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From: CZ, EE, FI, IE, LV, PT, UK delegations  
To: Council

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Subject: Proposal for a Regulation of the European Parliament and of the Council on promoting fairness and transparency for business users of online intermediation services  
- Statement by the Czech Republic, Estonia, Finland, Ireland, Latvia, Poland and the United Kingdom

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**Statement by the Czech Republic, Estonia, Finland, Ireland, Latvia, Poland and  
the United Kingdom**

The Czech Republic, Estonia, Finland, Ireland, Latvia, Poland and the United Kingdom welcome the Presidency's compromise proposal regarding the Council's general approach. We support the proposed Regulation's objective of creating openness in the contractual relations between online intermediation services and their business users, and of increasing predictability in the online business environment while still leaving room for self-regulation. However, we have reservations about the proposal including separate provisions on enforcement of the Regulation.

We are of the view that business-to-business (B2B) relationships differ significantly from business- to-consumer relationships. Freedom of contract is the most essential element in B2B relationships and should be respected, with intervention only where absolutely necessary. Strengthening the legal remedies, as set out in the Commission's original proposal, would be sufficient in this connection.

We are prepared to accept the new Article 12a on enforcement as part of a compromise solution. However, the Czech Republic, Estonia, Finland and the United Kingdom would prefer replacing the term '*penalties*' by '*measures*'. The common understanding and interpretation of the term '*penalties*' may imply penal sanctions, which courts do not adjudicate in civil matters. Such an interpretation would therefore require Member States to designate public bodies to enforce this Regulation. Using the term '*measures*' would be more neutral in meaning and therefore better reflect the legal interpretation of Article 12a and the corresponding recital 27b.

The signatories of this statement wish to make it absolutely clear that, in their understanding, the Regulation as proposed would not oblige Member States to provide for public enforcement by supervisory bodies or any other ex officio enforcement.

The Czech Republic, Estonia, Finland, Ireland, Latvia, Poland and the United Kingdom consider it important that the coming negotiations with the European Parliament should not lead to further regulation and that the Commission's original objective of enhancing transparency by means of light- touch regulation should remain. For the Union to be able to exploit the opportunities of a fastchanging digital environment, the European regulatory framework has to support the development of competitive and innovative entrepreneurship.