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## Online intermediation services: new law for implementing the Platform-to-Business Regulation

**Entry into force of the law of 5 March 2021 on certain rules for the implementation of Regulation (EU) No 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.**

On 14 March 2021, the law of 5 March 2021 on certain rules for the implementation of Regulation (EU) No 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 “**P2B Regulation**”) (hereinafter the “**Law**”) entered into force.

The P2B Regulation aims to regulate the relationship between online platforms and business users by prohibiting certain practices deemed unfair and by improving transparency for professional users. It is the first legal framework of its kind at the international level. For more information in that respect, [please read our Newsflash on the P2B Regulation](#)\_

Following the entry into force of the P2B Regulation in July 2020, Member States are obliged to set up mechanisms to take action against providers of online intermediation services and providers of online search engines (“**Providers**”) in the event of non-compliance with obligations under the P2B Regulation. Bill of law no. 7537 has therefore been adopted with the aim of specifying how legal action may be taken before the courts in Luxembourg.

In order for an organisation or association to be able to take legal action before the Luxembourg courts to stop or prohibit any act contrary to the provisions of the P2B Regulation (*action en cessation*) (“**action for injunction**”), the organisation or association must first meet the eligibility requirements laid down in Article 14 of the aforementioned P2B Regulation in order to be designated as having the right to take action. The Law provides that the Ministry of the Economy (the “**Ministry**”) will designate the eligible organisations and associations that meet the requirements, at their request. Following such approval, the Ministry will communicate this information to the European Commission in order to have the organisations and associations included on the official list of organisations and associations that may take legal action, which is published in the Official Journal of the European Union. The approval of the Ministry, and thus the registration on the aforementioned list, is valid for a period of five (5) years and may be renewed.

The Law further provides that the action for injunction must be brought in accordance with the procedure applicable to proceedings before the summary judgment court (*le tribunal des référés*) and that the presiding magistrate will rule as the trial judge. Parties have 15 days to appeal the judge's ruling.

The competent court may order that its decision be published on the offending Provider's website, as well as in any other publication, in whole or in part, at the offending Provider's expense. However, posting and publication may only be carried out by virtue of a court decision that has the authority of *res judicata* (*force de chose jugée*).

Finally, the Law provides for the following sanctions that may be imposed on the offending Provider:

- in case of failure to comply with the decision, the courts may order penalties of up to 1,000,000 euros;
- business users, corporate website users and eligible organisations and associations under the P2B Regulation may also appear as injured civil parties before Luxembourg criminal courts based on acts that cause prejudice to their individual or collective interests; and
- in case of conviction, the courts may order the publication of the decision in the newspapers or the posting of the decision. In the event of an acquittal decision, courts may order its publication or posting at the expense of the State.

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