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'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Draft REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on promoting fairness and transparency for business users of online intermediation services **(first reading)**

- Adoption of the legislative act
- Statements

Statement by the Commission

The Commission takes note of the text of Article 1(4) agreed by the European Parliament and the Council.

The Commission wishes in this context to note that the present Regulation does not preclude Member States' ability to prohibit or sanction unilateral conduct or unfair commercial practices under their national law, provided that the relevant provisions of national law are applied in conformity with other provisions of Union law and are compatible with the provisions of the present Regulation.

The principle that national law should be compatible with this Regulation however only applies to the extent that the specific issue in question is specifically regulated therein. The Commission notes in this regard that this Regulation does not regulate all aspects of the commercial relationships between providers of online intermediation services and their business users.

In particular, the Commission considers that where the provisions of this Regulation set out a specific level of transparency or specific information obligations, in relation to these matters, Member States cannot prescribe different levels of transparency or different information obligations. However, this Regulation does not preclude the application of national rules which prohibit or sanction unilateral conduct or unfair commercial practices and which concern other matters, not regulated by the provisions of this Regulation.

Statement by Germany and Austria, supported by Belgium

Deutschland und Österreich gehen davon aus, dass die Mitgliedstaaten auch in Zukunft berechtigt sind, weitergehende Regelungen im Einklang mit dem Unionsrecht zur Sicherung der Medienvielfalt zu erlassen. Deutschland und Österreich gehen auch davon aus, dass nationale Vorschriften der kartellrechtlichen Missbrauchsaufsicht und nationales Vertragsrecht weiterhin neben der Verordnung anwendbar bleiben. Artikel 3 Absatz 3 der Verordnung verstehen wir so, dass die Verordnung einer weitergehenden Prüfung von Allgemeinen Geschäftsbedingungen nach nationalem Recht nicht entgegensteht, soweit die entsprechenden Bereiche nicht von der Verordnung geregelt sind.