

Greece: Impact of new EU rules for online platforms and business users

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Executive summary

Regulation (EU) 2019/1150 (the Regulation) introduces the first-ever rules regarding the relation between online platforms and their business users. The Regulation radically reshapes the rules for doing business online by regulating the conduct of online platforms, such as e-commerce marketplaces, software application stores, social media and search engines. Since its adoption in July 2019, the Regulation is automatically applicable into Greek law.

The Regulation applies to the entire spectrum of the online platform economy, affecting nearly 7,000 online intermediation services operating in the European Union (EU), which among others include:

- ▶ Online advertisement and auction websites
- ▶ E-commerce marketplaces
- ▶ Software application stores
- ▶ Social media
- ▶ Search engines

The new rules ban certain unfair practices, such as changes to online terms and conditions without cause, mandate transparent ranking and internal complaint-handling mechanisms to be in place as well as authorize representative

organizations and associations to judicially represent business users against infringements of the said rules by online platforms and search engine providers.

Online platforms will need to align their customer contracts and practices with the new rules by 12 July 2020, when the Regulation will become effective.

The Regulation is expected to have an impact on the Greek e-commerce sector, which has also been gradually dominated by online marketplaces.

Detailed discussion

Scope of the Regulation

The Regulation applies to online intermediation service providers and online search engine providers (Providers) offering services to business users established in the EU, which offer goods/services to consumers located in the EU, at least for part of the transaction, irrespective of the place of establishment of the Providers in question. Such services also include those facilitating the initiation of direct transactions between business users and consumers, irrespective of whether the transactions are ultimately concluded online or whether they involve any monetary payment.

Terms and conditions

Under the Regulation, Providers have the following obligations with respect to the terms and conditions of their platforms:

- ▶ The text of the terms and conditions should be in plain and intelligible language, easily available to business users, even in the pre-contractual stage, and be transparent as to any distribution channels and affiliate programs that the Providers might use to market the goods/services hereto.
- ▶ Any intended change of the terms and conditions should be communicated to business users and not implemented before the expiration of the notice period. The latter should be a period of at least 15 days from the date of notification to the user, unless security reasons or legal/regulatory obligations provide otherwise.
- ▶ Providers should not impose retroactive effect on changes of the terms and conditions and ensure that the terms include information regarding the conditions for the termination of the contractual relationship from the perspective of the business user.

Restrictions, suspension or termination

If a Provider intends to restrict or suspend the provision of its services to a given business user, it will need to provide a statement of reasons for its decision prior to or at the time of the restriction or suspension taking effect. In cases of termination, such notice will have to be given at least 30 days prior to the termination taking effect.

In the latter case, if a legal or regulatory obligation stipulates otherwise or when the business user in question has repeatedly infringed the applicable terms and conditions (e.g., in regard to illicit or inappropriate content, counterfeiting or fraud) the notice period may not apply. Nevertheless, the provider will still be required to provide a statement of reasons without undue delay, except if legal or regulatory provisions provide otherwise.

Transparency of ranking

Providers are required to outline in their terms and conditions the main parameters determining the ranking of business users, including the reasons for the relative significance of the parameters in question, in order to help the latter improve the presentation or characteristics of its goods and services. The description ought also to include an explanation of any possibility for business users to actively influence their ranking against remuneration and the relative effects thereof. Those parameters may include any general criteria, processes, specific signals incorporated into algorithms or other adjustment used in connection with the ranking.

Online search engine providers should also provide an up-to-date description of the main parameters and their relative importance in the determination of the ranking of all indexed websites. In accordance, such description must allow corporate website users to adequately understand whether and to what extent certain design characteristics of the website in question are taken into consideration. An explanation of any possibility for corporate website users to actively influence their ranking against remuneration and an explanation of its relative effects are also required.

When a contractual relationship between online search engine providers and corporate website users is not in place, the foregoing description should be publicly available in an obvious and easily accessible location on the online search engine. Any area of the website that requires users to log in/register, is not considered as obvious and easily accessible.

Both providers of online intermediation services and online search engines are not required to disclose the detailed functioning of their ranking mechanisms, including any relevant algorithms.

Differentiated treatment

Providers ought to provide a description of any differentiated treatment afforded in relation to goods/services offered to consumers through them and by them per se or by other business users/corporate website users that they control.

The description should refer to the main economic, commercial or legal considerations for such differentiated treatment. To this end, Providers should describe any differentiated treatment measures in relation to the provision of access to data that business users or consumers provide when using the services, the provision of specific ranking settings and any remuneration charged for the utilization of those services or functionalities and technical interfaces connected to those services or ancillary to them.

Access to (non)-aggregated data

Providers are also required to describe any technical/contractual conditions for access to personal or other data, including the scope for such access, that they provide for themselves, business users or third parties.

The data in question is in relation to information that business users or consumers provide for the use of the online intermediation services or which are generated through the provision of those services, such as accumulated ratings and reviews.

The description can refer to general access conditions and it is not necessary to exhaustively identify the actual data or categories of data. In the case of personal data, Regulation 2016/679, 2016/680 and Directive 2002/58 are also applicable.

Redress mechanisms

Providers ought to have in place internal complaint-handling mechanisms that are easily accessible and free of charge for business users and which handle any lodged complaint within a reasonable time-frame. Information regarding access to and operation of those mechanisms should be included in the terms and conditions. The same information, including those relating to the effectiveness of those mechanisms, should also be publicly provided and annually updated and verified.

In addition, Providers should identify in their terms and conditions at least two mediators for out of court settlements with business users regarding any disputes arising from the provision of online intermediation services, including complaints that could not be resolved in the context of the internal complaint-handling mechanisms. Such mediators will need to be impartial, independent and easily accessible, as well as capable of providing their services in the language governing the contractual relationship of the involved parties. Nevertheless, providers of online intermediation services that constitute small enterprises (less than 50 staff members and generating <€10 million turnover) are exempt from this obligation.

Finally, organizations established in accordance with a Member State law and of non-profit character as well as associations bearing a legitimate interest in representing business/corporate website users, may judicially represent the latter in respect of any infringement of the provisions of the Regulation against any provider of online intermediation services or online search engine services. The same applies for public bodies assigned to defend the collective interests of business/corporate website users or to ensure compliance with the Regulation.

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