

SMEUnited Position Paper on Ranking Transparency Guidelines – Article 5(7) 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.

GENERAL REMARKS

SMEUnited warmly welcome the initiative of the European Commission to seek input through a public consultation from stakeholders to understand how the guidelines may best serve their intended purpose of facilitating compliance with the ranking transparency obligation. SMEUnited also fully supported the initiative of the Commission to organise two specific workshop on this issue with the stakeholders.

Indeed the preparation of the P2B Regulation by drafting guidelines is to be welcomed, as it ensures that it is applied by the online platforms fully in accordance with the Regulation.

The explanations in the regulation regarding "ranking" are relatively abstract and theory-based. Additional guidelines, which are drawn up from a practical point of view, are therefore desirable in order to facilitate the practical application of the provisions in the Regulation for online platforms and thus ensure sufficient transparency and predictability. However, transparency cannot be understood through the disclosure of algorithms, as this could lead to distortion or manipulation of search results.

SUGGESTIONS

Meaning of presentation and accessibility

- Specification of Art. 5 para. 2 : "**an easily and publicly available description**": Experience has shown that general terms and conditions are often not simply and publicly accessible, but only accessible via many links. Here it could be cited as a best practice example that the general terms and conditions are directly linked on the homepage. In addition they should be provided in a format which facilitate an accurate and effective reading, by avoiding for instance unnecessary long description, excessively small lettering and excessively

technical writing (one has to take into account the sector: while technical language can be understandable for app-developers, this will not be the case for retailers. Specialised languages is acceptable when it is not against clarity).

- Temporary changes of the parameters need certainly also prenotification.

Main parameters/relative importance

- The legislative package for the modernisation and tightening of consumer protection legislation ("New deal for consumers") also regulates the transparency of the ranking vis-à-vis consumers. The aim is to harmonise the provisions.

- According to our experience the main indicators used focus on: the average score of the reviews of the seller from purchasers, the number of sales, the order acceptance and sending speed and the quality of the customer service. Nevertheless, it is to mention that some descriptions of criteria are too vague (such as removal from the ranking due to "weak performance" without a quantitative indication) and do not allow user companies to have the necessary information to secure their activity.

The list of main indicators used in the ranking mechanism, though necessary, is not sufficient to allow the user enterprises to understand their ranking and modify some criteria in order to improve it. Therefore, the relative weight, or at least the relative importance of each criteria which have a significative impact should be communicated.

- Weighting of the most important parameters: The entire ranking result must be comprehensible on the basis of the most important parameters. It must be defined more precisely what the main parameters are that are "most important" according to Art. 5 para. 2. It will not be sufficient here if one assumes that the main parameters simply outweigh the other parameters (main parameters > 50%). It must be ensured that platforms list all those parameters that make up a vast majority of the overall ranking: Sufficient would then be, for example: Price 30%, guest feedback 40%, location 30%. Not sufficient would then be: price 10%, guest feedback 20%, location 25%; other parameters 45 %.

- Naming of parameters that are in any case "main parameters": Especially in connection with the prohibition of the best price clause in for example Austria, it is important that platforms have to indicate if they rank hotels worse due to low prices on other distribution channels, especially their own homepage. This is common practice on booking platforms and is intended to encourage companies to offer lower prices on the platform than on other channels.

- It is also common practice for online booking platforms to set parameters over which companies have little or no influence. Particularly worth mentioning here are parameters formed by guest behaviour, such as the respective cancellation rate by hotel guests. However, such parameters should not influence the "ranking", or if so, then this must be clearly recognisable.

- The guidelines should also stress that information has to be given to companies and customers when a new algorithm is tested and this test leads to distorted search results.

Direct and indirect remuneration

- Even though SMEunited regrets that direct and indirect remuneration have such a high impact on ranking, which reduces the visibility of micro-enterprises as they cannot contribute as much as bigger companies, it is important to underline that every possibility of improvement of ranking through direct or indirect remuneration should be mentioned in a visible and accessible way on the search engines provider's or platform's website.

Enterprises which have used remuneration to improve their ranking should be clearly mentioned by the platforms and search engine providers.

Adequate understanding

- In addition to the provision of the main indicators and their relative weight in the ranking process, platform and search engines providers could propose free advices to enterprises, especially for SMEs, in order to help them to improve the relevance of their offer, for instance in terms of presentation.

Interplay with complementary and other EU legislation

- Several surveys indicate that between 80 and 90% of people refer to online user reviews prior to purchase. However, a huge proportion of these reviews show anomalies. False negative reviews can have very negative consequences for enterprises, especially SMEs, whose activity can be irremediably damaged. As online reviews are part of the criteria to build ranking, it is crucial to reinforce their liability.

On this basis, AFNOR (French standardisation association) published in 2013 a standard with three requirements for website managers :

- for gathering opinions (prohibition to buy reviews, identification of authors and possibility to ask for a consumption proof)
- for moderation of reviews (impossibility to modify an online review but right to delete for the author)
- for management of reviews (timeline display, right to answer...).

This standard has been replaced in September 2018 by NF ISO 20488: Online consumer reviews - Principles and requirements for their collection, moderation and publication:

<https://www.boutique.afnor.org/standard/nf-iso-20488/online-consumer-reviews-principles-and-requirements-for-their-collection-moderation-and-publication/article/901617/fa190927>

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