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Online platforms: new vulnerabilities to be addressed in the European legal framework. Platform to business user relations.

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Abstract

Online platforms play a significant role in facilitating the exchange of goods and services, operating as market makers. Their intermediation function is carried out through the conclusion of a series of unilaterally determined contracts, in which business users have a specific vulnerable position. Therefore, the need to ensure the growth of this phenomenon led to the adoption of Reg. (EU) No. 1150/2019, "On promoting fairness and transparency for business users of online intermediation services". The new legal framework seeks to address commercial users' vulnerabilities related to asymmetry of knowledge and bargaining power. The paper aims to analyze this Regulation its problematic aspects.

Keywords: online platforms - B2B contracts - new vulnerabilities - unfair commercial practices.

Summary: Introduction. – 1. Matter and scope. – 2. Terms and conditions. – 3. Rules for contractual relations. – 4. Alternative dispute resolution. – Conclusions.

Introduction.

Online platforms[1] are now a significant reality, and their strategic role has been highlighted by the difficulties associated with the Covid19 pandemic. In a world that suddenly turns out to be fragile, stuck and distant, the possibilities granted by the collaborative economy, and its digital and virus-free marketplace, become crucial. Although this new paradigm could be considered largely positive, it implies some concerns.

First, it is necessary to consider that economic studies have suggested a particular role for these platforms as market makers[2]. In fact, they usually act as a conjunction between

[1] For a definition of platform see A Wiewiorowska-Domagalska, 'Online Platforms: How to Adapt Regulatory Framework to the Digital Age', Briefing of the European Parliament, 2017, 2: «Taking a very general, economic approach, online platforms mean two-sided markets, namely digital infrastructure that allows interactions and helps fulfil the interests of two groups of users: suppliers and customers».
Among the huge number of contribution on the topic of legal framework applying to online platforms see G Cassano, I P Cimino, 'Contratto via Internet e tutela della parte debole' (2002) *Contratti*, 870; M Colangelo, V Zeno-Zencovich, 'La intermediazione on-line e la disciplina della concorrenza: I servizi di viaggio, soggiorno e svago' (2015) 1 *Dir.Inform.*, 43; A De Franceschi (ed.), *European Contract Law and the Digital Single Market*, (2016) Cambridge; A Quarta, 'Il ruolo delle piattaforme digitali nell'economia collaborativa' (2017) *Contr.impr.Eur.*, 554–571; C Twigg-Flesner, 'The EU's Proposals for Regulating B2B Relationships on online platforms–Transparency, Fairness and Beyond' (2018) 6 *EuCML*, 222; J Campos Carvalho, 'Online Platforms: Concept, Role in the Conclusion of Contracts and Current Legal Framework in Europe' (2020) 12 *Cuad.Der.Trans.*, 867.
[2] See G Smorto, *Critical Assessment of European Agenda for the Collaborative Economy, on behalf of European Parliament. In-Depth Analysis for the IMCO Committee. Bruxelles: Policy Department A - European Parliament C.* (2017), consultable at
http://www.europarl.europa.eu/RegData/etudes/IDAN/2016/595361/IPOL_IDA(2016)595361_EN.pdf

suppliers and customers by circumventing the material and geographical barriers that may hinder an analogic contact. Platforms overcome these limitations by creating a new environment for commercial relationships on the web, in which they act, though not always[3], as intermediaries between different parties interested in the exchange of goods and services[4].

In addition, platforms can create different types of connections, corresponding to the wide variety of interests that seek a channel on the web. It is possible to classify these relationships on a subjective level, given the different roles played. The parties can be either consumers interested in sharing some underused personal good, or traders with the purpose of offering goods or services to both consumers and other businesses. Therefore, the whole spectrum of contractual relationships can originate from platforms. The first type of them responds to the C2C model and can be defined as a part of the sharing economy, i.e. a model in which strict property rights are softened in a common use perspective[5]; on the other hand, online platforms can also be involved in the establishment of more classic B2B and B2C relationships and in these cases the new phenomenon is called collective economy.

Both new paradigms show criticalities from the legal point of view: the former could be used as a convenient mask for ordinary market relations, avoiding the application of tax or labor laws; the latter emphasizes the need for consumer protection, as in the case of personal data, but can also show the emergence of new types of vulnerabilities[6].

The latter perspective is particularly interesting for legal design because of the need to protect subjects who, on an ordinary and entirely analogical level, have been considered strong players in the Market, i.e. economic operators.

In fact, suppliers interested in extending or basing their business on the wide opportunities disclosed by online platforms are involved in contractual relationships with these intermediaries, which can be characterized by many aspects of disparity.

(accessed: 29th June 2020); A Quarta, 'Il ruolo delle piattaforme digitali' (n 1) 555; C Twigg-Flesner, 'The European proposal' (n 1) 224.

[3] Platforms often act as suppliers of good and services in addition to a genuine intermediation role. Other times, they present themselves to customers as intermediaries even though they act exclusively as suppliers. See A Wiewiorowska-Domagalska, *Online Platforms* (n 1) 6; A Quarta, 'Il ruolo delle piattaforme digitali' (n 1) 558; J Campos Carvalho, 'Online Platforms' (n 1) 867. This criticism is also clarified in point 43 of Conclusion by Adv.

[4] The first implication on a contractual level is represented by the multiplication of contractual relationships in the circulation of goods and services: one between Platforms and suppliers, another between platforms and customers, and the last between suppliers and customers. See J Campos Carvalho, 'Online Platforms' (n 1) 866.

[5] On the topic see Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, COM(2016) 356 final, 'A European agenda for the collaborative economy'.
In doctrine, e.g., T. Bonini, G. Smorto (eds.), *Shareable! L'economia della condivisione*, (Edizioni di Comunità 2017); R Botsman, R Rogers, 'What's Mine is Yours' (2nd edn, Collins 2011); R. Belk, 'Sharing', (2010) *J.Consum.*, 36. Moreover, J Campos Carvalho, 'Online Platforms' (n 1) 865, recognizes sharing economy as part of the online platform phenomenon on a contractual level.

[6] See E Bacciardi, 'Contratti telematici e diritto di recesso' (2010) 4 *Contratti*, 381-391; F Lazzarelli, *L'equilibrio contrattuale nelle forniture di sistemi informatici* (ESI 2012); F Galli, 'La nullità della clausola MFN nei contratti tra agenzie di intermediazione ed imprese alberghiere'(2018) 6 *Nuove leg. civ. comm.*, 1387.

Table 0.3 Potential negative trading practices in different stages of commercial relationship

Thematic field	Pre-contractual period	Contract formation	Contract performance	Contract expiry/ termination & post-contractual period
1. Setting the terms and conditions	• Refusal to negotiate; • Lack of clarity on the full T&C.	• Non-negotiability of changes; • Lack of clarity and vague language of T&C.	• Unilateral changes; • Unilateral interpretation of T&C; • Lack of or very short-term prior notice about changes; • Continuation of use as a presumption of acceptance of changes.	• Unilateral termination.
2. Search and ranking	• Transparency of search criteria.	• Lack of transparency regarding search, ranking and reference functions.	• Provision of information on changes to ranking algorithms; • Use of alternative tool to present offers.	
3. Access to the platform	• Eligibility to access the platform.	• Lack of transparency of rules related to delisting of products, suspension of account and termination of accounts.	• Lack of information on delisting of products of services; • Lack of information on temporary suspension of an account; • Lack of information on actions required for relisting of products/services or re-instating of an account.	• Lack of information on termination.
4. Platforms competing with business users or limiting options		• Parity clauses (price and non-price related); • Limitations of choice of auxiliary services;	• Platforms favouring own products; • Lack of explanation of operational decisions.	
5. Data access and portability	• Lack of information on policy re data.	• Lack of transparency regarding data access and portability.	• Limited access to data; • Restrictive application of provisions on data access/ sharing and use.	• Retention of data related to business user.
6. Problem solving		• Non-EU jurisdiction and applicable law; • Liability disclaimers; • Lack of penalties for platforms.	• Restrictions on access to redress possibilities.	

Table taken from Final Report of the study *Business-to-Business relations in the online platform environment* written by Ecorys for the European Commission.

Most importantly, commercial users of the platform are often unaware of how their counterpart's algorithm works. Despite its technical nature, this aspect has a fundamental legal implication, as the algorithms' functions are closely linked to the platforms' contractual performance. In particular, the software determines the ranking of each offer, playing a strategic role in the profitable use of the service.

Another critical issue is related to the position of intermediaries in the new environment. As market makers, they can act as arbitrators for the relationships they help create. In doing so, they provide systems that can give clients the opportunity for indirect incidence on the level of benefits to providers, with particular regard to feedback mechanisms[7].

The new position of vulnerability has been considered by the European institutions since 2016[8]. The Commission launched a public consultation highlighting concerns about unfair business practices by online platforms. The most common alleged problems include unfair terms and conditions; platforms refusing market access or unilaterally modifying the conditions for market access; the dual role that platforms may play as intermediaries and suppliers; unfair 'parity' clauses with detrimental effects for the consumer; and lack of transparency.

[7] In two-sided or multi-sided markets platforms consider only one group of parties as profit generator; in a relevant number of cases this role is attributed to customers. See J Campos Carvalho, 'Online Platforms' (n 1) 866–867; S Casabona, 'Intermediazione digitale e composizione delle controversie: dall'Alternative Dispute Resolution all'Alien Dispute Resolution' (2017) 3 *Dir. Informatica*, 497; A Quarta, 'Il ruolo delle piattaforme digitali' (n 1) 565; M Colangelo, V Zeno-Zencovich, 'La intermediazione on-line' (n 1) 43; P Perri, 'Sospensione dell'account del venditore dalla piattaforma eBay a seguito di feedback negativi: profili civilistici e informatico-giuridici', (2011) 7-8 *Giur. mer.*, 1809.

[8] See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 25.5.2016 COM(2016) 288 final, Online Platforms and the Digital Single Market Opportunities and Challenges for Europe; Accompanying the document COM(2016) 320 final, SWD(2016) 163 final, Guidance on the Implementation/Application of Directive 2005/29/EC on Unfair Commercial Practices.

In order to address these issues, the European institutions have introduced the recent Regulation (EU) n. 1150/2019 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services. In this Regulation, they have adopted a legal protection framework that applies, for the first time, to a broad area of B2B relationships, namely those between Platforms and their business users (P2B contracts)[9].

The aim of the paper is to realise a first reading of this protection law.

1. Matter and scope.

In Reg. (EU) 1150/2019, the European institutions sought to address the new challenges of the online marketplace with the aim of ensuring legal certainty[10].

In particular, the Whereas highlight that this objective is crucial for the success of new business models that can exploit the opportunities of platforms. The latter represent fundamental resources for the future development of the internal market, but they may also lead to the emergence of a new form of economic dependence. Indeed, the central position that platforms occupy in online markets could cause a great disparity in bargaining power and knowledge between them and their business users.

Therefore, in order to maximise the positive effects of a fair and equitable online platform environment, the Regulation selects a specific scope.

In particular, the subjective level makes clear the change in the EU's approach to market regulation. In fact, it regulates the relationships between Platforms, intended as providers of intermediation services[11] or «online searching engines», and business users or «corporate website users»[12]. Each of these entities is an economic operator and the regulation represents the European response to the new form of vulnerability.

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[9] See J Campos Carvalho, 'Online Platforms' (n 1) 874.

[10] See 1st whereas Reg. (EU) n. 1150/2019: « Online intermediation services are key enablers of entrepreneurship and new business models, trade and innovation, which can also improve consumer welfare and which are increasingly used by both the private and public sectors. They offer access to new markets and commercial opportunities allowing undertakings to exploit the benefits of the internal market. They allow consumers in the Union to exploit those benefits, in particular by increasing their choice of goods and services, as well as by contributing to offering competitive pricing online, but they also raise challenges that need to be addressed in order to ensure legal certainty».

[11] This choice ensures the effectiveness of the framework, because it allows a huge number of online operators to be considered as intermediation service providers. In particular, it is not relevant whether the contract between supplier and customer is directly concluded on the supplier's site, because it is only necessary that the supplier can establish an initial contact between the parties. In this sense the Regulation lists in 11th recital some examples, such as online e-commerce market places, online software applications services, like application stores, and online social media services.

[12] Regulation (EU) n. 1150/2019 ignores prosumers, i.e. consumer that operate on online platforms as suppliers. The difficulty of a clear distinction between business operators and prosumers would have advised the assumption of a different approach, such as applying consumer acquis to each contract between platforms and users. See A Wiewiorowska-Domagalska, *Online Platforms* (n 1) 7; A Quarta, 'Il diritto dei consumatori ai tempi della peer economy. Prestatori di servizi e prosumers: primi spunti', (2017) 2 *Europa dir. priv.*, 667-681; M Maugeri, 'Elementi di criticità nell'equiparazione, da parte dell'Aeegsi, dei "prosumer" ai "consumatori" e ai "clienti finali"' (2015) 2 *Nuova giur. civ. comm.*, 406; R. Montinaro, 'Il consumatore nei mercati online: la disciplina del commercio elettronico e delle pratiche commerciali scorrette alla prova dell'evoluzione tecnologica' (eds. A. Catricalà, M.P. Pignalosa) Saggi di diritto dei consumi (2020), 75-113.
The European Court of Justice, in sentence CJEU, cause C-105/17 of 4th October 2018, has indicated a list of criteria for the application of consumer protection rules in the contract between prosumer and consumer. Moreover, the Commission indicated three principal criteria, i.e. frequency of the services, profit-seeking motive and level of turnover in Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, COM(2016) 356 final, A European agenda for the collaborative economy.

Moreover, the regulation has a broad scope. In fact, the European intervention refers to two different types of situations and only a part of the regulated relationships, i.e. those in which Platforms act as providers of services and their business[13], is based on a contract. Besides these, the regulation extends its application to another type of relationship that is not considered contractual and takes place between owners of corporate websites and online search engines.

The relationships included in the contractual scheme are characterised by the fact that both parties involved are professionals and their contract is fully referable to the B2B model. Moreover, it can be noted that the company size of the different actors is not taken into account within the framework. Indeed, although the recitals refer to the need for special protection for micro or SMEs[14] operating through an online platform, art. 2(10) makes it clear that the size of the parties is not decisive[15]. On the other hand, the Regulation shows a certain degree of concern for small platforms[16], exempting them from the obligations of Articles 10 and 11.

This objective of protection is also apparent from the territorial scope of the regulation, which consists of all cases where commercial users have «their place of establishment or residence in the Union», notwithstanding the nationality of the providers of intermediary services or online search engines.

The presence of a contract makes it easier for the European institutions to establish a level of protection for these economic operators. On the contrary, in the relations between business website owners and online search engines, which are not governed by the contractual paradigm, the regulation merely obliges providers to grant access and transparency for the most relevant elements of their functioning.

These innovative elements in the subject matter and scope of the regulation are counterbalanced by the classic attention of consumer contracts.

In this sense, even if the regulation does not specifically consider the protection of consumers, there is an indirect focus on them in the area of application. In fact, as indicated in Art. 1(2), it is necessary that platforms are involved in the direct or indirect conclusion of contracts between commercial users and consumers; the regulation does not apply to platforms that create connections between commercial parties. Therefore, for the scope of application of the Regulation, P2B relationships are relevant only if characterised by the

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13 In this sense the European choice has been considered coherentist. See C Twigg-Flesner, 'The European proposal' (n 1) 231.
A debate concerning the relevance of contractual paradigm in online transactions had been animated in Italian doctrine. See N Irti, 'Scambi senza accordo' (1998) 2 *Riv. trim. dir. proc. civ.*, 347-364; G Oppo, 'Disumanizzazione del contratto?' (1998) 5 *Riv. dir. civ.*, 525 – 533; N Irti, 'È vero ma ... (replica a Giorgio Oppo)' (1999) 2 *Riv. dir. civ.*, 273–278.

14 See 2nd whereas Reg. (EU) n. 1150/2019.

15 In particular, this article refers to the relevance of terms and conditions unilaterally determined by providers of online intermediation services. It states that they have to be «evaluated on the basis of an overall assessment, for which the relative size of the parties concerned, the fact that a negotiation took place, or that certain provisions thereof might have been subject to such a negotiation and determined together by the relevant provider and business user is not, in itself, decisive». Therefore, it can be established that economic dimensions are considered indirectly and together with other circumstances of the overall assessment.

16 It can be noticed that Platform dimensions are also considered in the recent debate on the Digital Services Act. See European Parliament resolution of 20 October 2020 with recommendations to the Commission on a Digital Services Act: adapting commercial and civil law rules for commercial entities operating online (2020/2019(INL)), 5, in which the European Parliament suggests the need for a framework manageable for small business, SMEs and start-ups.

purpose of concluding contracts with consumers[17].

In addressing these challenges, the regulation introduces three different levels of protection: the first concerns the terms and conditions of contracts; the second concerns contractual behaviour; and, finally, there is a specific discipline on alternative dispute resolution.

Levels of protection	Dispositions
1: T&Cs	• Article 3, §1 and §3; • article 5; • article 6; • article 7; • article 8, letters b) and c); • article 9; • article 10;
2: Contractual execution	• Article 3(2) and (4); • article 4; • article 8, letter a);
3: ADR	• Article 11; • Article 12; • Article 13;

2. Terms and conditions.

The Reg. (EU) n. 1150/2019 introduces, as first level of protection, a legal discipline for contracts between business users and providers of online intermediation services. It sets several requirements for contractual terms and conditions unilaterally determined by providers

Reg. (EU) n. 1150/2019 establishes, as a first level of protection, several requirements for contractual conditions unilaterally determined by providers of online intermediation services[18].

Art. 3(1), letters a) and b) refer to all terms and conditions and require a certain language to be used in their drafting and their accessibility for business users at all stages of contractual relations, including the pre-contractual stage. This general provision establishes a formal level of protection for business users and highlights the perspective adopted in the regulation. The vulnerable party, in his capacity as a trader, can adequately assess the convenience and meaning of the contract and for this reason it was considered sufficient to provide them with all the necessary information. Therefore, it was not considered necessary to introduce a

[17] For this reason, some of the usual services offered by online platforms are excluded from the scope of the Regulation, such as online payment services, online advertising tools or online advertising exchanges if they are not involved in concluding contract with consumers.
This limitation responds to the idea of a modular approach facing the presence of many different types of platform services. See J Campos Carvalho, 'Online Platforms' (n 1) 874. On the other hand, C Twigg-Flesner, 'The European proposal' (n 1) 226, highlights a certain concern about offers that target both consumers and business operators.

[18] This profile is the consequence of the prevision of art. 2, defining terms and conditions: « all terms and conditions or specifications, irrespective of their name or form, which govern the contractual relationship between the provider of online intermediation services and its business users and are unilaterally determined by the provider of online intermediation services, […]». The second part of the definition sets out the elements to be considered in assessing the unilateral determination, in order to clarify the extent of the burden of proof for business users. This choice has been criticised by C Twigg-Flesner, 'The European proposal' (n 1) 226, as an illustration of the difficulties that a coherentist approach creates in dealing with a new market model.

substantive limitation of the contract terms, as long as they are «drafted in plain and intelligible language».

The general requirements are complemented by provisions on specific terms and conditions. These provisions set out the mandatory content for each contract between commercial users and online intermediation service providers, requiring explicit indication for many contents, such as the reason for the providers' decision to limit, restrict or terminate the contract, any other distribution channel or programme offered, aspects relating to intellectual property rights[19], contractual conditions that must be based on good faith and fairness[20], and access to data generated on the platform[21]. Other necessary content relates to the ancillary goods and services provided by the platform itself or by third parties[22], and to the ADR systems provided for in articles 11 and 12, relating to the third level of protection.

Besides those contents, other provisions are related to the most problematic and discussed aspects of the new contractual relations.

First of all, art. 5 addresses the issue of ranking. The algorithms of the online platforms select and order the offers of commercial users according to specific criteria. This order determines the ranking of each individual offer. On the one hand, this system can guarantee a high level of fairness and transparency in the market as a corrective to information asymmetry, through the reputation of the platform[23]. Indeed, the order of offers could signal users' preferences or suppliers' trustworthiness and thus support responsible and consistent consumer choices. On the other hand, ranking can significantly influence the convenience of the service for business users and is closely linked to the functioning of the provider's algorithms. Therefore, the European institutions have tried to balance the interest of business users to fully understand the ranking mechanism and the need of providers to keep the essential aspects of their algorithm secret. The result is the requirement to disclose in the terms and conditions «the main parameters determining ranking» and the reasons for

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[19] Art. 3(1) is supplemented by the obligation on providers to inform commercial users of these three terms. It is interesting to distinguish these terms from the others specifically considered, because only for their violation is nullity provided for.

[20] Article 8, entitled 'Specific contractual terms', prohibits retroactive changes to the terms and conditions, unless they are beneficial to business users or required by a legal or regulatory obligation. The provision also requires that the contract indicate the conditions under which business users may terminate their contractual relationship with the platform; and describe the treatment of information provided or generated by the business user after termination of the relationship. The content of this article can be considered as a combination of the first two levels of protection.

[21] This issue is divided into three different aspects: access for platforms to data provided by business users or consumers; access for business users to data generated by themselves or other operators or consumers in the use of the intermediation services; finally, access for third parties to these data. The first two aspects require to indicate which data are accessible and under what conditions; instead, data sharing with third parties requires the specification of its purpose and whether business users can opt out.
As clear, limitation for access to data is not considered, but it is only imposed to indicate among contractual terms the kind of data, the conditions of the access and its purpose.

[22] In particular, art. 6 requires among contractual terms a description of their type and the specification of possibility and conditions for the business user to offer its own ancillary goods and services.

[23] At the base of the issue G Akerlof, 'The Market for « Lemons »: Quality Uncertainty and the Market Mechanism' (1970) 84 The *QJEcon*, 488; A D Thierer, C Koopman, A Hobson and C Kuiper, 'How the Internet, the Sharing Economy, and Reputational Feedback Mechanisms Solve the 'Lemons Problem'' (2016) 70 *U. Miami L. Rev.*, 830.
Furthermore, see A Wiewiorowska-Domagalska, *Online Platforms*, (n 1) 7; S Casabona, 'Intermediazione digitale' (n 7) 497; B de Langhe et al., 'Navigating by the Stars Investigating the Actual and Perceived Validity of Online User Ratings' (2015) 6 *J.Consum.*, 817 – 833; G Smorto, 'Reputazione, fiducia e mercati' (2016) 1 *Europa dir. priv.*, 199–218; G Giannone Codiglione, 'Reputazione online, sistemi di rating e anonimato in una recente decisione della corte di cassazione tedesca' (2015) 1 *Dir. Informatica*, 178–191; Idem, 'Algoritmi reputazionali e confini dell'autonomia dei privati' (2019) 2 *Dir. Informatica*, 520 – 540.

preferring them[24]. In addition, art. 5(6), clarifies that online intermediary service providers are not required to disclose algorithms, in accordance with Directive (EU) 2016/943.

This balancing can be considered adequate for the purpose of allowing business users to understand how to influence and improve their ranking, but it presents some critical issues concerning the actual possibility of understanding how the algorithm works, especially in relation to the number of criteria that can be involved[25]. Furthermore, it can be argued that art. 5, does not mention the dependence of the ranking of the offer on the feedbacks of consumers. This latter aspect is considered in other articles[26], but a clear indication in the terms of the contract would have been preferable. However, the European Commission supports the objective of a clear understanding of the ranking system through the development of guidelines on ranking transparency[27].

The Regulation also addresses the critical issue represented by the possibility for an online intermediation service provider to act as a supplier of goods and services by itself or through other controlled business users. At a first level, Ar. 7(1), requires that the terms and conditions describe the differential economic, commercial and legal treatment provided for offers directly or indirectly referable to the platform. Particular attention must be paid to access to data, ranking and other setting suppliers, remuneration charged for the intermediation or other functionalities or ancillary services.

This is one of the main concerns about online platforms; they often only mediate between suppliers and customers, but in a significant number of cases they act as market players rather than market makers. Consequently, there would be clear advantages that platforms can receive by offering goods and services, in terms of data, or better conditions of use of the platform that can lead to several competition problems with their users. However, the European institutions have chosen to prohibit a direct or indirect role of suppliers for platforms. The regulation, again, only requires that specific and clear information be included in the contractual conditions, so that business users can assess the convenience of the services.

A formal approach, finally, is adopted in relation to the so-called Most Favourite Nation (MFN) Clause.

In particular, art. 10 Reg. (EU) n. 1150/2019 regulates clauses that restrict the freedom of business users to offer the same goods and services under different conditions «through other means». If the platform decides to impose such a restriction, it is obliged to indicate this in contractual terms and conditions, specifying the «main economic, commercial and legal consideration» at the basis of the decision. Moreover, art. 10(2), clarifies that compliance with the formal obligation laid down in § 1 does not preclude any prohibition or limitation

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[24] In particular, the possibility «to influence ranking against any direct or indirect remuneration», if included among parameters, have to be indicated.
Concerns for consumer protection are implied in ranking system related to remuneration. Therefore, art. 3(7), Dir. (EU) n. 2161/2019 inserts point 11a) to Annex I Dir. 2005/29/CE in order to list the conduct of platform consisting in «providing search results in response to a consumer's online search query without clearly disclosing any paid advertisement or payment specifically for achieving higher ranking of products within the search results» among commercial practice which are in all circumstance considered unfair.

[25] For concerns related to the high number of parameters considered see C Twigg-Flesner, 'The European proposal' (n 1) 227.

[26] Art. 5(4), Reg. (EU) 1150/2019 requires providers of online search engines to allow corporate website users to inspect the content of notification by third parties that caused a delisting. There isn't a similar provision in art 5 for providers of online intermediation services. The reason is that delisting can be considered as a case of restriction or suspension of the service, addressed in art. 4(5).

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

for those restrictions arising from the application of other Union or Member State law[28].

The issue of MFN clauses has taken on significant legal importance, both from a competition and a contractual point of view. Competition authorities have analysed the possibility of anti-competitive use of MFN clauses and many proceedings have allowed a restricted version of these clauses

The issue of MFN clauses has come up in the legal sphere, both from the competition and the contractual point of view. The Competition Authorities of several States have analysed the possibility of anti-competitive use of MFN clauses and many proceedings have allowed a restricted version of these clauses[29]. Other concerns relate to the significant limitation of the freedom to determine the content of business operators' offers resulting from the imposition of MSN clause. Therefore, in consideration of the relevance of the clause, the European institutions decided to take into account the issue.

Clearly, Reg. (EU) n. 1150/2019 does not introduce any limitation or prohibition for the MFN clause, providing for a transparency requirement in the terms and conditions, without any indication of the relevant sanction. At the same time, rules of member states that may even prohibit their use are expressly allowed. This approach cannot be considered adequate to the challenges of new contractual relationships, and contradicts the objective of achieving a uniform legal framework for digital platform contracts in Europe[30].

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[28] It is interesting to consider that, in this case, the regulation itself show a certain awareness of the insufficient level of protection established.

An Example of legal prohibition can be found in Italian Law. See art. 1(166), l. n. 124/2017: «È nullo ogni patto con il quale l'impresa turistico-ricettiva si obbliga a non praticare alla clientela finale, con qualsiasi modalità e qualsiasi strumento, prezzi, termini e ogni altra condizione che siano migliorativi rispetto a quelli praticati dalla stessa impresa per il tramite di soggetti terzi, indipendentemente dalla legge regolatrice del contratto». Moreover, similar provisions have been introduced in France (art. 133 loi n. 2015-990 du 6 août 2015) and in Austria (law amending the Austrian Federal Act against Unfair Competition 1984, 16th July 2016). For the classification of the clause as a case of abuse of economic dependence see F Galli, 'La nullità della clausola MFN' (n 6) 1387.

[29] For the Competition relevance of these clauses see M Engels, T Brenner, A Rasek, 'Evaluating the abolishment of MFN clauses in the online hotel booking sector: the drawbacks of using price comparison data from meta-search sites' (2017) 11 *ECLR*, 483 – 490; M Colangelo, V Zeno-Zencovich, 'La intermediazione on-line' (n 1) 43.

In Europe MFN clauses have been analyzed by British OFT, documents of the proceeding are consultable at https://webarchive.nationalarchives.gov.uk/20140402153926/http://www.oft.gov.uk/OFTwork/competition-act-and-cartels/ca98/closure/online-booking/#named2 (accessed: 29th June 2020), by German Bundeskartellamt, Decision B9 121/13, consultable at www.bundeskartellamt.de (accessed: 29th June 2020), by Italian AGCM, Decision 21th April 2015, consultable at https://www.agcm.it/dotcmsDOC/allegati-news/I779_chiusura.pdf (last access: 30th June 2020); by French Autorité de la concurrence, Decision 21th April 2015, n° 15-D-06, consultable at https://www.autoritedelaconcurrence.fr/fr/decision/relative-des-pratiques-mises-en-oeuvre-dans-le-secteur-de-la-reservation-hoteliere-en (accessed: 29th June 2020); by Swedish Konkurrensverket, Decision, 15th April 2015, n. 596/2013, consultable at http://www.konkurrensverket.se/globalassets/english/news/13_596_bookingdotcom_eng.pdf (accessed: 29th June 2020). In particular, AGCM, Autorité de la concurrence and Konkurrensverket, accepted an identical proposal of commitment from Booking.com concerning a "Narrow MFN clause", i.e. restricted to direct offers from hotels, with the exception of discounts for "Closed User Group". Finally, the attention for price policies on Online Travel Agencies (OTAs) led to the realisation of a Report on the Monitoring Exercise Carried Out in the Online Hotel Booking Sector by EU Competition Authorities in 2016, consultable at https://ec.europa.eu/competition/ecn/hotel_monitoring_report_en.pdf (accessed: 29th June 2020).

Part of the doctrine pointed out a difference between MFN clause as defined in art. 10 Reg (EU) n. 1150/2019 and clauses imposed by OTAs. The first one provides a negative obligation, imposing not to concede better conditions in a contract with other agencies; the second allows the application of the best terms possibly provided through other means. See F Galli, 'La nullità della clausola MFN' (n 6) 1387; V Soyez, 'The compatibility of MFN clauses with EU competition law' (2015) 36 *ECLR*, 107.

[30] See F Galli, 'La nullità della clausola MFN' (n 6) 1387; C Twigg-Flesner, 'The European proposal' (n 1) 229.

A final criticism of the legal framework concerning terms and conditions is related to the contractual remedies for breach of the provisions. In fact, art. 3(3) defines as null and void only those contractual contents which violate the requirements of transparency and accessibility listed in arts 3(1) and 3(2).

On a first sight, the remedy is not appropriate for each infringement of art. 3(1). For instance, the absence of any indication of the ground for the right of termination of the contract cannot be remedied considering a non-introduced clause null and void. Thus, the sanction could relate to the act of termination adopted in the absence of the term authorising it, but cannot be suggested in case of general legal remedies for breach of contract[31].

On the contrary, there is not a specific remedy for violations of other articles. The choice not to introduce a general sanction of nullity is probably determined by the evidence that it is not applicable in every case. Indeed, some of the mandatory clauses introduced by the regulation do not confer rights on the parties, but only require clarification of aspects relevant to the evaluation of the convenience of the services. Therefore, the nullity of those contractual clauses cannot remedy the lack of knowledge which underlies those provisions. This circumstance is clear in arts. 5 and 7, which are even applicable in the absence of a contract, but the same is true for the indication of disparities for offers directly or indirectly proposed by the providers to customers or for the offer of ancillary good and services.

However, other cases would have suggested a different solution. In particular, inadequate provisions concerning access to data, or MFN clauses, would have been more efficiently remedied by treating the corresponding contractual term as null and void.

Finally, the information duties provided for in Articles 5, on ranking, and 7, on differential treatment, must also be respected, with the necessary variations, by online search engines in their relations with corporate website owners. In these cases, however, it is not possible to provide the information through contractual terms and conditions, so the Regulation requires them to provide «an easily and publicly available description» for the same aspects that are considered for providers of online intermediation services.

3. Rules for contractual relations.

The analysis of Reg. (EU) n. 1150/2019 suggests the existence of a second level of protection. It emerges from the provisions concerning those aspects of the contractual relationship between online intermediation service providers and business users that are not related to the content of the terms and conditions. These rules consider specific events that may take occur after the conclusion of the contract and impose specific obligations on platforms. Therefore, Regulation does not introduce this second stage of protection in relationships between providers of online search engines and corporate website owners, because of the absence of a contractual relation.

The European legislator has selected two relevant aspects as significant deviations from the ordinary performance of the contract: unilateral changes in contractual terms and conditions, in art. 3(2); and restriction, suspension or termination of contracts, in art. 4.

In addition to these two aspects, the provision of art. 3(5) can also be listed in the second level of protection, ensuring that the identity of the business user is clearly visible.

Art. 3(2) governs the manner in which an online intermediation services provider may unilaterally change terms and conditions. The provision requires several elements of protection: notification of changes on a durable medium; a period of notice to be observed before implementation of the changes, with a minimum duration of 15 days from the

[31] See C Twigg-Flesner, 'The European proposal' (n 1) 227.

notification[32]; the right of the business user to terminate the contract before expiry of the period of notice. This protection is supplemented by the prohibition of retroactive changes as set out in Art. 8.

However, the notice period may be waived if the business operator renounces, by written statement or clear affirmative action[33]; when changes are required to the provider by a legal or regulatory obligation in a way which does not allow it to comply with the notice period; or if the changes are necessary to address an unforeseen and imminent danger to the services[34].

The same protective purpose can be found in the rules governing the restriction, suspension or termination of contracts by providers. This is a sensitive aspect of the contractual relations under consideration, highlighting the great power of providers in the administration of their services.[35].

The first level of protection determines the necessary indication in the terms and conditions of the grounds for decisions to suspend or terminate or impose any other type of restriction on the intermediation services provided. Then, art. 4 establishes a second level of protection, requiring the manner in which this decision must be declared. This provision distinguishes between restriction and suspension of services, on the one hand, and termination, on the other. In both cases, the Regulation requires platforms to provide a statement of reasons for the decision on a durable medium to business users. This notification must contain certain information, listed in § 5. In particular, it must state the facts and circumstances of the decision, with particular regard to the contents of the third party notifications.

The last aspect indicated concerns the case in which one of these decisions is based on information notified by a third party to the online intermediation service provider. Such a situation may arise in the case of negative feedback from consumers, or notification of contractual violations by other business users. Negative feedback may lead to a restriction or suspension of services, especially in the form of a downgrade in the ranking of the offers[36].

In the case of other commercial users, an infringement notification may be justified by an interest in limiting competition on the platform and may represent a consistent criticality. The relevance of the concerns is compounded by the risk of abuse of the notifications that could lead to delisting[37]. These concerns have been brought to the attention of the

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32 The notice period shall be longer if «this is necessary to allow business users to make technical or commercial adaptations to comply with the changes». see art. 3(2).

33 Such as submission of new goods and services to the provider during this period.

34 In particular, the norm considers «fraud, malware, spam, data breaches or other cybersecurity risks».

35 The right to suspend, limit or terminate contracts can be considered as a confirmation of the unbalanced bargaining power between providers of online intermediation service and their business users. The clause attributing a similar right is considered in art. 9(3), of Italian law n. 192/1998, as an exemplification of abuse of economic dependence, and consequently it can be considered null. See F De Leo, 'Sospensione dell'account da parte di Ebay: tecniche di risoluzione, clausole vessatorie e abuso di dipendenza economica' (2013) 6 *Resp. civ. prev.*, 2031; I P Cimino, 'Sospensione ingiustificata dell'account di vendita ed inadempimento di eBay' (2011) 4 *Contratti*, 351; E Bacciardi, 'Contratti telematici' (n 6) 381–391.

36 See 22th whereas: «short of being suspended, providers of online intermediation services can also restrict individual listings of business users; for example, through their demotion or by negatively affecting a business user's appearance ('dimming') which can include lowering its ranking».
In this sense Consumer evaluation could become a sanction for business users. See V Zeno-Zencovich, 'Comunicazione, reputazione, sanzione' (2017) 2 *Dir. Informatica*, 263-275; G Smorto, 'Reputazione' (n 22) 199-218.

37 The Regulation considers this issue even in case of providers of online search engine in 26th whereas, but it is required only a publicly accessible online database, due to the absence of a contractual relationship. This measure can allow corporate website user to inspect the contents of the notification, helping them to mitigate potential abuses, by competitors, of notifications that could lead to delisting.

Competition Authorities[38].

Despite the importance of the issue, the Regulation only requires the content of these notifications to be communicated to the operators to whom they relate, without any adequate system for verifying them. This choice placed the burden of defence on commercial users. In fact, the regulation provides for the possibility for them to clarify the facts and circumstances that justified the provider's decision, through the internal compliant-handling process (art. 11) [39].

Moreover, the statement of reasons is not always required. In fact, art. 4(5) allows this duty to be waived in the event a legal or regulatory obligation not to provide reasons, or in case of repeated infringements of term or condition by users.

The required noticed period varies: the decision to restrict or suspend the service may even be communicated at the time when it applies; in the case of termination, art. 4(2) imposes that notice must be given at least 30 days before the decision takes effect. Again, the notice period may be avoided for different reasons; the first one is the same for changes in terms and conditions; the second refers to to compelling reasons under national and Union law, and may include the reason indicated in Art. 3(5)(b); finally, a third case is introduced referring to repeated infringements of terms and conditions.

In conclusion, the Regulation employs an essentially formal approach also for the level of protection analysed above. Duties of information were preferred to the imposition of a limitation of the power to change the terms or to restrict or terminate the contract. It can be argued that the European institutions have adopted the concept of procedural good faith in determining this legal framework, requiring only that a procedure inspired by a legal assessment of good faith and fairness be followed. This procedure finally lead only to the choice for business users to terminate the contract, in case of contractual changes, or to defend themselves in the internal compliant-handling process, in case of restriction, suspension and termination.

4. Alternative dispute resolution.

The third level of protection developed for commercial users of online platforms consists of alternative dispute resolution (ADR) and law enforcement requirements. It can be considered as the closure of the protection system. The fundamental role of this level of protection responds to the need for business users to easily and conveniently raise their complaints about both technical and legal issues arising in the performance of the contract[40].

The required ADR comprises two different models: an internal compliant-handling system, disciplined in art. 11; and the indication of mediators, imposed by art. 12. The relevance of those requirements is highlighted by their necessary indication in terms and

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[38] See on the point AGCM, 19th December 2014, consultable at https://www.agcm.it/dotcmsDOC/allegati-news/PS9345_scorrsanz_omi.pdf (accessed: 29th June 2020), in which Italian AGCM condemned Tripadvisor for an unfair commercial practice (arts. 18 ff cod. cons.) consisting in claims concerning the genuine content of its reviews. The decision was then annulled with the sentence Tar Roma, (Lazio) sez. I, 13th July 2015, n. 9355, (2015) 3 *Dir. Informatica*, 494; but, finally, it has been confirmed by Cons. St., sez. VI, 15th July 2019, n. 4976, (2020) 4 *Foro it.*, 246.
See L Vizzoni, 'Recensioni non genuine su Tripadvisor: quali responsabilità?' (2018) 2 *Resp. civ. prev.*, 706-722; L Carota, 'Diffusione di informazioni in rete e affidamento sulla reputazione digitale dell'impresa' (2017) 4 *Giur. Comm.*, 624-638; A De Franceschi, 'The Adequacy of Italian Law for the Platform Economy' (2016) 5 *EuCML*, 56.

[39] A favorable conclusion of this process shall determine the reinstate of the users without delay.

[40] Many online platforms, such as Booking, Airbnb, Paypal, Amazon and eBay, provide a system of resolution concerning dispute between suppliers and customers. On this topic see S Casabona, 'Intermediazione digitale' (n 7) 497. The Regulation does not require the implementation of these systems, having regard only for dispute between business users and providers of online intermediation services.

condition

The required ADR comprises two different models: an internal complaint-handling system, regulated in art. 11; and the indication of mediators, required by art. 12. The relevance of these requirements is highlighted by their mandatory indication in the terms and conditions of the contract[41].

However, the system has an important limitation: both of these articles do not apply to providers of online intermediation services that are small enterprises in the sense clarified in the Annex to Recommendation 2003/361/EC.

The internal complaint-handling system ensures a rapid and inexpensive resolution of disputes arising in the regulated contractual relationships. As Art. 12(1), requires, it «shall be easily accessible», «free of charge for business users» and reasonably expeditious. The Regulation also lists the essential principles of the system, which are transparency, equal treatment and proportionality to the importance and complexity of the complaint. In addition, Art. 11(2), prescribes general arrangements for the process, and Art. 12(4), requires readily available information on its function and effectiveness.

The most important aspect of the Framework is the list of issues to be considered in the system. They are, according to art. 11(1)(2): (a) the failure of providers to comply with any of the obligations of the regulation, (b) technological issues that directly affect the provision of online intermediation services, and (c) measures taken by, or the conduct of, providers directly related to the services.

Subparagraphs (a) and (b) concern technical and legal issues relating to the provision of online intermediation services. In particular, sub-paragraph (a) requires an effective and rapid resolution of all complaints relating to the application of the Regulation. Consequently, it is possible to consider the complaints management system as a first and private level of enforcement of the legal framework.

In addition, subparagraph (c) extends the relevant issues to those relating to decisions of the platforms which may affect the convenience of the services for business users. In this sense, the compliant-handling system can be involved in the realisation of the right to clarification of the facts and circumstances that led to the platform's decision to limit, suspend or terminate the contract, as set out in Art. 4(3).

The regulation also obliges platforms to provide for a mediation system. In particular, art. 12(1) requires platforms to identify two or more mediators[42] in the terms and conditions of the contract in order to make business users aware of their right to settle the dispute out of court. In order to ensure the effectiveness of the system, the regulation requires that the costs of mediation be reasonably borne by both parties. In particular, this proportion is to be established by the mediator, according to several criteria exemplified in art. 12(4)[43].

Mediation does not impede a recourse to judiciary proceedings, as it remains essentially

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41 Art. 11(3), establishes that platforms have to provide «all relevant information relating to the access to and functioning of their internal complaint-handling system»; and art. 11(1), oblige providers to identify in their terms and conditions two or more mediators.

42 The Regulation requires the Commission and Member States to encourage providers of online intermediation services to set up organizations providing mediation, with the purpose of facilitating the out-of-court settlement. See art. 13. The regulation describes all requirements that mediators shall meet, in art. 12, §2, such as, impartiality and independence, affordable costs for business users, language of the mediations, easy physical or remote access, mediation without delay and sufficient understanding of general business-to-business relations. It is also possible to identify mediators outside Europe if they ensure the application of benefits deriving from Union and Member State law.

43 They are: «the relative merits of the claims of the parties to the dispute, the conduct of the parties, as well as the size and financial strength of the parties relative to one another». See art. 12(4).

voluntary for parties[44]. However, the need for ADR to be effective means that business users and providers of online intermediation services must engage in good faith this procedure[45].

Finally, art. 14 allows representative organisations or associations of business users or public bodies of Member State to stop or prohibit any non-compliance with relevant requirements of the Regulation. This provision ensures that infringements of the Regulation can be repressed if «various factors» would «obstacle the business users recourse to the judge»[46].

Conclusions.

The brief analysis of the principal aspects of Regulation (EU) n. 1150/2019 makes clear the fragile balance achieved between the interests of the professional parties involved in the online platform market. The European legislator has adopted a contractual and formal approach, consisting of three levels of protection that are not fully adapted to the protection needs of business users[47], especially if compared to the consumer protection *acquis*. This formal approach does not solve several issues related to platform contracts.

First of all, the articles on terms and conditions do not impose any substantive limitations on the rights and obligations of the parties. Thus, the legal framework allows online intermediary service providers to introduce any contractual clause, even a significantly unbalanced one, as long as it is clearly and intelligibly stated in the contractual contents. Even if this formal protection could be seen as responding to the characteristic distinction between the vulnerabilities of commercial users and those of consumers, the regulation should have been more stringent in determining the legal framework relating to ranking, the MFN clause and the right to suspend, restrict or terminate contracts unilaterally. Indeed, these clauses can impose a significant limitation on the contractual freedom of the parties.

As a second level of protection, the regulation requires procedural good faith for the most significant events in the performance of the contract. The legal framework may be considered adequate for the purpose of legal protection of business users in the event of unilateral changes to the content of the contract, but there are still concerns about the most controversial aspect in the contractual relationships considered. In particular, for the legal protection against restriction, limitation or termination of the contract imposed on business users by platforms, there is no adequate protection. In particular, the regulation ignores the problem of verifying the reliability of notifications or negative feedback from third parties.

Finally, the third level of protection, introducing two degrees of ADR, i.e. complaint and mediation, can be considered adequate to the objective of avoiding the expensiveness and length of court proceedings. However, its practical relevance could be affected by uncertainties in the rights of the parties. In particular, the lack of substantive protection in terms and conditions, and the uncertainty of the remedies granted to business users in the event of a violation of the regulation may impede effective protection even through recourse to ADR.

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[44] Art. 12(5), Reg. (EU) n. 1150/2019.

[45] Art. 12(3), Reg. (EU) n. 1150/2019.

[46] See 44th whereas Reg. (EU) n. 1150/2019: «Various factors, such as limited financial means, a fear of retaliation and exclusive choice of law and forum provisions in terms and conditions, can limit the effectiveness of existing judicial redress possibilities, particularly those which require business users or corporate website users to act individually and identifiably. To ensure the effective application of this Regulation, organisations, associations representing business users or corporate website users, as well as certain public bodies set up in Member States, should be granted the possibility to take action before national courts in accordance with national law, including national procedural requirements».

[47] See C Twigg-Flesner, 'The European proposal' (n 1) 232, who considered the proposal of the Regulation to be too timid.

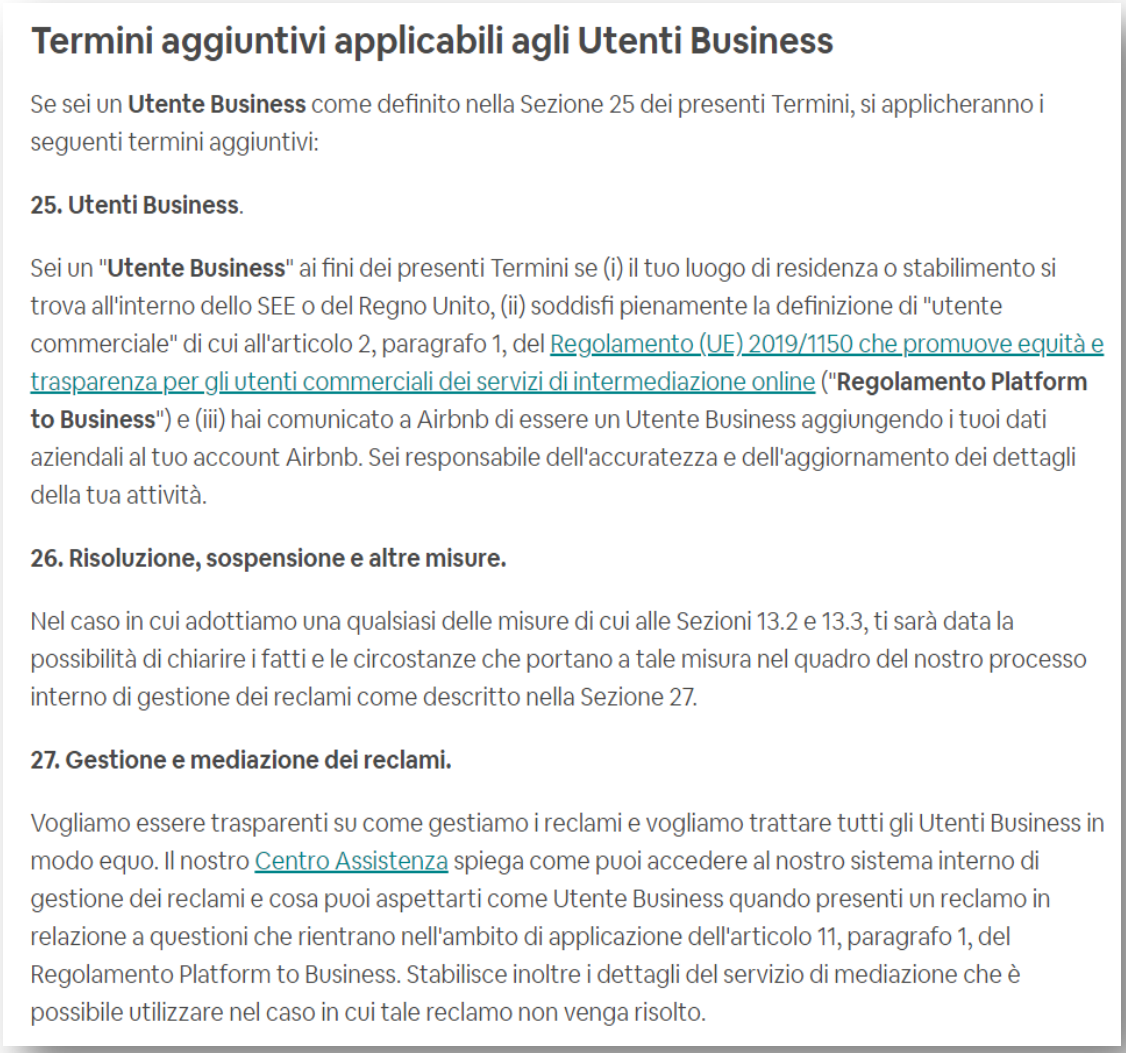
The critical issues highlighted and the choice of the contractual perspective[48] without clear harmonisation rules may lead to the failure of the aim of ensuring legal certainty through a single regulatory framework in Europe. It can be argued that the domestic law of the Member States will be invested in completing the protection granted to business users.

For instance, from an Italian perspective, the most controversial aspects of the contractual relationship should be addressed through the application of general requirements for the right to terminate the contract, with particular regard to clauses considering non-performance. In this sense, an adequate description of each relevant non-performance as in art. 1456 of the Italian Civil Code, or alternatively a requirement of seriousness for breaches as in art. 1455, may be required in addition to the provisions of the regulation.

Finally, a clear level of protection can be afforded by applying art. 9 l. n. 192/1998 on the abuse of economic dependence. This particular situation can occur in the relationship between online platforms and commercial users, especially in cases where the latter offer a relevant part of their product or service through the platform. In addition, many of the aspects of these contracts lead to hypotheses of abuse, such as the MFN clause and the provisions introducing arbitrary bases of suspension, termination or limitation of the service. Therefore, the application of art. 9 can lead to the remedy of nullity for the most problematic aspects considered in the regulation, completing the level of protection established.

In conclusion, the analysis of Reg. (EU) n. 1150/2019 shows an ambiguous approach of the European intervention. On the one hand, it responds to the need of legal protection for business users of online intermediation services; on the other, the protection model adopted reveals a scrupulous consideration of the interest of platforms, in order not to freeze the development of the so-called collaborative economy. In other words, it can be said that the European institutions, in determining the necessary level of protection, were more concerned with the widespread use of platforms than with the vulnerability of commercial users. Even if a full consideration of legal remedies at the domestic level may resolve some problematic aspects of the Regulation, it can be concluded that the intervention of the Regulation is largely disappointing in the perspective of a more comprehensive and uniform legal framework.

[48] Some scholars have suggested a different legal intervention in view of the coordination that a contractual approach would require. This issue is particularly evident in relation to national contract law or the European consumer acquis. See C Busch, H Schulte-Nölke, A Wiewiorowska-Domagalska, F Zoll, 'The Rise of the Platform Economy: A New Challenge for EU Consumer Law?' (2016) 5 *EuCML*, 3–10; T Rodriguez de las Heras Ballell, 'The Legal Anatomy of Electronic Platforms: A prior study to assess the need of a Law of Platforms in the EU' (2017) 1 *ItaLJ*, 149-176; C Twigg-Flesner, 'The European proposal' (n 1) 231.



Termini aggiuntivi applicabili agli Utenti Business

Se sei un **Utente Business** come definito nella Sezione 25 dei presenti Termini, si applicheranno i seguenti termini aggiuntivi:

25. Utenti Business.

Sei un "**Utente Business**" ai fini dei presenti Termini se (i) il tuo luogo di residenza o stabilimento si trova all'interno dello SEE o del Regno Unito, (ii) soddisfi pienamente la definizione di "utente commerciale" di cui all'articolo 2, paragrafo 1, del Regolamento (UE) 2019/1150 che promuove equità e trasparenza per gli utenti commerciali dei servizi di intermediazione online ("**Regolamento Platform to Business**") e (iii) hai comunicato a Airbnb di essere un Utente Business aggiungendo i tuoi dati aziendali al tuo account Airbnb. Sei responsabile dell'accuratezza e dell'aggiornamento dei dettagli della tua attività.

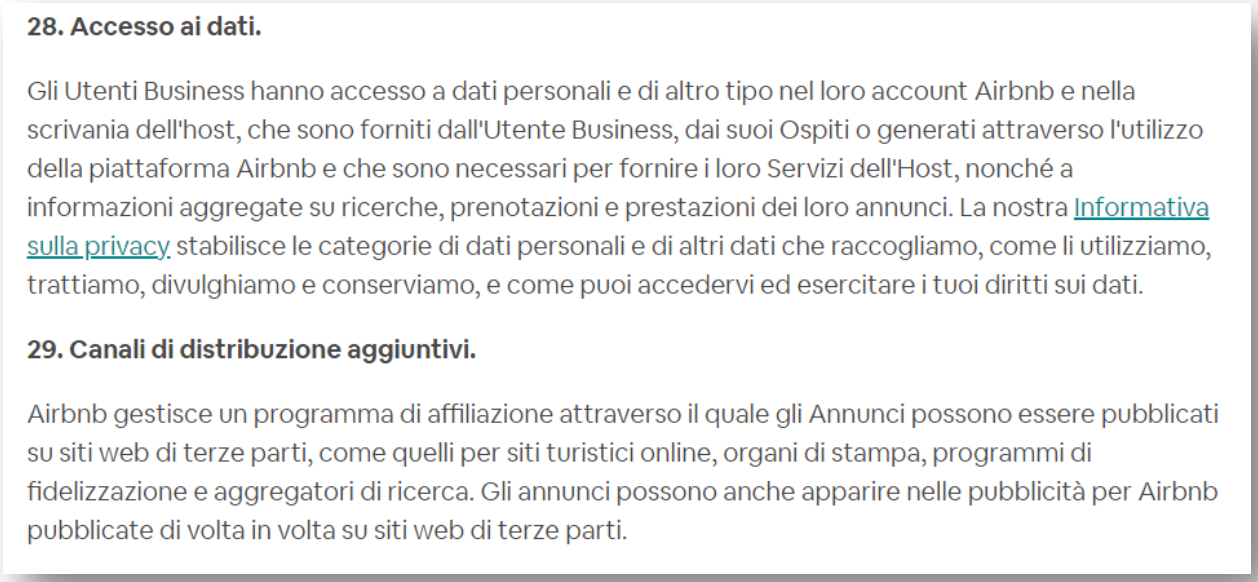
26. Risoluzione, sospensione e altre misure.

Nel caso in cui adottiamo una qualsiasi delle misure di cui alle Sezioni 13.2 e 13.3, ti sarà data la possibilità di chiarire i fatti e le circostanze che portano a tale misura nel quadro del nostro processo interno di gestione dei reclami come descritto nella Sezione 27.

27. Gestione e mediazione dei reclami.

Vogliamo essere trasparenti su come gestiamo i reclami e vogliamo trattare tutti gli Utenti Business in modo equo. Il nostro Centro Assistenza spiega come puoi accedere al nostro sistema interno di gestione dei reclami e cosa puoi aspettarti come Utente Business quando presenti un reclamo in relazione a questioni che rientrano nell'ambito di applicazione dell'articolo 11, paragrafo 1, del Regolamento Platform to Business. Stabilisce inoltre i dettagli del servizio di mediazione che è possibile utilizzare nel caso in cui tale reclamo non venga risolto.

An example: Terms and condition elaborated by Airbnb



28. Accesso ai dati.

Gli Utenti Business hanno accesso a dati personali e di altro tipo nel loro account Airbnb e nella scrivania dell'host, che sono forniti dall'Utente Business, dai suoi Ospiti o generati attraverso l'utilizzo della piattaforma Airbnb e che sono necessari per fornire i loro Servizi dell'Host, nonché a informazioni aggregate su ricerche, prenotazioni e prestazioni dei loro annunci. La nostra Informativa sulla privacy stabilisce le categorie di dati personali e di altri dati che raccogliamo, come li utilizziamo, trattiamo, divulghiamo e conserviamo, e come puoi accedervi ed esercitare i tuoi diritti sui dati.

29. Canali di distribuzione aggiuntivi.

Airbnb gestisce un programma di affiliazione attraverso il quale gli Annunci possono essere pubblicati su siti web di terze parti, come quelli per siti turistici online, organi di stampa, programmi di fidelizzazione e aggregatori di ricerca. Gli annunci possono anche apparire nelle pubblicità per Airbnb pubblicate di volta in volta su siti web di terze parti.

An example: Terms and condition elaborated by Airbnb