

To the Permanent Representations
Addressed to the Attaché on Competitiveness Council

Brussels, 23 May 2018
Prot. No. 125

Dear Madam, Dear Sir,

Subject: Competitiveness Council/ Regulation on Platforms-to-business relations

Ahead of the Competitiveness Council of 28th of May, where the proposed Regulation on “promoting fairness and transparency for business users of online intermediation services” will be discussed, UEAPME, the Association of European Crafts and SMEs, would like to share with you the Position of European SMEs concerning this proposal and the importance that it can have for the European economy.

Online Platforms, such as booking websites, online marketplaces and search engines, play a key role in the expansion of the digital economy. Over the last years, there has been a rapid growth of online intermediary platforms which has led to new challenges for the existing business models, especially those of SMEs. However, platforms can also offer a lot of opportunities for small retailers to enter a bigger marketplace and use the service provided by the platform to sell their products online. At the same time, this has led to an increasing dependency on them, in several sectors.

While nobody will deny the importance of platforms for the European economy, they have to operate in a fair and transparent way. Unfortunately, the misbehaviour of some players in the online world is a fact. This is at the detriment of platforms’ users first, but also of all the honest and professional online platforms, of all sizes, that apply fair terms and conditions. Indeed, we do not forget that online platforms can also be SMEs themselves.

Over the last years, there have been an increasing number of complaints about the trading practices of some platforms. Terms and conditions are suddenly changed, platforms favour their own products, and ranking criteria are unclear. In general, terms and conditions cannot be negotiated and in any case there is an unbalanced bargaining power between service providers and online platforms. The core problem at hand is the power of such platforms to unilaterally alter its terms and conditions, and therefore possibly some essential terms of the contract, without the prior consent of the service provider.

This is why UEAPME warmly welcomes this Commission proposal as an important step forward in ensuring fairness in the Digital Single Market. With this proposal, the European Commission has proven that it can react quickly with appropriate legislation to prevent further distortions of the market. Indeed, this legislation’s provisions are normal business practice and just regulate what is a fair and transparent contract relation.

Of course, the proposal needs fine-tuning. For example, the fact that price parity clauses should be prohibited and dispute settlement through mediation should remain voluntary for businesses. But we believe this is a first step in the right direction and we are strongly convinced on the need to adopt this Regulation before the end of this Commission mandate for the sake of the European economy.

Therefore, we urge the Bulgarian Presidency and the whole European Council to take into account UEAPMEs concerns and support this Regulation in the next Competitiveness Council and in all the steps ahead.

We remain at your disposal for any further question you may have,

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'V. Willems', written over a horizontal line.

Véronique Willems
Secretary General