

# Love letters from Brussels

Rights for self employed platform workers in EU law

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# Content

- GDPR
- Platform-to-Business Regulation
- Proposed Platform Work Directive
- Three short notes
  - Proposed EU Regulation on Algorithmic Systems
  - California Privacy Law
  - California AB 1790

# GDPR

- Scope
  - All natural persons in the EU
  - Legal location of the “controller” doesn’t matter
  - Physical location of the server doesn’t matter

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  - Article 29 Working Party Opinion 4/2007 “On the concept of personal data”
  - Website of the UK data protection authority (“ICO”)
- Irish Data Protection Commissioner: only “content”!

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- Problem from the EU legislator point of view:
  - Data protection law is not being uniformly applied!
- Solution:
  - European Data Protection Board should officially adopt Opinion 4/2007

# GDPR

- Art. 40 “Codes of Conduct”

# Platform-to-Business Regulation

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- “Regulation 2019/1150 on promoting fairness and transparency for business users of online intermediation services”

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- location of the provider of intermediation services does not matter

# Platform-to-Business Regulation — Definitions

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- “business user”

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- “business user”
  - any private individual acting in a commercial or professional capacity who, or any legal person which, through online intermediation services offers goods or services to consumers for purposes relating to its trade, business, craft or profession

# Platform-to-Business Regulation — Definitions

- “online intermediation services”

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- “online intermediation services”
  - information society services that “allow business users to offer goods or services to consumers, with a view to facilitating the initiating of direct transactions between those business users and consumers, irrespective of where those transactions are ultimately concluded”

# Platform-to-Business Regulation — Definitions

- “consumer”



# Platform-to-Business Regulation — Definitions

- “consumer”
  - any natural person who is acting for purposes outside their trade, business, craft or profession

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  - must be in “plain and intelligible language”
  - must “set out the grounds for decisions to suspend or terminate or impose any other kind of restriction upon” the provision of the services

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  - Written reasons are required
    - At least 30 days in advance for termination
  - Business user must have a chance to “clarify the facts and circumstances”

# Platform-to-Business Regulation — Rights

- Article 5: Ranking
  - Must be explained (to some extent)

# Platform-to-Business Regulation — Rights

- Article 11: Internal complaint handling system

# Platform-to-Business Regulation — Rights

- Article 12: Mediation (external, independent, impartial)

# Platform-to-Business Regulation — Rights

- Article 18: Review (in 2021)

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- Article 17: Codes of Conduct

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  - Right to judicial remedy (no forced arbitration)
  - Fair, accurate, transparent, “fit for purpose” evaluation systems

# An Algorithmic Systems Regulation?

- Report of the German “Data Ethics Commission”
  - <https://datenethikkommission.de/gutachten/>



# California Consumer Privacy Act

- Enters into force January 1, 2020
- Not as strong as GDPR
- But definition of “personal information” includes “professional or employment-related information”

# California AB 1790 “Marketplace sellers”

- Enters into force January 1, 2020
- Some vaguely worded parts
- California version of the Platform-to-Business Regulation
  - Imposes requirements on terms and conditions and dispute resolution