

Article 4

1. Media service providers shall have the right to exercise their economic activities in the internal market without restrictions **other than those allowed pursuant to Union law.**

2. ***The Union, Member States and private entities*** shall respect ***the*** effective editorial freedom ***and independence*** of media service providers. Member States, including their national regulatory authorities and bodies, ***Union institutions, bodies, offices and agencies and private entities*** shall not:

(a) interfere in or try to influence in any way, directly or indirectly, editorial policies and ***editorial*** decisions by media service providers;

(a a) oblige media services providers or their employees to disclose any information related to editorial processing, including on their sources, or to disseminate such information;

(b) detain, sanction, subject ***to*** search and seizure, or inspect media service providers, ***their employees or***, if applicable, their family members, ***or any other person belonging to their professional network of relationships, including occasional contacts,*** or their corporate and private premises, ***where such actions might lead to a violation of their right to exercise their professional activity and, in particular, where such actions might result in access to journalistic sources;***

(b a) access encrypted content data on any device or in any machine used by media service providers or, if applicable, their families or their employees or their family members or, if applicable, any other person belonging to their professional or private network of relationships, including occasional contacts;

(c) deploy ***surveillance measures or use surveillance technology, or instruct private entities to use such measures or such technology,*** in any device or machine used by media service providers or, if applicable, their family members, or their employees or their family members ***or, if applicable, any other person belonging to their professional network, including occasional contacts.***

(ca) deploy spyware or any similar intrusive technology, or instruct private entities to use spyware or such technology, in any device or machine used by media service providers or, if applicable, their family members, or their employees or their family members or, if applicable, any other subject belonging to their professional network, including occasional contacts.

(cb) commission a third party to carry out any of the actions referred to in points (b) to (ca).

2a (new) *By way of derogation from paragraph 2, point (b), Member States, including their national regulatory authorities and bodies, Union institutions, bodies, offices and agencies and private entities may carry out an action as referred to therein, provided that other legal measures would be inadequate and insufficient to obtain the information sought and provided that the action:*

- (a) is unrelated to the professional activity of a media service provider and its employees;*
- (b) does not result in access to journalistic sources;*
- (c) is provided for under national law;*
- (d) is justified on a case-by-case basis for the purpose of preventing, investigating or prosecuting a serious crime;*
- (e) complies with Article 52(1) of the Charter and other relevant Union law;*
- (f) is proportionate with respect to the legitimate aim pursued; and*
- (g) is ordered, ex ante, by an independent and impartial judicial authority with effective, known and accessible remedial measures ensured in accordance with Article 47 of the Charter and in compliance with other relevant Union law.*

When carrying out actions as referred to in paragraph 2, point (b), the Member States, including their national regulatory authorities and bodies, Union institutions, bodies, offices and agencies and private entities shall not retrieve data related to the professional activity of media service providers and their employees, in particular data which offer access to journalistic sources.

2b (new) *By way of derogation from paragraph 2, points (ba) and (c), Member States, including their national regulatory authorities and bodies, Union institutions, bodies, offices and agencies and private entities may carry out an action as referred to therein, provided that the actions referred to in paragraph 2, point (b), would be inadequate and insufficient to obtain the information sought and provided that the action:*

- (a) complies with the conditions listed in paragraph 2a, points (a), (b), (c), (e), (f) and (g);*
- (b) concerns only the investigation or prosecution of a serious crime that is punishable in the Member State concerned by a custodial sentence or a detention order for a maximum period of at least five years;*
- (c) is carried out as a last resort; and*
- (d) is subject to periodic review by an independent and impartial judicial authority.*

2c (new) *By way of derogation from paragraph 2, point (ca), Member States, including their national regulatory authorities and bodies, Union institutions, bodies, offices and agencies and private entities may carry out an action as referred to therein, provided that the actions referred to in paragraph 2, point (ba) or (c), would be*

inadequate and insufficient to obtain the information sought and provided that the action complies with the conditions listed in paragraph 2a, points (a), (b), (c), (e), (f) and (g), and paragraph 2b, points (b), (c) and (d).

2d (new) *The carrying out of actions as referred to in paragraph 2, points (ba), (c) and (ca), shall be subject to ex-post scrutiny by means of judicial review or by means of another independent oversight mechanism. Member States shall inform persons targeted by actions as referred to in paragraph 2, points (b) to (ca), and persons whose data or communications were accessed as a result of such actions of the fact that their data or communications were accessed and of the duration and scope of the processing of those data, and the manner in which those data were processed. Member States shall ensure access to redress through an independent body for persons directly or indirectly affected by the carrying out of such actions. Member States shall publish the number of requests approved and rejected for the carrying out of such actions. The safeguards provided for in this paragraph shall extend to natural persons in non-standard forms of employment, such as freelancers exercising activities in the same field as media service providers and their employees.*

Paragraph 3

3. Without prejudice and in addition to the right to effective judicial protection guaranteed to each natural and legal person, Member States shall designate *a structurally and functionally independent authority or body, such as an ombudsperson*, to handle complaints lodged by media service providers or their family members, *the employees of media service providers or their family members, or any other person professionally or privately associated with them*, regarding breaches of paragraph 2, points *(aa), (b), (ba), (c), (ca)* and (cb). Media service providers shall have the right to request that authority or body to issue, within three months of the request, an opinion regarding compliance with paragraph 2, points *(aa), (b), (ba), (c), (ca)* and (cb).

Article 17 - Content of media service providers on very large online platforms

Paragraph 1 - introductory part

Providers of very large online platforms shall ensure that decisions concerning content moderation and any other actions they undertake do not negatively impact media freedom and pluralism. They shall ensure that their content moderation and

monitoring processes have adequate human resources to cover all languages and geographical regions of the Union. They shall provide a functionality allowing recipients of their services to declare:

(a) ~~it is~~ *that they are* media service *providers* within the meaning of Article 2(2) *and fulfil the duty set out in Article 6(1).*

(b) ~~it is~~ *that they are* editorially independent from *any Union institution, body, office or agency and from Member States, political parties and third countries and that they are functionally independent from private entities whose corporate purpose is not related to the creation or dissemination of media services;*

(c) ~~it is~~ *that they are* subject to regulatory requirements for the exercise of editorial responsibility *and oversight by a competent national regulatory authority or body* in one or more Member States or ~~adhere that they comply with~~ *to* a co-regulatory or self-regulatory mechanism governing editorial standards *that is transparent, legally recognised and widely accepted in the relevant media sector in one or more Member States;*

point (ca) (new) *that they do not provide content generated by an artificial intelligence system without subjecting such content to human oversight and editorial control (AM 1058);*

c b (new) their name and the name of their managing director, their professional contact details, including an email address and telephone number, and their place of establishment;

c c (new) information about the competent national regulatory authority or body or the representative of the co-regulatory or self-regulatory mechanism to which they are subject.

(AM 993, IMCO 143)

1d a (new) Providers of very large online platforms shall ensure that the functionality referred to in paragraph 1 allows for information declared thereunder, with the exception of the information set out in paragraph 1, point (ca), to be publicly and easily accessible.

1a. Providers of very large online platforms shall acknowledge receipt of declarations submitted under paragraph 1. They shall state in the acknowledgement whether or not they accept the declaration. They shall immediately communicate the acknowledgement of receipt to the media service provider concerned, the competent national regulatory authority or body concerned or the representative of the co-regulatory or self-regulatory mechanism concerned. In the

acknowledgement of receipt, providers of very large online platforms shall indicate a competent contact person or body through which the media service provider can communicate directly and quickly with the provider of the very large online platform. Where a provider of a very large online platform accepts a declaration submitted by a media service provider under paragraph 1, that media service provider shall be deemed to be a recognised media service provider.

1b. On a request from a provider of a very large online platform which has not accepted a declaration submitted under paragraph 1, point (c), due to having a reasonable doubt as to the nature of that declaration, the relevant national regulatory authority or body or the representative of the relevant co-regulatory or self-regulatory mechanism shall confirm the nature of or invalidate that declaration. Where the relevant national regulatory authority or body or the representative of the relevant co-regulatory or self-regulatory mechanism confirms the nature of that declaration, the media service provider shall be deemed to be a recognised media service provider.

1c. On a request from a media service provider that considers that the provider of a very large online platform has unjustly invalidated its declaration submitted under paragraph 1, the relevant national authority or body or the representative of the relevant co-regulatory or self-regulatory mechanism concerned shall clarify the matter. Where the provider of a very large online platform decides not to accept the clarification provided by the relevant national authority or body or the representative of the relevant co-regulatory or self-regulatory mechanism, the media service provider ~~may consult the Board~~ may appeal against that decision to the competent national regulatory authority or body ~~or to the Board~~. The competent national regulatory authority or body shall rule on the matter without delay. The Board shall issue a recommendation. Where the competent national regulatory authority or body confirms the declaration, the media service provider shall be deemed to be a recognised media service provider.

1d (new) Where a provider of a very large online platform has frequently suspended or restricted, pursuant to paragraph 2, the provision of its online intermediation services in relation to a media service provided by a media service provider on the basis of a breach of its terms and conditions, that provider of the very large online platform may invalidate the declaration submitted by the media service provider under paragraph 1. The provider of the very large online platform shall inform the supervising or regulatory entity and the Board that it has invalidated the declaration. (IMCO 145)

Paragraph 2

Where a provider of a very large online platform decides to suspend *or restrict* the provision of its online intermediation services in relation to a *media service* provided

by a *recognised media service provider because that media service* ~~media service provider that submitted a declaration pursuant to paragraph 1 of this Article, on the grounds that such content or service is incompatible with its terms and conditions, it shall, without *prejudice to the mitigating measures in relation* that content contributing to a systemic risk referred to in Article 34 of Regulation (EU) 2022/XXX ~~[Digital Services Act] 2022/2065, take all possible measures, to the extent consistent with their obligations under Union law, including Regulation (EU) 2022/XXX ~~[Digital Services Act] 2022/2065, to communicate to the media service provider concerned the statement of. *communicate to that recognised media service provider the* reasons accompanying that decision, *specifying the specific clause in the terms and conditions with which the media service was incompatible*, as required by Article 4(1) of Regulation (EU) 2019/1150 and *Article 17(3) of Regulation (EU) 2022/2065, and no later than 24 hours*, prior to the restriction or suspension taking effect.~~~~~~

The provider of the very large online platform shall give the recognised media service provider the opportunity to respond to the reasons accompanying its decision within 24 hours prior to the suspension or restriction taking effect.

2a. Where, following the 24-hour period referred to in paragraph 2, the second subparagraph, and after due consideration of the response of the recognised media service provider referred to in the second subparagraph, the provider of the very large online platform considers the media service concerned to be incompatible with its terms and conditions, it may refer the case to the relevant competent national regulatory authority or body or the body of the relevant self-regulatory or co-regulatory mechanism. The relevant competent national regulatory authority or body or the representative of the relevant self-regulatory or co-regulatory mechanism shall decide, without delay, whether the intended suspension or restriction is justified in view of the specific clause in the terms and conditions of the provider of the very large online platform, taking into account fundamental freedoms.

Paragraph 3

3. Providers of very large online platforms shall take all the necessary technical and organisational measures to ensure that complaints under Article 11 of Regulation (EU) 2019/1150 *or Article 20 of Regulation (EU) 2022/2065* by *recognised* media service providers that submitted a declaration pursuant to paragraph 1 of this Article are processed and decided upon with priority and, *in any event, no later than 24 hours after submission of the complaint* ~~without undue delay. The media service provider may be represented by a body in complaints procedures.~~

Paragraph 4

4. Where a *recognised* media service provider ~~that submitted a declaration pursuant to paragraph 1~~ considers that a provider of very large online platform frequently restricts or suspends the provision of its services in relation to content *or services* provided by the media service provider without sufficient grounds *and in a manner that undermines media freedom and media pluralism*, the provider of *the* very large online platform shall, *at the request of the media service provider*, engage in a meaningful and effective *consultation* dialogue with the media service provider, in good faith with a view to finding an amicable solution ~~for terminating within a reasonable timeframe that avoids~~ unjustified restrictions or suspensions ~~and avoiding them~~ in the future. The media service provider may notify the outcome of such *consultations* to the Board *and to the national digital services coordinator referred to in Regulation (EU) 2022/2065*. *Where no amicable solution can be found, the media service provider may lodge a complaint before a certified out-of-court dispute settlement body in accordance with Article 21 of Regulation (EU) 2022/2065.*

Paragraph 5 - introductory part

Providers of very large online shall make publicly available on an annual basis information on:

Paragraph 5

(a) the number of instances *in which they initiated the process to suspend or restrict the provision of their online intermediation service pursuant to paragraph 2* ~~where they initiated the process under paragraph 2 or imposed any restriction or suspension on the grounds that the content *or services* provided by a *recognised designated* media service provider *that submitted a declaration in accordance with paragraph 1 of this Article is are* incompatible with their terms and conditions; and~~

(b) the grounds for imposing such *suspensions or* restrictions, *including the specific clause in their terms and conditions with which the media service provider was incompatible;*

(ba) *the number of instances in which they refused to accept declarations submitted by a media service provider under paragraph 1 and the grounds for refusing to accept them.*

Paragraph 6

6. With a view to facilitating the consistent and effective implementation of this Article, the Commission, *in consultation with the Board, shall* issue guidelines to establish the form and details of the declaration set out in paragraph 1. *(AMs 1063, 1064, IMCO 155)*

Paragraph 6a(new)

6a (new). *This Article shall be without prejudice to the right of media service providers to effective judicial protection.*

Article 18 Structured dialogue

Paragraph 1

The Board, *with the involvement of the Expert Group*, shall regularly organise a structured dialogue between providers of very large online platforms, *providers of very large online search engines*, representatives of media service providers and representatives of civil society to discuss experience and best practices in the application of Article 17 of this Regulation in order to:

(a) foster access to diverse offers of independent media on very large online platforms *and very large online search engines*;

(b) monitor *compliance with* self-regulatory initiatives aimed at protecting society from harmful content, including disinformation and foreign information manipulation and interference;

(c) *examine the potential and actual impact of the design and functioning of very large online platforms or very large online search engines, of the design and functioning of their respective recommendation systems and content moderation processes and of decisions by providers of very large online platforms and providers of very large online search engines on media freedom and media pluralism.*

Paragraph 2

2. The Board shall *present the* report on the results of the dialogue to the Commission, *to the European Parliament and to the Council* . *Such results shall be made publicly available.*