向其關鍵人員提出問題。
6. 超大型線上平臺或超大型線上搜尋引擎提供者，或其他有關之自然人或法人，應接受依歐盟執委會決定所進行之檢查。該決定應具體說明檢查之主題與目的、確定開始檢查之日期，並說明第 74 條與第 76 條所規定之罰款以及要求歐盟法院審視該等決定之權利。在作成決定之

answers.

3. Inspections may be carried out with the assistance of auditors or experts appointed by the Commission pursuant to Article 72(2), and of Digital Services Coordinator or other competent national authorities of the Member State in the territory of which the inspection is conducted.
4. Where the production of required books or other records related to the provision of the service concerned is incomplete or where the answers to questions asked under paragraph 2 of this Article are incorrect, incomplete or misleading, 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 Articles 74 and 76. In good time before the inspection, the Commission shall inform the Digital Services Coordinator of the Member State in the territory in which the inspection is to be conducted thereof.
5. During inspections, the officials and other accompanying persons authorised by the Commission, the auditors and experts appointed by the Commission, the Digital Services Coordinator or the other competent authorities of the Member State in the territory of which the inspection is conducted may require the provider of the very large online platform or of the very large online search engine or other person concerned to provide explanations on its organisation, functioning, IT system, algorithms, data-handling and business conducts, and may address questions to its key personnel.
6. The provider of the very large online platform or of the very large online search engine or other natural or legal person concerned shall be required to submit to an inspection ordered by decision of the Commission. The decision shall specify the subject matter and purpose of the inspection,

前，歐盟執委會應諮詢檢查所涉成員國之數位服務協調人。

7. 檢查所涉成員國之官員以及數位服務協調人授權或任命之其他人員，應根據該數位服務協調人或歐盟執委會之要求，積極協助經歐盟執委會授權並與檢查有關之官員與其他陪同人員。基此，前揭人員應擁有第 2 項規定之權力。

8. 若歐盟執委會授權之官員與其他隨行人員發現超大型線上平臺或超大型線上搜尋引擎提供者或其他有關人員，反對根據本條之命令所進行之檢查，則檢查所涉成員國應配合相關官員或其他隨行人員之請求，並根據成員國立法向其提供必要之協助，包括根據成員國立法，由執法主管機關針對檢查之進行而採取強制措施。

9. 若前項所規定之協助，需要根據相關成員國之內國法，獲得國家司法主管機關之授權，則經歐盟授權之官員或其他有關人員，得向檢查所涉成員國之數位服務協調人請求授權。此類授權亦可作為預防措施加以申請。

set the date on which it is to begin and indicate the penalties provided for in Articles 74 and 76 and the right to have the decision reviewed by the Court of Justice of the European Union. The Commission shall consult the Digital Services Coordinator of the Member State on territory of which the inspection is to be conducted prior to taking that decision.

7. Officials of, and other persons authorised or appointed by, the Digital Services Coordinator of the Member State on the territory of which the inspection is to be conducted shall, at the request of that Digital Services Coordinator or of the Commission, actively assist the officials and other accompanying persons authorised by the Commission in relation to the inspection. To this end, they shall have the powers listed in paragraph 2.
8. Where the officials and other accompanying persons authorised by the Commission find that the provider of the very large online platform or of the very large online search engine or the other person concerned opposes an inspection ordered pursuant to this Article, the Member State in the territory of which the inspection is to be conducted shall, at the request of those officials or other accompanying persons and in accordance with the national law of the Member State, afford them necessary assistance, including, where appropriate under that national law, in the form of coercive measures taken by a competent law enforcement authority, so as to enable them to conduct the inspection.
9. If the assistance provided for in paragraph 8 requires authorisation from a national judicial authority in accordance with the national law of the Member State concerned, such authorisation shall be applied for by the Digital Services Coordinator of that Member State at the request of the officials and other accompanying persons authorised by the Commission. Such authorisation may also be applied for as a precautionary measure.

10. 於申請前項規定之授權時，受理之國家司法主管機關應核實歐盟執委會下令進行檢查之決定是否為真，並應考量檢查之主題事項，所預想之強制措施是否恣意或過度。於進行此類核查時，國家司法主管機關可得直接或透過相關成員國之數位服務協調人，向歐盟執委會要求詳細解釋，特別是有關歐盟執委會質疑違反本法之理由之解釋，有關涉有侵權之虞之嚴重性，以及超大型線上平臺或超大型線上搜尋引擎提供者或其他有關人員之參與性質。惟國家司法主管機關不得質疑檢查之必要性，亦不得要求歐盟執委會提供案件之卷宗資訊。歐盟執委會決定之合法性，僅能由歐盟法院進行審查。

第 70 條

臨時措施

1. 於可能導致根據第 73 條第 1 項規定作成未予遵循決定之訴訟中，若由於服務接受者面臨嚴重損害之風險而存在緊急情況，歐盟執委會可得根據初步認定之侵權行為，通過決定針對超大型線上平臺或超大型線上搜尋引擎提供者採取臨時措施。
2. 根據前項規定所作成之決定，應適用於經指定之期限之內，並在必要與適當之情況下予以展延。

10. Where the authorisation referred to in paragraph 9 is applied for, the national judicial authority before which a case has been brought shall verify that the Commission decision ordering the inspection is authentic and that the coercive measures envisaged are neither arbitrary nor excessive having regard to the subject matter of the inspection. When conducting such verification, the national judicial authority may ask the Commission, directly or through the Digital Services Coordinators of the Member State concerned, for detailed explanations, in particular those concerning the grounds on which the Commission suspects an infringement of this Regulation, concerning the seriousness of the suspected infringement and concerning the nature of the involvement of the provider of the very large online platform or of the very large online search engine or of the other person concerned. However, the national judicial authority shall not call into question the necessity for the inspection nor demand information from the case file of the Commission. The lawfulness of the Commission decision shall be subject to review only by the Court of Justice of the European Union.

Article 70

Interim measures

1. In the context of proceedings which may lead to the adoption of a decision of non-compliance pursuant to Article 73(1), where there is an urgency due to the risk of serious damage for the recipients of the service, the Commission may, by decision, order interim measures against the provider of the very large online platform or of the very large online search engine concerned on the basis of a prima facie finding of an infringement.
2. A decision under paragraph 1 shall apply for a specified period of time and may be renewed in so far this is necessary and appropriate.

第 71 條 承諾

1. 於本節所規定之程序中，相關超大型線上平臺或超大型線上搜尋引擎提供者應承諾確保遵循本法之相關規定，歐盟執委會可藉由作成決定，使相關承諾對相關超大型線上平臺或超大型線上搜尋引擎提供者產生拘束力，並聲明未有進一步採取行動之理由。

2. 執委會可應要求或自行於下述情形下重新開始程序：
 - (a) 作出決定所依據之事實發生重大變化；

 - (b) 超大型線上平臺或超大型線上搜尋引擎提供者違反承諾；或

 - (c) 所作決定係基於相關超大型線上平臺或超大型線上搜尋引擎提供者，或第 67 條第 1 項規定所述之其他人所提供之不完整、不正確或具誤導性之資訊。

3. 若歐盟執委會認定相關超大型線上平臺或超大型線上搜尋引擎提供者所提供之承諾，並無法確保有效遵循本法之相關規定，歐盟執委會應於結束程序時作成合理決定，駁回相關承諾。

第 72 條 監督行動

Article 71

Commitments

1. If, during proceedings under this Section, the provider of the very large online platform or of the very large online search engine concerned offers commitments to ensure compliance with the relevant provisions of this Regulation, the Commission may by decision make those commitments binding on the provider of the very large online platform or of the very large online search engine concerned and declare that there are no further grounds for action.
2. The Commission may, upon request or on its own initiative, reopen the proceedings:
 - (a) where there has been a material change in any of the facts on which the decision was based;
 - (b) where the provider of the very large online platform or of the very large online search engine concerned acts contrary to its commitments; or
 - (c) where the decision was based on incomplete, incorrect or misleading information provided by the provider of the very large online platform or of the very large online search engine concerned or other person referred to in Article 67(1).
3. Where the Commission considers that the commitments offered by the provider of the very large online platform or of the very large online search engine concerned are unable to ensure effective compliance with the relevant provisions of this Regulation, it shall reject those commitments in a reasoned decision when concluding the proceedings.

Article 72

Monitoring actions

1. 為執行本節規定所賦予之任務，歐盟執委會可得採取必要行動，監督超大型線上平臺或超大型線上搜尋引擎提供者對本法規定之有效實施與遵循。執委會可得以命令其提供針對資料庫與演算法之存取與相關解釋。此類行動可能包括針對超大型線上平臺或超大型線上搜尋引擎提供者施加義務，要求其保留評估本法所定義務之實施與遵循情況所需之所有文件。

2. 根據前項規定所採取之行動，可得包括任命獨立之外部專家與審計人員，以及經有關主管機關同意後，任命來自國家主管機關之專家與審計人員，藉以協助歐盟執委會監督本法規定之有效實施與遵循情況，並向歐盟執委會提供具體之專業知識或知識。

第 73 條

未遵循

1. 若歐盟執委會發現相關超大型線上平臺或超大型線上搜尋引擎提供者未遵守下述一項或多項規定，其應作出未遵循決定：
 - (a) 本法之相關規定；
 - (b) 根據第 70 條規定之命令所採取之臨時措施；
 - (c) 根據第 71 條規定所作出之具有約束力之承諾。

1. For the purposes of carrying out the tasks assigned to it under this Section, the Commission may take the necessary actions to monitor the effective implementation and compliance with this Regulation by providers of the very large online platform and of the very large online search engines. The Commission may order them to provide access to, and explanations relating to, its databases and algorithms. Such actions may include, imposing an obligation on the provider of the very large online platform or of the very large online search engine to retain all documents deemed to be necessary to assess the implementation of and compliance with the obligations under this Regulation.
2. The actions pursuant to paragraph 1 may include the appointment of independent external experts and auditors, as well as experts and auditors from competent national authorities with the agreement of the authority concerned, to assist the Commission in monitoring the effective implementation and compliance with the relevant provisions of this Regulation and to provide specific expertise or knowledge to the Commission.

Article 73

Non-compliance

1. The Commission shall adopt a non-compliance decision where it finds that the provider of the very large online platform or of the very large online search engine concerned does not comply with one or more of the following:
 - (a) the relevant provisions of this Regulation;
 - (b) interim measures ordered pursuant to Article 70;
 - (c) commitments made binding pursuant to Article 71.

2. 在根據前項規定作出決定之前，歐盟執委會應將其初步調查結果，傳達予相關超大型線上平臺或超大型線上搜尋引擎提供者。在初步調查結果之中，歐盟執委會應解釋其考量採取之措施，或其認為相關超大型線上平臺或超大型線上搜尋引擎提供者應採取之措施，藉以有效解決初步調查結果。
3. 在根據前項規定作出之決定中，歐盟執委會應命令相關超大型線上平臺或超大型線上搜尋引擎提供者採取必要措施，確保在合理期限內遵循根據前項規定作出之決定中，規定並提供有關該提供者為遵循該決定而所擬採取之措施之資訊。
4. 相關超大型線上平臺或超大型線上搜尋引擎提供者應向歐盟執委會提供其為確保於實施後，遵循第 1 項所作決定所採取之措施之說明。
5. 若歐盟執委會發現未符合第 1 項規定之相關條件，其應作出決定結束調查。該決定應立即生效。

第 74 條

罰款

1. 在第 73 條規定所述之決定中，歐盟執委會可得對超大型線上平臺或超大型線上搜尋引擎提供者處以未逾其上一財政年度全球年營業額 6% 之罰款，若其發現前揭提供者係故意或過失：

2. Before adopting the decision pursuant to paragraph 1, the Commission shall communicate its preliminary findings to the provider of the very large online platform or of the very large online search engine concerned. In the preliminary findings, the Commission shall explain the measures that it considers taking, or that it considers that the provider of the very large online platform or of the very large online search engine concerned should take, in order to effectively address the preliminary findings.
3. In the decision adopted pursuant to paragraph 1 the Commission shall order the provider of the very large online platform or of the very large online search engine concerned to take the necessary measures to ensure compliance with the decision pursuant to paragraph 1 within a reasonable period specified therein and to provide information on the measures that that provider intends to take to comply with the decision.
4. The provider of the very large online platform or of the very large online search engine concerned shall provide the Commission with a description of the measures it has taken to ensure compliance with the decision pursuant to paragraph 1 upon their implementation.
5. Where the Commission finds that the conditions of paragraph 1 are not met, it shall close the investigation by a decision. The decision shall apply with immediate effect.

Article 74

Fines

1. In the decision referred to in Article 73, the Commission may impose on the provider of the very large online platform or of the very large online search engine concerned fines not exceeding 6 % of its total worldwide annual turnover in the preceding financial year where it finds that the provider, intentionally or negligently:

- (a) 違反本法之相關規定；
 - (b) 未遵循根據第 70 條規定之命令所採取之臨時措施；

 - (c) 未遵循根據第 71 條規定所作出之具有約束力之承諾。
2. 歐盟執委會可得作出決定，對相關超大型線上平臺或超大型線上搜尋引擎提供者或第 67 條第 1 項規定所述之其他自然人或法人，處以未逾其上一財政年度全球年營業額 1% 之罰款，若其係故意或過失：
- (a) 針對單純請求或根據第 67 條規定作成決定所提出之請求，提供不正確、不完整或具誤導性之資訊；
 - (b) 未於規定之期限內答覆資訊請求；

 - (c) 未能於歐盟執委會規定之期限內，改善工作人員所提供之不正確、不完整或具誤導性資訊，或未能或拒絕提供完整資訊；

 - (d) 拒絕依第 69 條規定接受檢查；
 - (e) 未遵循歐盟執委會根據第 72 條規定所採取之措施；或

 - (f) 未遵循第 79 條第 4 項所規定之查閱歐盟執委會檔案之條件。
3. 於根據前項規定作出決定之前，執員會應將其初步調查結果，傳達予給相關超大型線上平臺或超大型線上搜尋引擎提供者或第 67 條第 1 項規定所述之其他人。
4. 在決定罰款額度時，歐盟執委會應考慮侵權行為之性質、嚴重性、持續時間與重複發生情形，以及對於根據第 2 項規定所裁處之罰款，應

- (a) infringes the relevant provisions of this Regulation;
 - (b) fails to comply with a decision ordering interim measures under Article 70; or
 - (c) fails to comply with a commitment made binding by a decision pursuant to Article 71.
2. The Commission may adopt a decision imposing on the provider of the very large online platform or of the very large online search engine concerned or on another natural or legal person referred to in Article 67(1) fines not exceeding 1 % of the total annual income or worldwide turnover in the preceding financial year, where they intentionally or negligently:
- (a) supply incorrect, incomplete or misleading information in response to a simple request or request by a decision pursuant to Article 67;
 - (b) fail to reply to the request for information by decision within the set period;
 - (c) fail to rectify within the period set by the Commission, incorrect, incomplete or misleading information given by a member of staff, or fail or refuse to provide complete information;
 - (d) refuse to submit to an inspection pursuant to Article 69;
 - (e) fail to comply with the measures adopted by the Commission pursuant to Article 72; or
 - (f) fail to comply with the conditions for access to the Commission's file pursuant to Article 79(4).
3. Before adopting the decision pursuant to paragraph 2 of this Article, the Commission shall communicate its preliminary findings to the provider of the very large online platform or of the very large online search engine concerned or to another person referred to in Article 67(1).
4. In fixing the amount of the fine, the Commission shall have regard to the nature, gravity, duration and recurrence of the infringement and, for fines

考慮對程序所造成之延誤。

第 75 條

加強對矯正措施之監督並解決違反第 3 章第 5 節所定義務之行為

1. 當根據第 73 條規定針對超大型線上平臺或超大型線上搜尋引擎提供者違反第 3 章第 5 節之任何規定作出決定時，歐盟執委會應運用本條規定之強化監督制度。在此一過程中，應最大限度地考量歐洲數位服務委員會根據本條規定所提出之任何意見。
2. 於第 73 條規定所述之決定中，歐盟執委會應要求相關超大型線上平臺或超大型線上搜尋引擎提供者，在決定所定合理期限之內，向數位服務協調人、歐盟執委會與理事會起草行動計畫，其中應詳列足以終止或矯正侵權行為之必要措施。相關措施應包括承諾根據第 37 條第 3 項與第 4 項規定對其他措施之實施情形進行獨立審計之承諾，並應具體說明審計人員之身分，以及審計之方法、時間與後續措施。相關措施尚可審酌情形納入根據第 45 條規定參與相關行為準則之承諾。
3. 於接獲行動計畫之後 1 個月內，歐洲數位服務委員會應向歐盟執委會表達其針對行動計畫之意見。於接獲該意見之後 1 個月內，歐盟執委會應決定行動計畫所規定之措施，是否足以終止或矯正侵權行為，並應設定合理之實施期限。該等決定應考慮遵循相關行為準則之可能承

imposed pursuant to paragraph 2, the delay caused to the proceedings.

Article 75

Enhanced supervision of remedies to address infringements of obligations laid down in Section 5 of Chapter III

1. When adopting a decision pursuant to Article 73 in relation to an infringement by a provider of a very large online platform or of a very large online search engine of any of the provisions of Section 5 of Chapter III, the Commission shall make use of the enhanced supervision system laid down in this Article. When doing so, it shall take utmost account of any opinion of the Board pursuant to this Article.
2. In the decision referred to in Article 73, the Commission shall require the provider of a very large online platform or of a very large online search engine concerned to draw up and communicate, within a reasonable period specified in the decision, to the Digital Services Coordinators, the Commission and the Board an action plan setting out the necessary measures which are sufficient to terminate or remedy the infringement. Those measures shall include a commitment to perform an independent audit in accordance with Article 37(3) and (4) on the implementation of the other measures, and shall specify the identity of the auditors, as well as the methodology, timing and follow-up of the audit. The measures may also include, where appropriate, a commitment to participate in a relevant code of conduct, as provided for in Article 45.
3. Within one month following receipt of the action plan, the Board shall communicate its opinion on the action plan to the Commission. Within one month following receipt of that opinion, the Commission shall decide whether the measures set out in the action plan are sufficient to terminate

諾。歐盟執委會嗣後應監督行動計畫之實施。基此，相關超大型線上平臺或超大型線上搜尋引擎提供者應於審計報告可用後立即將其提交予委員會，不得無故拖延，並應向歐盟執委會通報其為實施該行動計畫所採取之最新步驟。若有必要進行此類監督，歐盟執委會可得要求相關超大型線上平臺或超大型線上搜尋引擎提供者，在歐盟執委會規定之合理期限內提供附加資訊。

歐盟執委會應隨時向歐洲數位服務委員會與數位服務協調人通報行動計畫之實施暨其監督情形。

4. 於有下述情形時，歐盟執委會可根據本法，特別是第 76 條第 1 項第 (e) 款與第 82 條第 1 項規定採取必要措施：
 - (a) 相關超大型線上平臺或超大型線上搜尋引擎提供者並未能於所適用之期限內，提供任何行動計畫、審計報告、必要之更新或所需之任何附加資訊；
 - (b) 歐盟執委會拒絕擬議之行動計畫，因其認為其中規定之措施並不足以終止或矯正侵權行為；或
 - (c) 歐盟執委會認為根據審計報告、所提供之任何更新或附加資訊，或歐盟執委會可獲取之任何其他相關資訊，行動計畫之實施並不足以終止或矯正侵權行為。

or remedy the infringement, and shall set a reasonable period for its implementation. The possible commitment to adhere to relevant codes of conduct shall be taken into account in that decision. The Commission shall subsequently monitor the implementation of the action plan. To that end, the provider of a very large online platform or of a very large online search engine concerned shall communicate the audit report to the Commission without undue delay after it becomes available, and shall keep the Commission up to date on steps taken to implement the action plan. The Commission may, where necessary for such monitoring, require the provider of a very large online platform or of a very large online search engine concerned to provide additional information within a reasonable period set by the Commission.

The Commission shall keep the Board and the Digital Services Coordinators informed about the implementation of the action plan, and about its monitoring thereof.

4. The Commission may take necessary measures in accordance with this Regulation, in particular Article 76(1), point (e), and Article 82(1), where:
 - (a) the provider of the very large online platform or of the very large online search engine concerned fails to provide any action plan, the audit report, the necessary updates or any additional information required, within the applicable period;
 - (b) the Commission rejects the proposed action plan because it considers that the measures set out therein are insufficient to terminate or remedy the infringement; or
 - (c) the Commission considers, on the basis of the audit report, any updates or additional information provided or any other relevant information available to it, that the implementation of the action plan is insufficient to terminate or remedy the infringement.

第 76 條
分期繳納罰款

1. 歐盟執委會可得作出決定，針對相關超大型線上平臺或超大型線上搜尋引擎提供者，或實際適用時之第 67 條第 1 項規定所述之其他人，處以未逾上一財政年度之全球日營業額或日收入之 5% 之罰款，並自決定指定之日期起計算，以迫使其：
 - (a) 根據第 67 條之要求提供資訊之決定，提供正確且完整之資訊；
 - (b) 接受根據第 69 條規定所作決定所進行之檢查；
 - (c) 遵循根據第 70 條第 1 項規定要求採取臨時措施之決定；
 - (d) 遵循根據第 71 條第 1 項規定所作決定，作出具有法律約束力之承諾；
 - (e) 遵循根據第 73 條第 1 項規定所作決定，包括適用時與第 75 條規定所述之行動計畫有關之要求。

2. 相關超大型線上平臺或超大型線上搜尋引擎提供者，或第 67 條第 1 項規定所述之其他人，業已履行分期繳納罰款所擬強制執行之義務，歐盟執委會可得使分期繳納罰款之最終金額，低於原決定之金額。

Article 76

Periodic penalty payments

1. The Commission may adopt a decision, imposing on the provider of the very large online platform or of the very large online search engine concerned or other person referred to in Article 67(1), as applicable, periodic penalty payments not exceeding 5 % of the average daily income or worldwide annual turnover in the preceding financial year per day, calculated from the date appointed by the decision, in order to compel them to:
 - (a) supply correct and complete information in response to a decision requiring information pursuant to Article 67;
 - (b) submit to an inspection which it has ordered by decision pursuant to Article 69;
 - (c) comply with a decision ordering interim measures pursuant to Article 70(1);
 - (d) comply with commitments made legally binding by a decision pursuant to Article 71(1);
 - (e) comply with a decision pursuant to Article 73(1), including where applicable the requirements it contains relating to the action plan referred to in Article 75.
2. Where the provider of the very large online platform or of the very large online search engine concerned or other person referred to in Article 67(1) has satisfied the obligation which the periodic penalty payment was intended to enforce, the Commission may fix the definitive amount of the periodic penalty payment at a figure lower than that under the original decision.

第 77 條
處罰之時效期限

1. 第 74 條與第 76 條賦予歐盟執委會之權力，應受到 5 年時效之限制。
2. 期間應自侵權行為發生之日開始計算。但連續或重複侵權之情形，應自侵權行為停止之日起計算。
3. 歐盟執委會或數位服務協調人為調查或提起侵權訴訟而採取之任何行動，均應中斷罰款或分期繳納罰款之時效期限。中斷時效期限之行為尤應包括：
 - (a) 歐盟執委會或數位服務協調人要求提供資訊；
 - (b) 檢查；
 - (c) 歐盟執委會根據第 66 條第 1 項規定啟動程序。
4. 每次中斷後均應重新開始計算時效。惟處以罰款或分期繳納罰款之時效期限，至遲應於歐盟執委會未處以罰款或分期繳納罰款之兩倍時效期間屆滿之日屆滿。該期限應延長至根據第 5 項規定中止時效期限之時間。
5. 若歐盟法院正在審理歐盟執委會之決定，罰款或分期繳納罰款之時效期限便應暫停。

Article 77

Limitation period for the imposition of penalties

1. The powers conferred on the Commission by Articles 74 and 76 shall be subject to a limitation period of five years.
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.
3. Any action taken by the Commission or by the Digital Services Coordinator for the purpose of the investigation or proceedings in respect of an infringement shall interrupt the limitation period for the imposition of fines or periodic penalty payments. Actions which interrupt the limitation period shall include, in particular, the following:
 - (a) requests for information by the Commission or by a Digital Services Coordinator;
 - (b) inspection;
 - (c) the opening of a proceeding by the Commission pursuant to Article 66(1).
4. Each interruption shall start time running afresh. However, the limitation period for the imposition of fines or periodic penalty payments shall expire at the 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 the limitation period has been suspended pursuant to paragraph 5.
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.

第 78 條 處罰執行時效期間

1. 歐盟執委會執行根據第 74 條與第 76 條規定所作成之決定之權力，應受到 5 年時效之限制。
2. 時間自最終決定生效之日起開始計算。
3. 處罰執行時效期間之中斷：
 - (a) 通知變更罰款或分期繳納罰款之原始金額，或拒絕變更申請；
 - (b) 歐盟執委會或應歐盟執委會要求採取行動之成員國，旨在強制支付罰款或分期繳納罰款之任何行動。
4. 每次中斷後均應重新開始計算時效。
5. 執行處罰之時效期間應中止：
 - (a) 允許給予時間完成支付；
 - (b) 根據歐盟法院之決定或成員國法院之決定，暫停執行支付。

第 79 條 發表意見查閱文件之權利

1. 於依據第 73 條第 1 項、第 74 條或第 76 條規定作成決定之前，歐盟執委會應向相關超大型線上平臺或超大型線上搜尋引擎提供者，或第 67 條第 1 項規定所述之其他人，就下述事項提供發表意見之機會：
 - (a) 歐盟執委會之初步調查結果，包括歐盟執委會所反對之任何事項；以及

Article 78

Limitation period for the enforcement of penalties

1. The power of the Commission to enforce decisions taken pursuant to Articles 74 and 76 shall be subject to a limitation period of five years.
2. Time shall begin to run on the day on which the decision becomes final.
3. The limitation period for the enforcement of penalties shall be interrupted:
 - (a) by notification of a decision varying the original amount of the fine or periodic penalty payment or refusing an application for variation;
 - (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.
4. Each interruption shall start time running afresh.
5. The limitation period for the enforcement of penalties shall be suspended for so long as:
 - (a) time to pay is allowed;
 - (b) enforcement of payment is suspended pursuant to a decision of the Court of Justice of the European Union or to a decision of a national court.

Article 79

Right to be heard and access to the file

1. Before adopting a decision pursuant to Article 73(1), Article 74 or 76, the Commission shall give the provider of the very large online platform or of the very large online search engine concerned or other person referred to in Article 67(1) the opportunity of being heard on:
 - (a) preliminary findings of the Commission, including any matter to which the Commission has taken objections; and

- (b) 歐盟執委會根據 (a) 款規定所提及之初步調查結果，所擬採取之措施。
2. 超大型線上平臺或超大型線上搜尋引擎提供者，或第 67 條第 1 項規定所述之其他人，可得於歐盟執委會初步調查結果中所規定之合理期限內，提交其針對歐盟執委會初步調查結果之意見。前揭合理期間不得少於 14 天。
 3. 執員會應僅根據相關利害關係人可得評論之反對意見作出決定。
 4. 重當事人之辯護權利在訴訟中應獲得充分尊重。其有權根據協商所披露之條款近用委員會之文件，惟超大型線上平臺或超大型線上搜尋引擎提供者或其他有關人員，出於保護其商業機密層面之合理利益，不在此限。歐盟執委會有權在雙方意見分歧下作出決定，規定揭露之條件。近用歐盟執委會文件之權利，不應延伸至歐盟執委會、歐洲數位服務委員會、數位服務協調人、其他主管機關或成員國其他公務機關之機密資訊與內部文件。尤其是近用權不得延展至歐盟執委會與相關機關之間之通訊。本項規定不防礙歐盟執委會揭露與使用證明侵權所必須之資訊。
 5. 根據第 67 條、第 68 條與第 69 條規定所蒐集之資訊，僅能應用於本法之目的。

第 80 條 公布決定

- (b) measures that the Commission may intend to take in view of the preliminary findings referred to point (a).
2. The provider of the very large online platform or of the very large online search engine concerned or other person referred to in Article 67(1) may submit its observations on the Commission's preliminary findings within a reasonable period set by the Commission in its preliminary findings, which may not be less than 14 days.
 3. The Commission shall base its decisions only on objections on which the parties concerned have been able to comment.
 4. The rights of defence of the parties concerned shall be fully respected in the proceedings. They shall be entitled to have access to the Commission's file under the terms of a negotiated disclosure, subject to the legitimate interest of the provider of the very large online platform or of the very large online search engine or other person concerned in the protection of their business secrets. The Commission shall have the power to adopt decisions setting out such terms of disclosure in case of disagreement between the parties. The right of access to the file of the Commission shall not extend to confidential information and internal documents of the Commission, the Board, Digital Service Coordinators, other competent authorities or other public authorities of the Member States. In particular, the right of access shall not extend to correspondence between the Commission and those authorities. Nothing in this paragraph shall prevent the Commission from disclosing and using information necessary to prove an infringement.
 5. The information collected pursuant to Articles 67, 68 and 69 shall be used only for the purpose of this Regulation.

Article 80

Publication of decisions

1. 歐盟執委會應公布其根據第 70 條第 1 項、第 71 條第 1 項與第 73 條至第 76 條所作出之決定。前揭公布應說明相關利害關係人姓名與決定之主要內容，包括所施加之任何處罰。
2. 進行公布時，應考慮超大型線上平臺或超大型線上搜尋引擎提供者、第 67 條第 1 項規定所述之其他人以及受到保護之任何第三人，於保護其機密資訊方面之合法利益。

第 81 條

歐盟法院之審查

根據歐盟運作條約第 261 條規定，歐盟法院擁有不受限之管轄權限，審查歐盟執委會罰款或分期繳納罰款之決定。歐盟法院可得取消、減少或增加所施加之罰款或分期繳納罰款。

第 82 條

請求限制近用並與成員國法院合作

1. 若本節規定之終止違反本法行為之所有權力均已耗盡，但侵權行為仍然存在並造成嚴重損害，同時透過行使聯盟或成員國立法所規定之其他權力，仍無法避免此一情形時，歐盟執委會可得要求相關超大型線上平臺或超大型線上搜尋引擎提供者之數位服務協調人，根據第 51 條第 3 項規定採取行動。

於向數位服務協調人提出此一請求之前，歐盟執委會應邀請相關利害關係人在不少於 14 個工作天之時間內提交書面意見，並說明描述其

1. The Commission shall publish the decisions it adopts pursuant to Article 70(1), Article 71(1) and Articles 73 to 76. Such publication shall state the names of the parties and the main content of the decision, including any penalties imposed.
2. The publication shall have regard to the rights and legitimate interests of the provider of the very large online platform or of the very large online search engine concerned, any other person referred to in Article 67(1) and any third parties in the protection of their confidential information.

Article 81

Review by the Court of Justice of the European Union

In accordance with Article 261 TFEU, 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.

Article 82

Requests for access restrictions and cooperation with national courts

1. Where all powers pursuant to this Section to bring about the cessation of an infringement of this Regulation have been exhausted, the infringement persists and causes serious harm which cannot be avoided through the exercise of other powers available under Union or national law, the Commission may request the Digital Services Coordinator of establishment of the provider of the very large online platform or of the very large online search engine concerned to act pursuant to Article 51(3).
Prior to making such request to the Digital Services Coordinator, the Commission shall invite interested parties to submit written observations

擬請求之措施並確定其預期之收件人。

2. 出於本法之一致性適用之需求，歐盟執委會可得主動向第 51 條第 3 項規定所述之司法主管機關提交書面意見。經有關司法機關許可，亦可以提出口頭意見。

僅出於準備其意見之目的，歐盟執委會可得要求司法主管機關轉交或確保向其轉交評估案件所需之任何文件。

3. 當成員國法院針對業已存在之歐盟執委會根據本法所通過之決定之主題事項，作出裁決時，該成員國法院不得作出任何與歐盟執委會決定相違背之決定。成員國法院亦應避免作出可能與歐盟執委會根據本法所啟動之訴訟中，預期作成之決定相衝突之決定。基此，成員國法院可得評估是否有必要中止訴訟。惟其並不妨礙歐盟運作條約第 261 條規定之適用。

第 83 條

與執委會干預有關之實施法規

就本節規範所涵蓋之歐盟執委會干預而言，歐盟執委會可得制定與下述實際安排相關之實施法規：

- (a) 根據第 69 條與第 72 條規定所進行之程序；
- (b) 第 79 條規定之聽證會；

within a period that shall not be less than 14 working days, describing the measures it intends to request and identifying the intended addressee or addressees thereof.

2. Where the coherent application of this Regulation so requires, the Commission, acting on its own initiative, may submit written observations to the competent judicial authority referred to Article 51(3). With the permission of the judicial authority in question, it may also make oral observations.

For the purpose of the preparation of its observations only, the Commission may request that judicial authority to transmit or ensure the transmission to it of any documents necessary for the assessment of the case.

3. When a national court rules on a matter which is already the subject matter of a decision adopted by the Commission under this Regulation, that national court shall not take any decision which runs counter to that Commission decision. National courts shall also avoid taking decisions which could conflict with a decision contemplated by the Commission in proceedings it has initiated under this Regulation. To that effect, a national court may assess whether it is necessary to stay its proceedings. This is without prejudice to Article 267 TFEU.

Article 83

Implementing acts relating to Commission intervention

In relation to the Commission intervention covered by this Section, the Commission may adopt implementing acts concerning the practical arrangements for:

- (a) the proceedings pursuant to Articles 69 and 72;
- (b) the hearings provided for in Article 79;

(c) 第 79 條規定之協商揭露資訊。

在根據前項規定採取任何措施之前，歐盟執委會應公布草案，並邀請所有利害關係人在草案規定之期限內提交意見，前揭期限不得少於一個月。相關實施法規應根據第 88 條規定所述之諮詢程序加以通過。

第五節 有關執行之共同規定

第 84 條 專業保密

在不妨礙本章所述資訊交換與使用之情形下，歐盟執委會、理事會、成員國主管機關及其各自之人員、受僱人員與於其監督下從事工作之其他人員，以及所涉及之任何其他自然人或法人，包括根據第 72 條第 2 項規定所任命之審計人員與專家，不得披露其根據本法所獲得或交換之資訊，以及受到專業保密義務所涵蓋之資訊。

第 85 條 資訊共享系統

1. 歐盟執委會應建立並維護可靠、安全之資訊共享系統，藉以支持數位服務協調人、歐盟執委會與歐洲數位服務委員會之間之溝通。可得於必要時授予其他主管機關近用該等系統之權限，以執行本法所規定之任務。

(c) the negotiated disclosure of information provided for in Article 79. Before the adoption of any measures pursuant to the first paragraph of this Article, the Commission shall publish a draft thereof and invite all interested parties to submit their comments within the period set out therein, which shall not be less than one month. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 88.

SECTION 5

Common provisions on enforcement

Article 84

Professional secrecy

Without prejudice to the exchange and to the use of information referred to in this Chapter, the Commission, the Board, Member States' competent authorities and their respective officials, servants and other persons working under their supervision, and any other natural or legal person involved, including auditors and experts appointed pursuant to Article 72(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.

Article 85

Information sharing system

1. The Commission shall establish and maintain a reliable and secure information sharing system supporting communications between Digital Services Coordinators, the Commission and the Board. Other competent authorities may be granted access to this system where necessary for them

2. 數位服務協調人、歐盟執委會與歐洲數位服務委員會，應根據本法使用資訊共享系統並進行所有通訊。
3. 歐盟執委會應制定實施法規，規定資訊共享系統之運作及與其他關聯系統之互通性之實施與操作安排。相關實施法規應根據第 88 條規定所述之諮詢程序加以通過。

第 86 條

代表

1. 在不損及 2020/1828 指令或成員國立法規定之任何其他型態之代表下，中介服務接受者應有權授權機關、組織或協會，代表其行使本法所賦予之權利，前提係該等機關、組織或協會滿足下述所有條件：
 - (a) 其係以非營利為基礎加以運作；
 - (b) 其是根據成員國法律正確組織而成；
 - (c) 其法定目標包括確保遵循本法所規定之合法利益。
2. 線上平臺提供者應採取必要之技術面與組織面措施，確保前項所述之機關、組織或協會，代表服務接受者透過第 20 條第 1 項所述之機制所提出之投訴，獲得優先處理與決定，且不得無故拖延。

- to carry out the tasks conferred to them in accordance with this Regulation.
2. The Digital Services Coordinators, the Commission and the Board shall use the information sharing system for all communications pursuant to this Regulation.
 3. The Commission shall adopt implementing acts laying down the practical and operational arrangements for the functioning of the information sharing system and its interoperability with other relevant systems. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 88.

Article 86

Representation

1. Without prejudice to Directive (EU) 2020/1828 or to any other type of representation under national law, recipients of intermediary services shall at least have the right to mandate a body, organisation or association to exercise the rights conferred by this Regulation on their behalf, provided the body, organisation or association meets all of the following conditions:
 - (a) it operates on a not-for-profit basis;
 - (b) it has been properly constituted in accordance with the law of a Member State;
 - (c) its statutory objectives include a legitimate interest in ensuring that this Regulation is complied with.
2. Providers of online platforms shall take the necessary technical and organisational measures to ensure that complaints submitted by bodies, organisations or associations referred to in paragraph 1 of this Article on behalf of recipients of the service through the mechanisms referred to in

第六節
授權法規與實施法規

第 87 條
授權之行使

1. 根據本條所規定之條件，歐盟執委會被授予制定授權法規之權力。
2. 第 24 條、第 33 條、第 37 條、第 40 條與第 43 條所述之授權，應授予歐盟執委會，期限為 2022 年 11 月 16 日起為期 5 年。歐盟執委會至遲應於 5 年期限結束前九個月，就授權問題撰擬報告。除非歐洲議會或歐盟理事會在各個期限結束前 3 個月內為反對表示，否則應將授權期間默示延長相同期間。
3. 第 24 條、第 33 條、第 37 條、第 40 條與第 43 條規定所提及之授權，可由歐洲議會或歐盟理事會隨時撤銷。撤銷決定應終止該決定中所規定之授權。撤銷決定應於歐盟官方公報上發布後第 2 天或其所指定之較晚日期生效。撤銷決定並不影響任何業已生效之授權法規之有效性。
4. 在制定授權法規之前，歐盟執委會應根據 2016 年 4 月 13 日「更佳立法之機關之間協議」所規定之原則，諮詢各成員國所指派之專家。

Article 20(1) are processed and decided upon with priority and without undue delay.

SECTION 6

Delegated and implementing acts

Article 87

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Articles 24, 33, 37, 40 and 43 shall be conferred on the Commission for five years starting from 16 November 2022. 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.
3. The delegation of power referred to in Articles 24, 33, 37, 40 and 43 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of power specified in that decision. It shall take effect the day following that of its publication in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
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 Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. 凡通過特定授權法規時，歐盟執委會應同時通知歐洲議會與歐盟理事會。
6. 依據第 24 條、第 33 條、第 37 條、第 40 條與第 43 條規定所通過之授權法規，應於歐洲議會或歐盟理事會將該法規通知歐洲議會之三個月內未為反對表示之情形下，或於該期限屆滿之前，歐洲議會或歐盟理事會均已通知執委會其將不會為反對表示時，始應生效。得根據歐洲議會或歐盟理事會之提議，該將期限延長 3 個月。

第 88 條 **委員會程序**

1. 歐盟執委會應由一個委員會（「數位服務委員會」）加以協助。該委員會應視為 182/2011 號規則所定義之委員會。
2. 當提及本項規定時，適用 182/2011 號規則第 4 條規定。

第五章 **最後條款**

第 89 條 **2000/31/EC 指令之修正**

1. 刪除 2000/31/EC 指令第 12 條至第 15 條規定。
2. 針對 2000/31/EC 指令第 12 條至第 15 條規定之引用，應分別解釋為針對本法規第 4 條、第 5 條、第 6 條與第 8 條規定之引用。

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Articles 24, 33, 37, 40 and 43 shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and 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 three months at the initiative of the European Parliament or of the Council.

Article 88

Committee procedure

1. The Commission shall be assisted by a committee ('the Digital Services Committee'). That Committee shall be a Committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

CHAPTER V

FINAL PROVISIONS

Article 89

Amendments to Directive 2000/31/EC

1. Articles 12 to 15 of Directive 2000/31/EC are deleted.
2. References to Articles 12 to 15 of Directive 2000/31/EC shall be construed as references to Articles 4, 5, 6 and 8 of this Regulation, respectively.

第 90 條
2020/1828 指令之修正

於 2020/1828 指令之附件一中，增加下述規定：

（68）歐洲議會與歐盟理事會 2022 年 10 月 19 日有關數位服務單一市場之規則與修訂 2000/31/EC 指令（數位服務法）。

第 91 條
審查

1. 2027 年 2 月 18 日之前，歐盟執委會應評估本法對中小企業發展與經濟成長之潛在影響，並向歐洲議會、歐盟理事會與歐洲經濟暨社會委員會進行報告。

截至 2025 年 11 月 17 日，歐盟執委會應評估並向歐洲議會、歐盟理事會與歐洲經濟暨社會委員會報告下述事項：

- (a) 第 33 條規定之適用，包括第 3 章第 5 節所規定之義務範圍；
 - (b) 本法與其他法律行為，特別是第 2 條第 3 項與第 4 款所述之行為進行相互作用之方式。
2. 於 2027 年 11 月 17 日以及此後每隔五年，執員會應就本法進行評估，並向歐洲議會、歐盟理事會與歐洲經濟暨社會委員會進行報告。

上揭報告應特別說明：

Article 90
Amendment to Directive (EU) 2020/1828

In Annex I to Directive (EU) 2020/1828, the following point is added:

‘(68) Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, p. 1).’.

Article 91
Review

1. By 18 February 2027, the Commission shall evaluate and report to the European Parliament, the Council and the European Economic and Social Committee on the potential effect of this Regulation on the development and economic growth of small and medium-sized enterprises.

By 17 November 2025, the Commission shall evaluate and report to the European Parliament, the Council and the European Economic and Social Committee on:

- (a) the application of Article 33, including the scope of providers of intermediary services covered by the obligations set out in Section 5 of Chapter III of this Regulation;
 - (b) the way that this Regulation interacts with other legal acts, in particular the acts referred to in Article 2(3) and (4).
2. By 17 November 2027, and every five years thereafter, the Commission shall evaluate this Regulation, and report to the European Parliament, the Council and the European Economic and Social Committee.

This report shall address in particular:

- (a) 第 1 項之第 2 分項第 (a) 款及第 (b) 款規定之適用；
 - (b) 本法對中介服務內部市場之深化與高效運作所帶來之貢獻，特別是在跨境提供數位服務層面；
 - (c) 第 13 條、第 16 條、第 20 條、第 21 條、第 45 條與第 46 條之適用；
 - (d) 小型及微型企業之義務範圍；
 - (e) 監督與執行機制之有效性；
 - (f) 對尊重言論與資訊自由權之所生影響。
3. 在適當情況下，第 1 項與第 2 項規定所述之報告，應檢附本法之修正提案。
 4. 歐盟執委會亦應於第 2 項規定所述及之報告中，評估與報告數位服務協調人根據第 55 條第 1 項規定，向歐盟執委會與歐洲數位服務委員會所提供之有關其活動之年度報告。
 5. 基於第 2 項規定之目的，成員國與歐洲數位服務委員會應按歐盟執委會之要求提交資訊。
 6. 於進行第 2 項規定所述之評估時，歐盟執委會應考慮歐洲議會、歐盟理事會與其他相關機關或來源之立場與調查結果，並應特別關注中小企業以及新興競爭對手之地位問題。
 7. 截至 2027 年 2 月 18 日，歐盟執委會應於諮詢歐洲數位服務委員會後，針對歐洲數位服務委員會之職能與第 43 條規定之適用情況進行評估，並將評估結果向歐洲議會、歐盟理事會與歐洲經濟暨社會委員會進行報告，其應考量本法甫在實施初期。在調查結果之基礎並充分考慮歐洲數位服務委員會之意見之上，該報告應審酌情形，檢附包括歐洲數位服務委員會組織結構在內之本法修正提案。

- (a) the application of paragraph 1, second subparagraph, points (a) and (b);
 - (b) the contribution of this Regulation to the deepening and efficient functioning of the internal market for intermediary services, in particular as regards the cross-border provision of digital services;
 - (c) the application of Articles 13, 16, 20, 21, 45 and 46;
 - (d) the scope of the obligations on small and micro enterprises;
 - (e) the effectiveness of the supervision and enforcement mechanisms;
 - (f) the impact on the respect for the right to freedom of expression and information.
3. Where appropriate, the report referred to in paragraphs 1 and 2 shall be accompanied by a proposal for amendment of this Regulation.
 4. The Commission shall, in the report referred to in paragraph 2 of this Article, also evaluate and report on the annual reports on their activities by the Digital Services Coordinators provided to the Commission and the Board pursuant to Article 55(1).
 5. For the purpose of paragraph 2, Member States and the Board shall send information on the request of the Commission.
 6. In carrying out the evaluations referred to in paragraph 2, the Commission shall take into account the positions and findings of the European Parliament, the Council, and other relevant bodies or sources, and shall pay specific attention to small and medium-sized enterprises and the position of new competitors.
 7. By 18 February 2027, the Commission, after consulting the Board, shall carry out an assessment of the functioning of the Board and of the application of Article 43, and shall report it to the European Parliament, the Council and the European Economic and Social Committee, taking into account the first years of application of the Regulation. On the basis of the findings and taking utmost account of the opinion of the Board, that report

第 92 條

預期適用於超大型線上平臺與超大型線上搜尋引擎提供者

本法適用於根據第 33 條第 4 項規定所指定之超大型線上平臺與超大型線上搜尋引擎提供者，自向第 33 條第 6 項規定所述之相關提供者發出通知後 4 個月起適用（若該日期早於 2024 年 2 月 17 日）。

第 93 條

生效與適用

1. 本法自其於歐盟官方公報上發布後之第 20 天生效。
2. 本法自 2024 年 2 月 17 日起實施。
惟第 24 條第 2 項、第 3 項及第 6 項、第 33 條第 3 項至第 6 項、第 27 條第 7 項、第 40 條第 13 項、第 43 條以及第 4 章第 4 節、第 5 節與第 6 節等規定，自 2022 年 11 月 16 日起適用。

本法應具有完整拘束力並直接適用於所有成員國。
2022 年 10 月 19 日於史特拉斯堡制定。

歐洲議會
議長
R. METSOLA

理事會
主席
M. BEK

shall, where appropriate, be accompanied by a proposal for amendment of this Regulation with regard to the structure of the Board.

Article 92

Anticipated application to providers of very large online platforms and of very large online search engines

This Regulation shall apply to providers of very large online platforms and of very large online search engines designated pursuant to Article 33(4) from four months after the notification to the provider concerned referred to in Article 33(6) where that date is earlier than 17 February 2024.

Article 93

Entry into force and application

1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.
2. This Regulation shall apply from 17 February 2024.
However, Article 24(2), (3) and (6), Article 33(3) to (6), Article 37(7), Article 40(13), Article 43 and Sections 4, 5 and 6 of Chapter IV shall apply from 16 November 2022.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 19 October 2022.

For the European Parliament
The President
R. METSOLA

For the Council
The President
M. BEK

西澳 2021 年黃牛票防制法

本法旨在限制活動票券轉售並禁止使用為規避票券銷售網站安全措施或相關目的所開發之軟體。

第一部分—序章

第 1 條 簡稱

本法名稱為 2021 年黃牛票防制法。

第 2 條 生效

本法於下述日期實施—

- (a) 第一部分—本法獲得御准之日；
- (b) 本法其他部分—御准之日之次日。

第 3 條 用詞定義

本法中—

- 「廣告」係指任何廣告，無論付費與否；
- 「廣告出版品」係指公眾可得近用之任何網站、線上設施、報紙、雜誌或其他包含廣告之出版品或服務（無論公眾是否被要求必須先行付費或訂閱、註冊或成為正式會員）；

- 「授權票券經銷商」，就特定活動而言，其係指—
 - (a) 活動主辦者授權代表其提供活動票券，或自活動主辦者處取得票券後

Ticket Scalping Act 2021

An Act to restrict the resale of event tickets and to prohibit the use of software designed to circumvent security measures on ticket selling websites, and for related purposes.

Part 1 — Preliminary

1. Short title

This is the Ticket Scalping Act 2021.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on the day after that day.

3. Terms used

In this Act —

advertisement means any advertisement, whether paid or not;

advertising publication means any website, online facility, newspaper, magazine or other publication or service containing advertisements to which members of the public have access (whether or not a member of the public is first required to pay a fee or subscription, register or become a member);

authorised ticket seller, in relation to an event, means —

- (a) if the event organiser has authorised a person to supply tickets for

重新提供活動票券之人一係指該特定之人；或者

(b) 在其他情況下—係指該活動之任何活動主辦者；

「專員」之意涵參見 2010 年公平交易法第 6 條規定；

「活動」包括下述項目—

(a) 體育賽事；

(b) 娛樂活動，其包括音樂會、劇場或歌劇表演，以及舞蹈活動；

(c) 節慶；

(d) 文化活動或展示；

(e) 競賽場地活動；

(f) 任何其他形式之公開表演、展覽、展示或公眾集會；

「活動主辦者」，就活動而言，其係指—

(a) 向活動入場票券最初提供者進行授權之人，無論該人是否同時身為表演者、活動之發起人或活動場地之經營者；或者

(b) 條例所規定之特定人員類別之人，其於特定活動類別下之相關活動擔任活動主辦者；

「原始票價」，其係指與活動入場票券有關之下述事項—

(a) 活動主辦者或授權進行售票之人首次提供零售時之入場票券購買金額；以及

(b) 如果就該銷售必須向授權票券經銷商支付定金或其他佣金時，則應包括該等定金或佣金金額；

admission to the event on behalf of the event organiser, or to resupply tickets for admission to the event after acquiring them from the event organiser — that person; or

- (b) in any other case — any event organiser for the event;

Commissioner has the meaning given in the Fair Trading Act 2010 section 6;

event includes the following —

- (a) a sporting event;
- (b) an entertainment event, including a concert, a performance at a theatre or the opera, and a dance event; Preliminary Part 1
- (c) a festival;
- (d) a cultural event or display;
- (e) an arena event;
- (f) any other form of public performance, exhibition, display or public gathering;

event organiser, in relation to an event, means —

- (a) the person who authorises the first supply of tickets for admission to the event, whether or not that person is also a performer, the promoter of the event or the operator of the event venue; or
- (b) a person within a class of persons prescribed by the regulations to be the event organiser in relation to a class of events to which the event belongs;

original ticket price, in relation to a ticket for admission to an event —

- (a) means the amount for which the ticket was purchased when first offered for retail sale by the event organiser or an authorised ticket seller; and
- (b) includes, if a booking fee or other commission was payable to an authorised ticket seller in relation to that sale, the amount of that fee or commission;

「經營者」，就廣告刊物而言，係指包括任何從事廣告刊物業務或事業之人；

「違禁廣告」係指不符合第 10 條規定之票券轉售廣告；

「轉售限制」之意涵參見本法第 5 條規定；

「出售」包括針對銷售所為之提供或宣傳行為；

「供應」包括提供供應及針對供應所為之廣告行為；

「門票轉售廣告」係指授權票券經銷商以外之人為銷售活動入場票券所為之廣告；

「黃牛票」是係將特定活動之入場票券以超出原價 10% 以上之價格出售。

第 4 條 拘束王室行為

本法拘束在西澳大利亞政府及其它經由議會立法所允許的範圍內之王室行為。

第 5 條 轉售限制

- (1) 按本法立法目的，轉售限制係指入場票券之特定條款或條件，其限制了票券可得轉售之情況。
- (2) 限制入場票券轉售之條款或條件，包括規定如果入場票券被轉售或在特定情況下進行轉售，該將入場票券將被取消、收回或視為作廢之條款或條件。

owner, of an advertising publication, includes any person who carries on the business or undertaking of the advertising publication;

prohibited advertisement means a ticket resale advertisement that does not comply with section 10;

resale restriction has the meaning given in section 5;

sell includes to offer or advertise for sale;

supply includes to offer to supply and to advertise for supply;

ticket resale advertisement means an advertisement for the sale of a ticket for admission to an event by a person other than an authorised ticket seller;

ticket scalping means selling a ticket for admission to an event for an amount which exceeds the original ticket price by more than 10%.

4. Act binds Crown

This Act binds the Crown in right of Western Australia and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

5. Resale restrictions

- (1) For the purposes of this Act, a resale restriction is a term or condition of a ticket for admission to an event that limits the circumstances in which the ticket may be resold.
- (2) A term or condition that limits the circumstances in which a ticket may be resold includes a term or condition that provides for the ticket to be cancelled, surrendered or rendered invalid if the ticket is resold or if the ticket is resold in certain circumstances.

第 6 條 本法適用範圍

- (1) 本法適用於西澳大利亞州受到轉售限制之活動入場票券。
- (2) 在前項規用之前提下，本法適用於在西澳大利亞州境外或部分境外所發生或存在之處理行為及其他行為、事項與事物（無論係於澳洲境內或境外）。

第二部分 票券之轉售、供應或廣告

第 7 條 黃牛票

任何人不得以超過原票券價格 10% 以上之金額出售活動入場票券。
罰金：20,000 澳幣。

第 8 條 無效之轉售限制

若入場票券之轉售價格未逾原票券價格之 110%，則任何因轉售而將取消、收回或視為作廢之票券轉售限制應視為無效。

第 9 條 票券之供應不得以其他購買作為條件

- (1) 任何人（供應商）不得基於協議將其向其他人（接收者）提供活動入場票券之責任，作為接收者應向供應商提供之其他商品或服務之對價。

6. Application of Act

- (1) This Act applies to tickets for admission to events in Western Australia that are subject to a resale restriction.
- (2) Subject to subsection (1), this Act extends to conduct, and other acts, matters and things, occurring or existing outside or partly outside Western Australia (whether within or outside Australia).

Part 2 — Resale, supply or advertising of tickets

7. Ticket scalping

A person must not sell a ticket for admission to an event for an amount which exceeds the original ticket price by more than 10%.

Penalty: a fine of \$20 000.

8. Invalid resale restrictions

A resale restriction is void to the extent that it provides for the ticket to be cancelled, surrendered or rendered invalid if the ticket is resold for an amount not exceeding 110% of the original ticket price.

9. Supply of tickets not to be made contingent on other purchases

- (1) A person (the supplier) must not supply a ticket for admission to an event to any other person (the recipient) under an agreement that makes the liability of the supplier to supply the ticket to the recipient contingent on payment by the recipient to the supplier of an amount in consideration for

違反本項規定之罰金：20,000 澳幣。

(2) 前項規定不適用於下列情形：

(a) 存在獲得相關活動之活動主辦者授權之協議；

(b) 法規所規定之任何其他協議類型。

第 10 條 違禁廣告

(1) 票券轉售廣告所揭載的票券銷售金額不得超過原票價之 110%。

(2) 票券轉售廣告必須具體載明—

(a) 原票價；以及

(b) 持票人獲得授權觀看活動的地點之詳細資訊（包括諸如票券的任何區域編號、排號與座位號碼）。

第 11 條 票券轉售廣告

(1) 廣告出版品的經營者必須確保其出版品中未發布違禁廣告。

違反本項規定之罰金：20,000 澳幣。

(2) 於遭控違反前項規定時，得以下列事項進行抗辯：

(a) 被控人或代表被控人之人，於從事與系爭廣告刊登有關之業務或事業之正常過程中收受該系爭廣告；以及

(b) 被控人與投放系爭廣告之人二者之間就廣告投放所締結之協議，

the provision to the recipient of any other goods or services.

Penalty for this subsection: a fine of \$20 000.

- (2) Subsection (1) does not apply to the supply of a ticket under —
- (a) an agreement that has been authorised by the event organiser for the relevant event; or
 - (b) any other agreement of a kind prescribed by the regulations.

10. Prohibited advertisements

- (1) A ticket resale advertisement must not specify an amount for the sale of the ticket that is more than 110% of the original ticket price.
- (2) A ticket resale advertisement must specify —
- (a) the original ticket price; and
 - (b) details of the location from which the ticket holder is authorised to view the event (including, for example, any bay number, row number and seat number for the ticket).

11. Ticket resale advertising

- (1) The owner of an advertising publication must ensure that no prohibited advertisement is published in the publication.
- Penalty for this subsection: a fine of \$20 000.
- (2) It is a defence to a charge of an offence under subsection (1) to prove that —
- (a) the advertisement was received by the person charged, or by a person acting on that person's behalf, in the ordinary course of carrying on the business or undertaking associated with the advertising publication; and
 - (b) the agreement relating to the publication of the advertisement between

存在禁止「違禁廣告」之約款；以及

- (c) 被控人或代表其負責管理廣告投放之人，在得知「違禁廣告」已在出刊品上投放後，儘速採取合理措施確保將系爭廣告自出版品加以移除；以及
- (d) 被控人採取在當時情況下合理之其他措施，確保未有「違禁廣告」於出版品中進行投放。

第三部分—網路購票

第 12 條 票務網站使用上之相關禁止行為

- (1) 於本條下一
就網站而言「安全措施」係指包括出於本定義之目的、法規所明定之任何種類之措施。
- (2) 任何人不得使用軟體使其可得或助益其規避網站之安全措施，在違反網站所公告之使用條款之情況下購入票券。
違反本項規定之罰金：100,000 澳幣。
- (3) 就前項規定而言，網站之使用條款如已於網站上披露，即視為公告。

the person charged and the person placing the advertisement was subject to terms or conditions prohibiting the publication of prohibited advertisements; and

- (c) the person charged, or a person responsible for managing the advertising publication on that person's behalf, as soon as practicable after becoming aware that the prohibited advertisement had been published in the publication, took reasonable steps to ensure that the advertisement was removed from the publication; and
- (d) the person charged took such other steps as were reasonable in the circumstances to ensure that no prohibited advertisement was published in the publication.

Part 3 — Online purchase of tickets

12. Prohibited conduct in relation to use of ticketing websites

- (1) In this section —
security measures, in relation to a website, include any measures of a kind prescribed by the regulations for the purposes of this definition.
- (2) A person must not use any software to enable or assist the person to circumvent the security measures of a website to purchase tickets in contravention of the published terms of use of the website.
Penalty for this subsection: a fine of \$100 000.
- (3) For the purposes of subsection (2), terms of use of a website are published if they are published on the website.

第四部分—雜項

第 13 條 專員所負職責

- (1) 專員所負職責包括下述事項—
 - (a) 促進本法之實施與成效；
 - (b) 開展及促進與本法有關之教育活動；
 - (c) 收受與違反本法規定有關之投訴與資訊，並在專員認為確有必要之情形下調查任何事項，並就相關投訴或專員認為適當之資訊採取任何行動；
 - (d) 發布（以任何形式）聲明，識別並警告違反本法之行為或做法，包括識別從事或可能從事此類行為或做法之人；
 - (e) 執行與本法之實施或執法有關之其他職責，或根據本法或出於本法目的所賦予專員之其他職責。
- (2) 除非確信符合公共利益要求，否則專員不得根據前項第 (d) 款規定，作成或發布表明特定人身分之聲明。

第 14 條 2010 年公平交易法之適用

- (1) 適用下述之 2010 年公平交易法相關規定，並根據本法之目的進行必要修改，相關規定將視為本法規定之一部—

Part 4 — Miscellaneous

13. Functions of Commissioner

- (1) The functions of the Commissioner include the following —
 - (a) to promote the operation and effect of this Act;
 - (b) to conduct educational activities associated with promoting compliance with this Act;
 - (c) to receive complaints and information concerning potential breaches of this Act and, if the Commissioner considers it warranted, to investigate any matter and to take any action in respect of those complaints or that information considered to be appropriate by the Commissioner;
 - (d) to publish (in any form) statements identifying and giving warnings about conduct or practices that are in breach of this Act, including by identifying persons who engage or are likely to engage in such conduct or practices;
 - (e) to perform other functions associated with the operation or enforcement of this Act, or otherwise conferred on the Commissioner under, or for the purposes of, this Act.
- (2) The Commissioner must not make or issue a statement under subsection (1)(d) that identifies a specific person unless satisfied that it is in the public interest to do so.

14. Application of Fair Trading Act 2010

- (1) The following provisions of the Fair Trading Act 2010 apply, with any modifications that are necessary for the purposes of this Act, as if those provisions were a part of this Act —

- (a) 第 60 條與第 61 條規定；
 - (b) 第 6 編規定，但第 64 條、第 65 條及第 4A 款規定除外；
 - (c) 第 7 編規定，但第 96 條至第 98 條、第 100 條、第 108 條及第 4 款規定除外；
 - (d) 第 8 編規定，但第 116 條規定除外。
- (2) 就前項規定而言，2010 年公平交易法應解讀如下—
- (a) 「本法」或「本法或任何其他法律」字樣，均係指本法；以及
 - (b) 「或其他法律」、「或任何其他法律」（第 60 條第 (1) 項規定除外）或「或其他授予專員權限之法律」等字樣均予刪除；以及
 - (c) 「部門」一詞係指協助部長執行本法之公務部門；以及
 - (d) 第 63 條授權人定義中之第 (c) 款規定之「或根據第 88D 條規定協助調查之警員」字樣刪除；以及
 - (e) 於第 63 條調查人員定義之「指定」字樣後，插入「2010 年公平交易法」字樣；以及
 - (f) 第 66 條之「根據以下文件提供」字樣後插入「2010 年公平交易法」字樣；以及
 - (g) 第 77 條第 (6) 項、第 89 條第 (2A) 項及第 (5A) 項、第 95 條第 (5) 項、第 106 條第 (3) 項第 (c) 款及第 112 條第 (3) 項第 (c) 款第 (ii) 目、第 (da) 款及第 (f) 款等規定應予刪除；以及
 - (h) 第 88 條第 (1) 項規定之「或 4A」字樣應予刪除；以及
 - (i) 第 89 條第 (2) 項規定之「或 88E」字樣應予刪除；以及
 - (j) 第 94 條第 (1) 項第 (a) 款、第 105 條第 (1) 項與第 106 條第 (3) 項第 (b)

- (a) sections 60 and 61;
 - (b) Part 6, other than sections 64 and 65 and Division 4A;
 - (c) Part 7, other than sections 96, 97, 98, 100 and 108 and Division 4;

 - (d) Part 8, other than section 116.
- (2) For the purposes of subsection (1), the Fair Trading Act 2010 is to be read as if —
- (a) a reference to “this Act” or “this or any other Act” were a reference to this Act; and
 - (b) the words “or another Act” , “or any other Act” (other than in section 60(1)) or “or another Act that confers functions on the Commissioner” were deleted; and
 - (c) a reference to “the Department” were a reference to the department of the Public Service principally assisting the Minister in the administration of this Act; and
 - (d) the words “or a police officer assisting in an investigation under section 88D” in paragraph (c) of the definition of authorised person in section 63 were deleted; and
 - (e) the words “the Fair Trading Act 2010” were inserted in the definition of investigator in section 63 after the words “designated under” ; and
 - (f) the words “the Fair Trading Act 2010” were inserted in section 66 after the words “the document provided under” ; and
 - (g) sections 77(6), 89(2A) and (5A), 95(5), 106(3)(c) and 112(3)(c)(ii), (da) and (f) were deleted; and

 - (h) the words “or 4A” in section 88(1) were deleted; and
 - (i) the words “or 88E” in section 89(2) were deleted; and
 - (j) the words “or 100” in sections 94(1)(a), 105(1) and 106(3)(b) were

款規定之「或 100」字樣應予刪除；以及

(k) 第 112 條第 (1) 項規定之受規範人員之定義應予刪除。

(3) 除前項規定另有規定外，2010 年公平交易法中按第 (1) 項所適用之規定，其使用之用語所包含之任何定義亦有適用。

本條注意事項：

1. 第 (1) 項規定將 2010 年公平交易法之特定規定納入本法，相關規定係規範下述內容或與下述內容有關—

- (a) 專員之權力；
- (b) 調查與執法；
- (c) 刑事與民事訴訟；
- (d) 附則事項。

2. 第 (2) 項規定係針對相關規定作為本法一部加以應用時進行修改。

第 15 條 侵權通知暨 2004 年刑事訴訟法

(1) 若本法屬於 2004 年刑事訴訟法第二篇中所規定之制定法，則本條規定適用於授權執法人員針對本法所規範之犯罪行為發出侵權通知。

(2) 侵權通知必須於下列時間內送達—

(a) 授權執法人員認為已有充分證據支持指控之犯罪行為之 21 日內；

(b) 系爭犯罪行為發生之日起 6 個月內。

(3) 就 2004 年刑事訴訟法第二篇規定進行必要修改，以利本條規定之適用。

deleted; and

(k) the definition of regulated person in section 112(1) were deleted.

- (3) Subject to subsection (2), any definition contained in the Fair Trading Act 2010 of a term used in the provisions applied by subsection (1) also applies for the purposes of those provisions.

Notes for this section:

1. Subsection (1) incorporates into this Act certain provisions of the Fair Trading Act 2010 that provide for or in relation to the following —
 - (a) powers of the Commissioner;
 - (b) investigation and enforcement;
 - (c) criminal and civil proceedings;
 - (d) miscellaneous matters.
2. Subsection (2) makes certain modifications to those provisions in their application as part of this Act.

15. Infringement notices and Criminal Procedure Act 2004

- (1) If this Act is a prescribed Act for the purposes of the Criminal Procedure Act 2004 Part 2, this section applies in relation to the service of an infringement notice under that Part by an authorised officer in relation to an alleged offence under this Act.
- (2) The infringement notice must be served within —
 - (a) 21 days after the day on which the authorised officer forms the opinion that there is sufficient evidence to support the allegation of the offence; and
 - (b) 6 months after the day on which the alleged offence is believed to have been committed.
- (3) The Criminal Procedure Act 2004 Part 2 is modified to the extent necessary to give effect to this section.

第 16 條 規則

- (1) 總督可制定包括下列事項之規則—
 - (a) 本法所要求或許可之事項；
 - (b) 為實現本法之目的而有規定之必要或便於規定者。
- (2) 規定可就違反規定之行為進行規範，並對相關違法行為處以不超過 5,000 澳幣之罰金。

第 17 條 法案審視

- (1) 部長應於本法之日起 5 年後審視本法之實施狀況與有效性，並針對審視準備一份報告。
- (2) 審視工作應納入梳理本法第 7 條、第 9 條與第 12 條規定是否有效減少黃牛票。
- (3) 部長應當於報告完成後儘速將報告提交予議會各院，至遲不得逾 5 週年後之 12 個月。

第五部分—過渡條款

第 18 條 過渡條款

本法並不適用在第二部分正式實施之日前已自授權票券經銷商購入之票券。

16. Regulations

- (1) The Governor may make regulations prescribing matters —
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) The regulations may provide for offences against the regulations and prescribe penalties for those offences not exceeding a fine of \$5 000.

17. Review of Act

- (1) The Minister must review the operation and effectiveness of this Act, and prepare a report based on the review, as soon as practicable after the 5th anniversary of the day on which this section comes into operation.
- (2) The review must address whether sections 7, 9 and 12 have been effective in reducing the practice of ticket scalping.
- (3) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 5th anniversary.

Part 5—Transitional provision

18. Transitional provision

This Act does not apply to a ticket purchased from an authorised ticket seller before the day on which Part 2 comes into operation.

備註

2021 年黃牛票防制法相關條款生效日彙整表。

彙整表

名稱	年份及數量	御准日	生效日
2021 年黃牛票防制法	2021 年 /17 條	2021 年 9 月 9 日	第 1 部分：2021 年 9 月 9 日【2(a) 參照】； 其他部分：2021 年 9 月 10 日【2(b) 參照】

Notes

This is a compilation of the *Ticket Scalping Act 2021*. For provisions that have come into operation see the compilation table.

Compilation table

Short title	Number and year	Assent	Commencement
Ticket Scalping Act 2021	17 of 2021	9 Sep 2021	Pt. 1: 9 Sep 2021 (see s. 2(a)); Act other than Pt. 1: 10 Sep 2021 (see s. 2(b))

定義索引

【名詞定義及該定義之索引清單，非屬本法之內容】

名詞定義	條文
廣告.....	3
廣告出版品.....	3
授權票券經銷商.....	3
專員.....	3
活動.....	3
活動主辦者.....	3
原始票價.....	3
經營者.....	3
違禁廣告.....	3
接收者.....	9(1)
轉售限制.....	3, 5(1)
安全措施.....	12(1)
出售.....	3
供應商.....	9(1)
供應.....	3
門票轉售廣告.....	3
黃牛票.....	3

Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined term	Provision(s)
advertisement	3
advertising publication	3
authorised ticket seller.....	3
Commissioner	3
event.....	3
event organiser	3
original ticket price	3
owner.....	3
prohibited advertisement	3
recipient	9(1)
resale restriction	3, 5(1)
security measures	12(1)
sell	3
supplier	9(1)
supply.....	3
ticket resale advertisement	3
ticket scalping	3

外國消費者保護法規翻譯叢書索引
（第 1 輯至第 30 輯）

壹、亞太地區

國別	法規名稱（中文譯名及原文名稱）	輯別	頁次
日本	消費者保護基本法 消費者基本法	第 2 輯	2-13
日本	國民生活中心法 國民生活セソター法	第 2 輯	14-43
日本	製造物責任法	第 3 輯	2-9
日本	東京都消費生活條例 東京都消費生活条例	第 2 輯	44-95
日本	關於訪問販賣等之法律 訪問販賣に関する法律	第 2 輯	96-131
日本	關於訪問販賣之法律 訪問販賣に関する法律	第 8 輯	250-331
日本	有關高爾夫球場等會員契約適正化之法律 ゴルフ場等に係る會員契約の適正化に関する法律	第 8 輯	332-359
日本	關於訪問販賣等之法律 訪問販賣に関する法律	第 10 輯	223-332
日本	消費者契約法	第 10 輯	333-354
日本	洗濯業標準營業約款暨施行細則 クリーニング業に関する標準營業約款、 クリーニング業に関する標準營業約款施行細則	第 13 輯	146-169
日本	美容業標準營業約款暨施行細則 美容業に関する標準營業約款、 美容業に関する標準營業約款施行細則	第 13 輯	170-189

國別	法規名稱（中文譯名及原文名稱）	輯別	頁次
日本	理容業標準營業約款暨施行細則 理容業に関する標準營業約款、 理容業に関する標準營業約款施行細則	第 13 輯	190-211
日本	消費者契約法施行細則	第 15 輯	2-61
日本	關於預付式票券之規範等法律 前払式証票の規制等に関する法律	第 16 輯	2-71
日本	消費者契約法	第 17 輯	2-117
日本	與特定商交易相關之法律 特定商取引に関する法律	第 18 輯	2-337
日本	消費者教育促進法 消費者教育の推進に関する法律	第 21 輯	1-28
日本	消費者安全法	第 21 輯	29-98
日本	食品標示法 食品表示法	第 22 輯	1-34
日本	消費者財產損害集體請求賠償民事訴訟程序特別法 消費者の財産的被害の集団的な回復のための民事の裁判手続の特例に関する法律	第 22 輯	35-162
日本	消費生活用製品安全法	第 25 輯	1-174
日本	資金決算法 資金決済に関する法律	第 26 輯	1-242
日本	與特定商交易相關之法律 特定商取引に関する法律	第 29 輯	1-474
韓國	消費者保護法 Consumers Protection Act	第 1 輯	13-32, 119-142

國別	法規名稱 (中文譯名及原文名稱)	輯別	頁次
韓國	消費者保護法施行令 Enforcement Decree of the consumers Protection Act	第 1 輯	33-48, 143-162
韓國	訪問販賣等之法律	第 2 輯	132-153
韓國	韓國 2007 年電子商務消費者保護法 (Act on Consumer Protection in Electronic Commerce, etc August 3, 2007)	第 20 輯	137-212
韓國	韓國 2008 年電子商務消費者保護法施行細則 (Enforcement Decree of the Act on Consumer Protection in Electronic Commerce, etc. December 31, 2008)	第 20 輯	213-268
韓國	韓國 2007 年訪問買賣等法 (Door-to-Door Sales, etc. Act July 19, 2007)	第 20 輯	269-382
韓國	韓國 2008 年訪問買賣等法施行細則 (Enforcement Decree of the Door-to-door Sales, etc. Act December 31, 2008)	第 20 輯	383-452
韓國	動力車輛管理法 MOTOR VEHICLE MANAGEMENT ACT	第 28 輯	17-480
新加坡	消費者保護法 Consumer Protection (Trade Descriptions and Safety Requirements) Act	第 1 輯	49-63, 163-182
新加坡	消費者保護 (公平交易) 法 CONSUMER PROTECTION (FAIR TRADING) ACT (CHAPTER 52A)	第 25 輯	175-344
香港	消費者委員會條例 Consumer Council Ordinance	第 1 輯	1-12, 105-118
以色列	1981 年消費者保護法 Consumer Protection Law 1981	第 4 輯	2-45

國別	法規名稱（中文譯名及原文名稱）	輯別	頁次
澳洲	1974 年交易行為規制法 Consumer Protection Law	第 6 輯	1-905
澳洲	1997 年 9 月消費者保護法第 2 次檢討報告 Audit of Consumer Protection Law-Second Report 1997	第 8 輯	360-541
澳洲	消費者申訴仲裁庭條例（1987 第 206 號） Consumer Tribunals Act 1987 No.206	第 9 輯	1-122
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