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- The Impact of P2B on industry and innovation-

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The main impacts P2B could have on Industry and Innovation

Transparency Requirements can do more harm than good:

Under the current proposal the transparency requirements would have platforms list out every detail of how their ranking system works. Although transparency is critical and essential for customer and business users trusts, too much transparency can lead to malicious actors utilising the available information in order to manipulate ranking results. For example, some fraudulent companies have been reported to employ staff to ‘search and repeat’ for their specific products as that will push up their product to top of the list – effectively abusing the system, therefore the more information available on the ranking requirements the easier it will be for manipulation. This will ruin any chance of an SME product being fairly ranked on a platform.

How do the 28 EU Member States define ‘fairness’ and ‘proportionate’:

Throughout the P2B text legally Online Platforms must operate with undefined terms such as ‘fair(ness)’ and ‘proportionate’. By having these undefined terms, this will cause serious fragmentation throughout the EU – one Member States perspective of ‘fairness’ may differ from another. Therefore, this will lead to a litigation and heavy Regulation and this will only benefit the Online Platforms with the financial resources with the individual App Developers while SMEs will be unable to innovate.

Operating Systems wrongly in the P2B scope:

The goal of P2B was to address platforms that facilitate transactions and intermediate between businesses and consumers (i.e. marketplaces). Operating Systems, therefore, do not logically fit into P2B. This broadening of the definition will now include new generation of cars with integrated OS, European automakers will fall into scope of the Regulation. In more practical terms modern cars would not be allowed to display their maps in their cars because they would have to accommodate mapping services of potential competitors. We understand the Commission proposes more transparency around functionalities of OS in Article 6. This is once again a patchy solution as it could lead to the disclosure of security/ privacy sensitive elements of OS that have little relevance to third parties. This is not sufficiently thought through and should be rejected by Council.

The internet never forgets:

Under the European Parliament draft, online intermediaries should provide business users with anonymised rating and reviews or any other anonymised and aggregated data related to their rating and review upon request. However, this is not practical as reviews and ratings of products are public. For example, if someone was not happy with a product, they would go onto the online intermediaries’ website and write a public review. Therefore, once a business user has received the anonymised review, they can simply conduct an online search of that received anonymised review and then they will be directed to the public (non-anonymised) review.