



#DSM

Digital Single Market

ONLINE PLATFORMS: NEW EUROPEAN RULES TO IMPROVE FAIRNESS OF ONLINE PLATFORMS TRADING PRACTICES

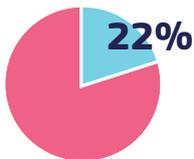
IMPORTANCE OF THE ONLINE PLATFORM ECONOMY

1 million businesses are already selling goods and services via online platforms



ONLINE PLATFORMS DRIVE **INNOVATION AND GROWTH** IN THE DIGITAL ECONOMY:

22% of the value of e-commerce are generated by business selling their products and services on online platforms.



European e-commerce turnover increased by **15%** to **€530 billion** in 2016



For 2017, European Business-to-Consumer (B2C) e-commerce turnover was forecast to reach around **€602 billion**, at an annual growth rate of nearly **14%**



ONLINE PLATFORMS CREATE SIGNIFICANT **EU MARKET OPPORTUNITIES**, IN PARTICULAR FOR SMALL AND MEDIUM ENTERPRISES (SMEs)



more than **50%** of SMEs selling through online marketplaces sell cross-border

Where a particular marketplace created a webpage dedicated to the small retailers:

the **79** retailers participating in these platforms

sold more than **87,500** items

with a total value of more than **€3.2 million**

delivered to **84** countries in a year

WHAT ARE THE BENEFITS OF THE NEW RULES?

Increased innovation opportunities in the online ecosystems through binding rules and enhanced transparency to foster trust and fairness in the market



Common P2B rules based on transparency, dispute resolution and monitoring.



Greater regulatory predictability for businesses



Greater legal certainty for platforms and general online search engines within the EU.

EU Observatory closely monitoring, anticipating and solving issues in the online economy.

EFFECTS ON GROWTH, JOBS AND FUNCTIONING OF THE ECONOMY:

€381 - €705 million

per year growth in sales realised on or through online platforms.

€38 - €70.5 million

(estimated) in additional commissions paid by businesses to platforms.

€0.81 - €4.05 billion

of reversed dampening effect resulting from a lack of trust of business users.

Preserving
4.7 million jobs

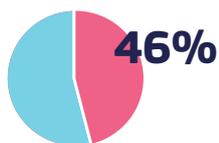
currently linked to businesses active on platforms.

Cost savings through the increased use of mediation, with
€7,500 saved per dispute.

WHY DO WE NEED NEW RULES?

ONLINE INTERMEDIATION SERVICES:

Nearly half of business users (**46%**) experience problems with online intermediation services throughout their business relationship¹

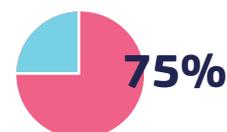


1 out of 5 businesses often experiences problems



Heavy users (businesses generating more than **50%** of their turnover via online platforms) are far more likely to:

Experience problems (**75%**)



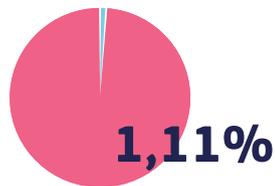
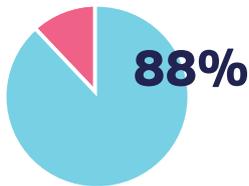
and more frequently (**32%**)



¹ <https://publications.europa.eu/en/publication-detail/-/publication/04c75b09-4b2b-11e7-aea8-01aa75ed71a1/language-en>

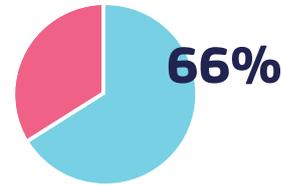
ONLINE SEARCH ENGINES:

The top 5 search results attract **88%** of clicks,



while results below the 10th ranking position have only a **1.11%** chance of being clicked on

66% of EU SMEs state that their ranking in online search engines has a significant impact on their sales



WHAT ARE THE ECONOMIC ISSUES AT STAKE?

Direct loss in sales of **€1.27 – €2.35 billion**

Loss of €2.7 – €13.5 billion caused by the **lack of trust** in the online economy

Limitation of cross-border sales

Risk of reduced consumer choice in terms of quality and price of goods and services

WHAT ARE THE PROBLEMS THAT BUSINESSES FACE IN THE ONLINE ECONOMY AND HOW WILL THEY BE TACKLED?

PROBLEMS

1

Platforms can make **sudden and unexplained changes to the Terms and Conditions** for businesses:

- 19% of problems encountered in P2B are connected to unclear Terms and Conditions
- Terms and Conditions related issues have led to losses in business users' turnover ranging between 20% to 95% of their total revenue

2

Businesses are not clearly informed about the reasons **for terminating or suspending their accounts**, including why their offer may be delisted:

- Account suspension by the platform occurred in 11% and delisting in 15% of cases
- Any delay in reinstatement following an unjustified delisting of an account, or even individual products, can have a significant impact, such as loss of up to 10% of turnover and laying off of up to 20 employees for several weeks

3

Unclear policies on having access to data generated through the online intermediation services:

- 1/4 to 1/3 of businesses find data policies unclear
- 33% of the heavy business users of online platforms link their problems with platforms to unclear data policies

SOLUTIONS

- Terms and Conditions will have to be written in **plain and intelligible language**
- Business users will have to be informed of any modification of the Terms and Conditions
- Platforms will have to respect a reasonable notice period depending on the nature of the modification (minimum is fixed at 15 days) unless a business user gives an explicit agreement for this period to be shortened

- Providers of online intermediation services will have to **provide business users with the reasons for restricting or suspending individual products/services**
- In case of definitive termination of the online intermediation service offered, the platform will provide the business user concerned with a statement of reasons at least 30 days in advance

- The providers of these services **have to formulate and publish general policies on what data generated through their services can be accessed**, by whom and under what conditions

4

Unclear ranking rules for search results:

- 15% of businesses report regular problems concerning their ranking in the search results
- 12% of businesses have encountered problems in their business relationship with an online platform, with 15% of 'heavy business users' claiming that these problems were due to biases in search-related practices

- Providers of online intermediation services as well as online search engines will be required to **clearly inform businesses about the main parameters determining how goods and services are ranked**

5

Favouring of online platforms' own services:

- Additional fees are charged to third party business users but not to online platforms' own services
- 11% of businesses experience limitations on payment possibilities
- Whereas transparency and predictability of pricing is a key factor for the sustainability of the contractual relationship, platforms' Terms and Conditions frequently lack transparency on this point, including on the pricing of the main online platform intermediation service and auxiliary services

- Online search engines should be **transparent about any preferential treatment they give to their own products and services** offered through their search sites.

6

Practices **limiting businesses' freedom** to offer better conditions outside the platform:

- Platforms require businesses to offer products or services at the lowest price and/or on the best terms offered (the so-called Most-favoured nation (MFN clauses), preventing them from offering better prices/ conditions through their own or other sales channels

- Providers of online intermediation services will be required to **explain the use of contract clauses** demanding the most favourable range or price of products and services offered by their professional users

7

Lack of redress as 1/3 of all P2B problems remain unsolved and 1/3 are solved with difficulties

Business users are faced with:

- Platforms' in-existent or ineffective internal complaint handling mechanisms
- In-existent specialised and effective external, out-of court redress mechanisms
- Limited and costly access to EU Courts

- Online platforms will have to **set up or have in place internal complaint handling mechanisms** (small enterprises with less than 50 staff members and generating ≤€10 million turnover will be exempted from this obligation)
- Business users will have access to out-of-court dispute settlement through **easily accessible external mediators** (small enterprises with less than 50 staff members and generating <€10 million turnover will be exempted from this obligation)
- **Representative organisations or associations** will be able to defend businesses in courts against possible infringements of the proposed rules by online platforms or search engines

8

P2B issues tend to be underreported and are misunderstood, with businesses not filling in formal complaints due to **fears of retaliation** by platforms.

An **EU Observatory of the Online Platform Economy** has been created to:

- Look into the current and emerging challenges and opportunities for the EU in the online economy
- Monitor:
 - online economy trends
 - evolution of trading practices
 - development of national policies
 - regulatory approaches
 - non-regulatory measures