



Brussels, 12.9.2023
COM(2023) 525 final

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE
COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE
COMMITTEE OF THE REGIONS**

**on the first preliminary review on the implementation of Regulation (EU) 2019/1150 on
promoting fairness and transparency for business users of online intermediation services**

{SWD(2023) 300 final}

Context

This report contains a preliminary assessment of the state of implementation of Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (the platform-to-business or ‘P2B Regulation’)¹.

The P2B Regulation has applied since 12 July 2020. It was the first general framework applicable to what are called ‘online intermediation services’. These services intermediate for a very large number of both large and small undertakings, or ‘business users’, within the internal market. The P2B Regulation aims to create a fair, transparent and predictable business environment for these business users, which can depend to differing degrees on such online intermediation services to reach their customers. The P2B requirements are designed to ensure that business users, in particular SMEs that can have limited bargaining power relative to the online platforms, should be able to conduct their business in a predictable manner (e.g., relying on transparency as regards rankings) and are not exposed to unnecessary costs when facing issues with the online platform (e.g. suspension of the business account, or products and services being blocked by the platform). This is of particular relevance for businesses and notably SMEs in key ecosystems, such as tourism, retail and cultural and creative industries ecosystems. In addition, the P2B Regulation can also be a tool to ensure that fairness and transparency help smaller platforms to grow and innovate in a common legal framework shared with bigger platforms, in a levelled playing field. To ensure that online intermediation services comply with the P2B requirements, its enforcement is within the competence of the Member States.

Article 18 of the P2B Regulation contains a review clause that lists several priority items for a full evaluation. Specifically, Article 18(c), (d), (e) and (f) respectively concern: (i) unfair commercial practices resulting from the dependence of business users on online intermediation services; (ii) unfair competition by integrated providers of online intermediation services; (iii) imbalances affecting business users of operating systems; and (iv) possible effects of the ‘business user’ definition on ‘bogus self-employment’.

The P2B Regulation remains relevant to all of the priority items mentioned above, through the existing transparency and redress provisions. At the same time, other acts of EU law complement the P2B Regulation to take up the priority items mentioned above, which could have necessitated a full evaluation of the P2B Regulation. Notably, since the P2B Regulation started to apply, the EU has proposed or adopted several new laws of relevance to the P2B

¹ Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services PE/56/2019/REV/1, OJ L 186, 11.7.2019, p. 57–79.

Regulation's objectives. These include the [Digital Markets Act \(DMA\)](#)², the [Digital Services Act \(DSA\)](#)³ and the [proposed directive on improving working conditions in platform work](#)⁴.

This report accordingly presents only the state of play on the implementation of, and compliance with, the P2B Regulation, but it does not contain a preliminary assessment of the above priority items. It also identifies several avenues for follow-up to improve the implementation of the P2B Regulation. The report is based on surveys of business users of platforms, stakeholder interviews (308 interviews of platforms, business users and their association, enforcement authorities, experts), expert analyses of the terms and conditions of online intermediation services (sample of 300 platforms), focus groups, case studies and desk research.

The remainder of this report will deal with the main findings of this preliminary implementation assessment.

Overall, this preliminary implementation report finds: (i) initial positive effects of the EU's P2B Regulation, while noting that its full potential is not yet reached; (ii) a **current lack of compliance** by providers of online intermediation services with this Regulation, coupled with a **lack of awareness** among business users; and (iii) **complementarity** with other EU acts.

1. Effects and full potential of the EU's Platform-to-Business Regulation

The P2B Regulation gives business users enforceable transparency rights in their contracts with providers of online intermediation services and of online search engines. These rights enable business users to make more informed business decisions regarding, amongst other, their choice of which of these services to use, how to optimise ranking strategies and how to resolve possible disputes with the relevant providers of these services.

This crucial effect of the P2B Regulation is already observed in practice. The preliminary analysis conducted for this report shows first improvements in the form of a limited compliance with the P2B Regulation relative to the baseline.⁵ It can be strengthened further

² Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (Text with EEA relevance) PE/17/2022/REV/1 OJ L 265, 12.10.2022, p. 1–66. The Digital Markets Act already applies and specifically covers issues of unfairness of online intermediation services, as well as interoperability issues involving operating systems – the issues included in Article 18(c), (d) and (e). It addresses precisely the issues of unfair commercial practices, unfair competition and other negative effects of imbalanced bargaining positions between business users and core platform services.

³ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act) (Text with EEA relevance) PE/30/2022/REV/1 OJ L 277, 27.10.2022, p. 1–102.

⁴ Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on improving working conditions in platform work, COM/2021/762 final. Once the proposed Platform Work Directive will be adopted by the European Parliament and the Council, there should no longer be a gap in the protection of persons working through digital platforms as regards transparency of algorithms and complaint-handling, regardless of whether those people are 'business users', platform workers or (genuine) self-employed persons performing platform work, as the relevant individuals will benefit from the protections of either the P2B Regulation or the Platform Work Directive.

⁵ See Staff working document accompanying this report, from page 10.

by ensuring that the P2B Regulation achieves its full potential. The following sections on (a) contractual transparency as legal rights and on (b) due process in complaint-handling explain the effects and full potential of the P2B Regulation in more detail.

a) Contractual transparency as legal rights

The first pillar of the P2B Regulation involves granting economic actors in the EU with enforceable rights and redress in contract.

Transparency as prescribed by the P2B Regulation needs to be implemented in the private-law contracts of online intermediation services and therefore translates directly into contractual rights for business users. Transparency is also crucial in order to conduct business in a stable manner on online platforms. The importance of online platforms as gateways for business users to reach their customers may be even more important in specific sectors such as hospitality, retail and audio-visual. In these sectors, online platforms are sometimes the main or only access for providing their services and products across the internal market.

As the P2B Regulation spells out the key commercial issues of ranking, differentiated treatment, access to data and various others, it offers business users clarity on their contractual rights related to these topics. This is in contrast to the lack of any rights that they frequently faced before the Regulation began to apply. In addition, the Regulation provides concrete procedural rights that are also key to dispute settlement, such as the right to obtain prior notice of contractual changes or of any restriction, suspension or delisting of products, services or accounts. The same applies to the right to engage with the mediators that online intermediation services have to list in their private-law contracts.

Ranking transparency helps understand some of the crucial benefits that business users have from transparent and detailed terms and conditions. In fact, transparency on ranking offers significant potential, by introducing more predictability for business users on what influences their position in the presentation of offerings on platforms, so that they could improve the presentation of their goods and services.

If properly implemented, in line with the objective of ranking transparency as set out in Article 5(5), business users will gain an understanding of how far the quality of their product and services determine their ranking. This will allow them to optimise service and product quality and online presence, the latter including, for example, website design and the design of their presence in online intermediation services, and help in their advertising strategies to optimise their online presence.

Implementation

Only around a third of all online intermediation services and online platforms under review in the P2B evaluation study listed information on their ranking parameters in their terms and conditions. This example does not reflect the full potential of the substantive transparency that online platforms have to provide.

However, this exercise showed that platforms' published terms and conditions can be automatically indexed and tracked over time. In this way, business users, as well as stakeholders including researchers, regulators and broader civil society, can observe and record changes, perform research, conduct inquiries and much more. On this basis, the Commission's Joint Research Centre will host and maintain a public and open-source

repository of the terms and conditions for business users of over 300 online platforms that have been indexed to date.⁶ Automated tracking is one of various ways in which mandated transparency offers practical tools for business users and citizens for informing themselves about their online activities.

Conclusions

The evaluation study concludes that ‘the current ecosystems of platforms, their business users, and providers of search-engine optimisation services have developed and adapted to operating under conditions of opaqueness with regard to ranking algorithms’. This may clarify the wide divergence among business users’ perceptions of whether they have clarity on ranking parameters: 10% of businesses users surveyed for this report mention receiving little or no information on ranking parameters, and an additional 42% mention having a moderate level of information.

Transparency in general, and specifically on the main ranking parameters are the core of the P2B Regulation. In Article 5 of the P2B Regulation, the co-legislators took account the need to change the status quo, by requiring providers of online intermediation services and online search engines to be more transparent than had been the case up until then. Moreover, providers of these services can give more meaningful transparency without creating conditions in which consumers can be deceived, or without it leading to other consumer harm.

Article 5(6) of the Regulation makes it clear that the transparency obligation is without prejudice to Directive (EU) 2016/943 on trade secrets⁷. The ranking guidelines clarify that this clause means that: ‘Providers therefore cannot refuse to disclose, for example, the main parameters based on the sole argument that it has never revealed any of its parameters in the past or that the information in question is commercially sensitive’⁸. The potential of Article 5, for which this additional transparency is required, is also summarised in the ranking guidelines, and it is important to recall just how critical this baseline transparency is: ‘Businesses trading online therefore do not always know the reasons for their performance in ranking or whether and how they could perform better, potentially with the help of paid ranking, despite their ability to reach customers critically depending on this knowledge’⁹.

Ranking transparency is one example of a range of transparency obligations that translate into direct contractual rights and tangible benefits for EU businesses trading online, whether large or small. Another example is the obligation in Article 7 of the Regulation. That article requires online intermediation services to describe any differentiated treatment that they may apply in relation to goods or services they offer themselves as opposed to those of third-party business users. Such transparency can help enforcement authorities in particular to identify and investigate unfair behaviour and to perform in-depth testing of any justifications claimed for such differentiated treatment. In this regard since the entry into force of the P2B Regulation, Article 6(5) of the DMA has banned more favourable treatment in ranking and related indexing and crawling; nonetheless the P2B Regulation provides additional transparency around differentiated treatment in data access, in pricing and in access terms for

⁶ The database is currently available [here](#) and will move to a Commission domain shortly after publication of this report.

⁷ Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (Text with EEA relevance), OJ L 157, 15.6.2016, p. 1–18.

⁸ Ranking guidelines, point 82.

⁹ Ranking guidelines, point 13.

ancillary services. As our societies continue to move to online intermediation services, **it is imperative to achieve the P2B Regulation's full potential.**

Nonetheless, as further explained in Section 2 of this report, the full potential of the P2B Regulation's transparency provisions may crucially depend on business users having sufficient awareness of their rights, and on online intermediation services and online search engines having sufficient awareness of their obligations. The community of business users and other actors may currently lack a frame of reference to measure the degree of transparency they receive and may not be aware of how additional transparency on the main ranking parameters, differentiated treatment and more could help them do business better.

b) Due process in complaint handling

Objectives of the P2B Regulation

In [the study underpinning the P2B Regulation](#)¹⁰, the Commission explained that: 'Reasons for business users not to take any steps at all notably include the perceived ineffective nature of existing redress mechanisms, a fear of damaging the business relationship with the online platform and the difficulty of available procedures. (...) Other important factors that limit the effectiveness of judicial redress are linked to (1) lack of knowledge of judicial redress possibilities due to the small size of the companies, (2) disproportionate costs of seeking international judicial redress, especially for the microenterprises and/or where jurisdictional redress would involve the jurisdiction of a third country, and (3) judicial redress being too lengthy.' The P2B Regulation therefore requires online intermediation services to provide transparency, effective and speedy internal complaint-handling procedures and access to mediators with which they are willing to engage.

Pursuant to Article 3(1)(c), business users shall obtain an exhaustive list of the reasons for which their accounts can be suspended or terminated or restricted in any other way. This also applies to prospective business users, given that Article 3(1)(b) requires the terms and conditions in which those reasons have to be included to be made available in the pre-contractual phase. An actual restriction of accounts should, pursuant to Article 4, be accompanied by a statement of reasons, which cross-references the specific ground for the restriction – out of those listed in the terms and conditions. Full termination of an account even requires the statement of reasons to be provided at least 30 days in advance, and likely much longer. Article 11 of the Regulation clarifies that any restriction should then open the way for the business user concerned to an easily accessible and free internal complaint-handling system of the online intermediation services. Moreover, the complaint should be handled within a reasonable time frame and based on principles of transparency, equal treatment and proportionality, and providers of online intermediation services should report annually on the performance of their internal complaint-handling systems. Finally, Article 12 gives business users the possibility to try to engage in mediation with one of at least two mediators that online intermediation services have to list in their contracts. Access to these mediators is not conditional upon first going through the online intermediation services' internal complaint handling.

¹⁰ COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT Accompanying the document Proposal for a Regulation of the European Parliament and of the Council on promoting fairness and transparency for business users of online intermediation services, SWD/2018/138 final.

All of these procedural rights for business users add up to a legally codified EU-wide system for complaint handling by online intermediation services. Together with transparency translating into contractual rights (cf. Section 1a above), harmonised complaint handling holds the potential to be a step-change in doing business online. This would enhance legal certainty for businesses, allowing them to make optimal use of the efficiencies that online intermediation services offer.

Implementation

Effective implementation is the key to achieving that full potential. However, the P2B Regulation is at present not effectively enforced in all EU Member States, and awareness among business users and online intermediation services is insufficient. This will be further explained in Section 2 below.

Consistency is a part of this required effective implementation. The first mandatory reporting on the functioning and effectiveness of internal complaint handling under Article 11(4) of the P2B Regulation was implemented by only 19 out of 179 online intermediation services studied. The results of the reporting show wide divergence in how providers of online intermediation services understand the notion of ‘complaint’.

Table 1. Summary of selected platform reports on the functioning of complaint-handling systems

Platform	Time period	Number of complaints lodged	Main types of complaint	Average time to process	Outcome
Apple	July 2020 – July 2021	12	Decisions to restrict, suspend or remove apps and developers	11.25 days	In two cases, apps were restored; others related to repeated violations
Google (incl. YouTube)	July 2020 – July 2021	3 263 776	Appeals against policy enforcement decisions regarding business users’ accounts, content, or goods or services (87%); complaints about platform policies (4%); app/platform technical issues (3%); account management (3%); verification process (1%); miscellaneous (2%)	Within 24 hours (71%); 24-48 hours (9%); more than 2 days but less than a week (14%); 1 week or more (6%)	Enforcement decision upheld (51%); enforcement decision overturned (26%); issue resolved (20%); other (3%)

Amazon	2020	284 577	Product display and listings (65%); FBA ¹¹ , orders and refunds (23%); registration, account access and settings (6%); advertising and add-on services (5%)	3.7 days	90% were resolved to the seller's satisfaction
Facebook	June 2021 – July 2022	209	Non-compliance (109); technological issues (86); other (14)	57.5 hours	186 complaints resolved
Vinted	2021	15 427	Order quality (2 636); catalogue items (1 515); shipping and delivery (3 008); payments and safety (6 673); usability (1 595)	1.6 days	No information
Apple App Store	13 July 2021 – 12 July 2022	64	The original restriction, suspension or termination action was upheld in 60 of 64 cases	4.83 days	No information

This wide divergence in the number of complaints and their outcomes (12 complaints for Apple with only two overturned, and more than 3 million complaints for Google with 26% overturned) suggests that providers of online intermediation services have very different interpretations of the notion of complaint and that some are possibly not complying with this obligation. In this regard, Article 11 of the P2B Regulation has a very broad scope, covering any ‘measures taken by, or behaviour of, that provider which relate directly to the provision of the online intermediation services, and which affect the complainant’, as well as any ‘technological issues which relate directly to the provision of online intermediation services, and which affect the complainant.

Heightened awareness of business users will also increase demand for independent and impartial mediators with increasing specialist knowledge of platform-to-business relations. This would result from more providers of online intermediation services seeking to comply with Article 12 of the P2B Regulation. Currently, only 25 of the 179 large and medium-sized online intermediation services under consideration provided the name of at least two mediators in their T&Cs for business users.¹² An additional 35 online intermediation services mention only one mediation organisation in their T&Cs. Most of this second group also refer to the same mediation organisation, which happens to be based outside the EU.

¹¹ Fulfilment by Amazon.

¹² Study on Evaluation of the Regulation (EU) 2019/1150 on promoting fairness and transparency for business users of online intermediation services (the P2B Regulation), page 119.

The Commission is not aware of online intermediation services jointly setting up any specialised mediation bodies, as recommended by Article 13 of the P2B Regulation. This indicates that, to date, there may only be a very limited number of specialised mediators active in the area of platform-to-business relations.

The Commission intends to work with online intermediation services and their representative bodies and organisations to encourage them to set up such specialised mediators under Article 13 of the P2B Regulation. To this end, the Commission will reach out to the relevant stakeholders immediately after publication of this report.

Specialised mediators could also improve complaint handling by online platforms more generally. The Commission will therefore further encourage the setting up specialised mediators foreseen in Article 13 of the P2B Regulation. In this regard, the possibility for such mediators to obtain certification pursuant to Article 21 of the DSA could facilitate their work as independent and capable actors. Certification under the DSA will namely confirm that the relevant mediators comply with the strict impartiality and independence requirements in the DSA.

2. Main findings: Limited compliance and awareness of the EU's Platform-to-Business Regulation

As set out in section 1, the P2B Regulation has important effects in terms of legal certainty and due process for business users. In this regard, as is explained in the Staff Working Document accompanying this report, a significant sample of online intermediation services for example go some way to complying with the P2B Regulation. Also, some of the largest online intermediation services recently started to report some statistics on their internal complaint-handling, and some of these also list at least one mediation organisation in their terms and conditions. Also, the majority of business users surveyed as part of this implementation report said they now received advance notices whenever the specific platforms that they use updated their terms and conditions.¹³

However, as described in the following sections 2(a) and 2(b), providers of online intermediation services and of online search engines do not comply sufficiently with the P2B Regulation to date. This lack of compliance is coupled with a broader lack of awareness among both business users as well as providers of online intermediation services and of online services engines of their respective rights and obligations. This means that the full potential of the P2B Regulation is not achieved at present.

a) Platforms fail to give full effect to the rules

The study underpinning this report found that overall the degree of alignment of online platforms with the P2B Regulation is low. This lack of implementation could also be related to, and contribute to, the corresponding lack of awareness of the P2B Regulation.

In total, the study found that 123 online intermediation services (42.4%) had achieved a low level of alignment with the Regulation's requirements regarding contractual transparency. The alignment of another 128 online intermediation services (44.1%) was assessed as medium, and that of only 49 online intermediation services (16.9%) was assessed as relatively significant. These findings have no bearing on whether any of the services effectively comply

¹³ Commission Staff Working Document accompanying this report.

with the required standard of the P2B Regulation. However, in many cases, the basic information provided, for example on ranking, is potentially insufficient¹⁴.

For example, as reported in the same study, only a third of all the terms and conditions of the online platforms under review contained information on the main ranking parameters, and even in those cases the descriptions were provided in rather general terms. It was also not clear in all cases whether the descriptions effectively responded to the obligation in Article 5 of the P2B Regulation.

As regards transparency on differentiated treatment, as prescribed by Article 7, the review showed that very few online intermediation services include any information – whereas 11% of business users surveyed in 2022 indicated having experienced such differentiated treatment where it concerned ranking alone. A 2021 study found that, for e-commerce online intermediation services that also sold their own products or services, nearly 53% of respondents experienced self-preferencing.

As regards the obligation under Article 9 to describe the technical and contractual access to data for business users, the information provided was often described in general terms, and interviewees in the study underpinning this report generally could not link the information provided to the P2B Regulation. One interviewee explained it may rather have resulted from an attempted GDPR compliance effort. It appears that the lack of actual access to data generated through business user activities on the major online platforms remains the major issue. Moreover, many business users, both SMEs and large businesses, found that the rules governing how they could use client-related statistics and other customer data are themselves also unclear.

As mentioned in Section 1 above, increased compliance with the P2B Regulation should lead to clearer data access policies, which in turn will clarify business users' contractual rights, or the lack thereof. This transparency then offers more possibilities for online intermediation services to distinguish themselves based on data access policies, for example giving more access, limiting their own access, and explaining more clearly and extensively how they understand the need for GDPR compliance to play a role in setting data access policies.

As regards compliance with the rules on notice periods in Article 3 of the P2B Regulation, the perceptions of stakeholders varied substantially. While many large online intermediation services point out in their terms and conditions that they follow procedures and notice periods in line with the Regulation (i.e. its Articles 3(2), 3(5), 4, 11), their actual compliance in the relevant situations, as assessed by business users, is disputable. Some interviewees (mostly micro and small enterprises) from the hospitality and e-commerce sectors pointed out that the grounds for suspension and termination in the terms and conditions remain unclear and generic, where for instance 'breach of terms and conditions' leads to loopholes about the notice period, which could have a negative impact on the business continuity. This shows that the transparency has not yet reached the necessary and adequate level in order to allow business users to be well-informed of all of their rights and obligations.

¹⁴ The Ranking Guidelines in this regard confirm that: 'the description to be provided has to go beyond a simple enumeration of the main parameters, and provide at least a 'second layer' of explanatory information [\(9\)](#). Providers could, for example, consider describing the company-internal 'thought process' that was used for identifying the 'main parameters' as a way to also derive the 'reasons for their relative importance'.' Commission Notice Guidelines on Ranking Transparency pursuant to Regulation (EU) 2019/1150 of the European Parliament and of the Council (2020/C 424/01), point 22.

Internal complaint-handling systems are the most widely available and used option of redress in the online platform environment. This reflects the fact that online intermediation services have a strong interest in being able to communicate with their business users, for example regarding technical issues. The fact that there are communication options in place, however, does not mean that the relevant online intermediation services provide the required effectiveness in the form of, for example, other required elements, duly considering complaints and swiftly and effectively processing them.

The effectiveness of internal complaint-handling mechanisms is currently further reduced by the lack of clarity of certain terms and concepts, including the notion of ‘complaint’ under the P2B Regulation. This term should be given a broad interpretation under the P2B Regulation, extending to any ‘measures taken by, or behaviour of’ the relevant provider of online intermediation services, which ‘affect the complainant’. In this regard, only 69 out of the 179 larger online intermediation service providers included the information required under Article 11(3) about access to and functioning of the internal complaint-handling process¹⁵. Even fewer providers publish annual reports on the processing of complaints by their internal complaint-handling mechanism, as required under Article 11(4).

As already mentioned in Section 1, the few reports that were issued also show a likely widely varying interpretation of the notion of ‘complaint’ under the P2B Regulation. The effectiveness of internal complaint handling is further impeded by the lack of effective compliance with Articles 3 and 4 in terms of unclear terms and conditions and a lack of notice provided for restrictions of services. Whereas a significant proportion (43%) of issues is reported to be fully resolved through the internal complaint-handling system, the 2022 survey underpinning this report also shows that a larger proportion is only partially resolved, or not at all (48% and 8% respectively).

A smaller share of business users also reported persistent vagueness of platform responses and long waiting periods. These problems are the most common among business users of the largest platforms, whose internal complaint-handling systems are reported to be highly automated, with standardised procedures and generic responses. Getting individualised and specific support is reported as being one of the main issues in P2B relationships for many business users.

Other forms of redress enshrined in the P2B Regulation – mediation and courts – are pursued by business users in very rare cases. Courts especially seem to be the very last resort, and for the largest business users only. Most businesses still do not even consider this as a viable option because of the cost involved, low perceived chance of success, and fear of retaliatory actions by online platforms.

The P2B Regulation introduced mediation as one way to respond to the issue of business users’ reluctance to use the courts, but this option has not yet been used widely by them. Only few online intermediation services have included in their terms and conditions the required information under Article 12 of the P2B Regulation on two mediators that they are willing to engage with, and the use of mediation is still only marginal (only several dozen cases were reported in the study report¹⁶).

¹⁵ Commission Staff Working Document accompanying this report.

¹⁶ *Ibid.*

Recourse to mediation is also reported as remaining limited. This is a direct result of a lack of awareness of this new contractual possibility, rather than a result of any difficulties experienced by the limited number of business users that actually used mediation services to solve disputes with online intermediation services. The difficulties experienced related to the length of proceedings, their cost and non-binding nature, and the perceived partisan nature of the mediator given the many cases brought by a limited number of online intermediation services. This finding reinforces the need for further awareness raising.

To date, no codes of conduct for the areas regulated in the P2B Regulation have been established. This is linked to the limited awareness and lack of compliance, and is understandable given the short time since the P2B Regulation came into force. However, as recommended in the opinion¹⁷ of the [Expert Group for the Observatory on the online platform economy](#), codes of conduct could be used to operationalise the application of the P2B Regulation. In particular, codes of conduct for the application of the P2B Regulation in certain sectors (e.g. hotel booking platforms, online retail marketplaces) could help raise awareness and give online intermediation services and their business users further opportunities to build trust.

The lack of full and effective compliance is accompanied by a lack of awareness of the contractual rights and redress possibilities the Regulation offers – both among business users and smaller online platforms. The lack of compliance and awareness also likely impact one another. The study underpinning this report found that the level of awareness among business users, associations and platforms alike tends to be lower in EU Member States that did not put in place any public enforcement system as required by article 15 of the Regulation¹⁸.

b) Member State actions on enforcement and awareness raising are insufficient

Member States are increasingly implementing systems to enforce the P2B Regulation, as provided for in its Article 15. On 26 January 2023, the Commission initiated infringement proceedings against eight Member States who at that time had not taken any action under Article 15 of the P2B Regulation. This followed continuous contacts on the topic of public enforcement of the P2B Regulation between the Commission and Member States, including through regular meetings of the e-commerce expert group.¹⁹ In the meantime, some of those Member States have adopted national rules to provide an enforcement system as required in Article 15.

By the end of June 2023, 21 Member States²⁰ had adopted national laws to enforce the P2B Regulation, while future legislation preparing the ground for enforcement of the P2B Regulation is envisaged in a further four Member States²¹. A total of 15 Member States currently enforces the P2B Regulation through a public authority responsible for its effective enforcement²².

¹⁷ See the Opinion of the Expert Group on their website, to be published shortly after this report.

¹⁸ See Staff Working Document accompanying this report, page 27.

¹⁹ <https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&do=groupDetail.groupDetail&groupID=1636>.

²⁰ AT, BE, BG, CY, CZ, DE, DK, EE, EL, ES, FI, FR, HR, IE, IT, LU, LV, MT, PT, RO, SE. Last update: 4 August 2023.

²¹ NL, PL, SK, SI. Last update: 4 August 2023.

²² BE, CY, CZ, DK, EE, EL, ES, FR, HR, IE, IT, LV, LU, PT, RO, August 2023.

In view of business users' low awareness of their rights under the P2B Regulation and the resulting low number of complaints or court cases based on the Regulation, some Member State authorities have also run, or are planning to run, awareness-raising campaigns. Awareness raising is key for effective enforcement of the Regulation and the Commission recognises the need to support and engage in these activities. The Commission thus plans to organise joint communication campaigns with Member State authorities.

c) Informal network of P2B enforcement authorities

A group of Member State authorities responsible for enforcing the P2B Regulation decided to set up an informal P2B network (the 'steering group')²³. To support the exchange of information and coordinate enforcement activities (e.g. sweeps) a P2B Wiki was set up, with almost all Member States²⁴ represented. During the meetings (and via the Wiki space), enforcement authorities or Member State authorities responsible for P2B Regulation implementation and awareness raising organise calls for information, share information about relevant court rulings and guidelines adopted by the enforcement authorities, or organise joint monitoring and enforcement actions such as sweeps. These exchanges are important not just for the authorities taking part in enforcement but also for other authorities who can learn from the exercise and become incentivised to participate more actively in the future.

Some enforcement authorities have drafted and adopted guidelines for online platforms and online search engines on how to interpret certain provisions of the P2B. This is non-binding guidance that does not interpret the Regulation, and which is meant to help especially smaller providers of online intermediation services and of online search engines that may be active within a single Member State. These guidance documents take the form of practical tips in the relevant local languages. This is another example of a voluntary initiative by Member State authorities. So far Italy's AGCOM²⁵ and the Netherlands' ACM²⁶ have published such enforcement guidance, which are available on their respective websites. Official guidelines on the substantive provisions of the Regulation are provided in the Commission's Notice on ranking transparency, as explained in the following section.

d) Commission actions taken so far under the P2B Regulation

In addition to launching infringement proceedings against Member States that have not implemented Article 15 of the Regulation, the Commission also published a [notice on ranking guidelines](#) pursuant to Article 5(7) of the P2B Regulation²⁷.

The Commission also maintains an [overview of designated entities](#)²⁸ pursuant to Article 14(6) of the Regulation. So far only Austria and Ireland have designated such organisations, associations or public bodies.

3. Complementarity with other EU acts

²³ BE, DK, FR, IE, NL (IT joined in 2023).

²⁴ 23 Member States are part of the P2B Wiki and the informal network of P2B enforcement authorities.

²⁵ [Platform to business - AGCOM](#)

²⁶ [ACM publishes draft guidelines regarding the rules for online platforms and search engines | ACM.nl](#)

²⁷ Commission Notice Guidelines on ranking transparency pursuant to Regulation (EU) 2019/1150 of the European Parliament and of the Council 2020/C 424/01, C/2020/8579.

²⁸ List of designated organisations, associations and public entities drawn up and published pursuant to Article 14(6) of Regulation (EU) 2019/1150 of the European Parliament and of the Council on promoting fairness and transparency for business users of online intermediation services (2021/C 402/05).

The P2B Regulation was the first step towards providing a comprehensive legal framework for the platform economy; this has since been complemented by the adoption of [the DSA](#) and the [DMA](#). These instruments are at an early stage of implementation. While the relationship between the P2B Regulation and the DSA and DMA is well delineated, the interactions and complementarity between them should have the close attention of the Commission and of national enforcement bodies, in line with the Opinion of the Expert Group for the Observatory on the Online Platform Economy.

Specifically, the P2B Regulation, including its Article 11 on internal complaint handling, applies to all medium-sized and large providers of online intermediation services. Therefore its scope goes beyond the DMA. This means that business users of online intermediation services have more legal certainty to build an online presence spanning both ‘gatekeeper’ core platform services under the DMA and other online intermediation services.

The DSA mirrors and specifies the ranking transparency obligation in Article 5 of the P2B Regulation, for the benefit of all Europeans citizens. It also ensures the systematic availability of redress mechanisms and the required clarity, availability and consistent application of online platforms’ terms and conditions.

Moreover, the proposed European Media Freedom Act²⁹ refers, in Article 17, to the P2B Regulation. The aim is to make it clear that media providers, as business users of online intermediation services, should be offered due process guarantees in content moderation.

4. General conclusions and proposed follow-up actions by the Commission

This first preliminary review shows the existing effects of the P2B Regulation: since its adoption online intermediation services have become more transparent (e.g. information on the terms & conditions, setting up internal complaint handling, establishing reasons for suspending or terminating account and listing). Yet, the level of compliance by platforms is still too low, with differences depending on the size of the platform but also on the obligation (e.g. while establishing a list of reasons for suspension or termination, they still remain too vague in concrete for the business user).

The review at the same time reveals that problems persist in reaching the objectives of the P2B Regulation. The rules on transparency and dispute settlement remain as relevant as ever, but are not given full effect in practice. Yet, this report and the data gathered show that the rules can be the appropriate solution for solving the problems still faced by business users if applied fully and correctly. This report identifies a number of factors that can explain why increased transparency has not led to notable changes in platform behaviour on certain issues. In particular, low level of awareness among business users of their rights, insufficient enforcement by national authorities which bring a limited compliance by online platforms. All these factors need to be tackled, so to increase the implementation and the effectiveness of the P2B regulation, that are to be evaluated in the next report.

On implementation and enforcement, the Commission will continue to work closely with Member States and competent national authorities. To tackle the low level of awareness and address the shortcomings identified in the review, the following actions are proposed:

²⁹ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a common framework for media services in the internal market (European Media Freedom Act) and amending Directive 2010/13/EU, COM/2022/457 final.

- Firstly, it is important to ensure that business users, associations and online platforms are aware of the rights and obligations stemming from the P2B Regulation. To do so, the Commission will work with Member States to disseminate information in different sectors and for all players, via different channels including informational campaigns, business networks and other tools (e.g. YourEurope). The Commission also plans to organise further workshops with business users, online intermediation services and other stakeholders from different sectors.
- Secondly, the level of awareness varied from sector to sector (e.g. in hospitality or e-commerce). For each sector, specific tools could be used to raise awareness, for instance using the transition pathways³⁰ as leverage in order to establish possible tailored action plans.
- Thirdly, the relative level of alignment on mediation is generally higher for larger online intermediation services³¹. Therefore, the Commission plans to follow-up with SME platforms, together with Member States and their authorities, as a matter of priority.
- Finally, codes of conduct should be used to operationalise the application of the P2B Regulation. The Commission plans to explore establishing codes of conduct in the hotel bookings and online marketplace sectors in the near future. It will convene online intermediation services and Member State authorities to act on this issue.

³⁰ “Co-creation of a transition pathway for a more resilient, digital and green retail Ecosystem”, SWD(2023) 283 final. https://single-market-economy.ec.europa.eu/system/files/2023-07/SWD_2023_283_F1_STAFF_WORKING_PAPER_EN_V4_P1_2864349.PDF

³¹ For example, comparison of the results of the 2020 and 2022 surveys showed that several major online platforms from different sectors of the platform economy (online travel agencies, e-commerce marketplaces, app stores, etc.) have revised their T&Cs to provide more clarity and detail.