



CONFEDERATION OF INDUSTRY
OF THE CZECH REPUBLIC

PRAGUE, 18 NOVEMBER 2019

REF. NO.: GR/267/2019

List of recipients:

*HE Marja Rislakki,
MEP Patryk Jaki,
Commissioner Julian King,
Commissioner Dimitris Avramopoulos*

cc:

*Commissioner Věra Jourová,
Commissioner Mariya Gabriel,
Commissioner Maroš Šefčovič,
MEP Patrick Breyer,
MEP Cornelia Ernst,
MEP Marina Kaljurand,
MEP Maite Pagazaurtundúa,
MEP Javier Zarzalejos,
MEP Marcel Kolaja,
MEP Julie Ward*

Your Excellence, Dear Commissioners, Dear EP members,

We, the undersigned European trade associations, fully support the European Commission's goal to fight online dissemination of terrorist content and incitement to violence. We also welcome the Commission's intention to clarify processes and improve the cooperation between the competent authorities, law enforcement bodies and the private sector to address this important societal challenge.

We remain concerned about some provisions in the European Commission's proposal and in the EU Council's General Approach. At the same time we welcome amendments introduced by the European Parliament, which address most of our major concerns. As the European Parliament, the EU Council and the European Commission seek to reach a final agreement in the trilogue, we would like to offer the following recommendations to ensure that the final text introduces appropriate safeguards regarding rule of law, fundamental rights, and the feasibility of implementation for the European companies:

- **Proactive measures:** Requiring hosting service providers to adopt mandatory proactive measures runs contrary to Article 15 of the e-Commerce Directive. The process introduced by the European Parliament, in which member states may suggest measures in line with companies' technical feasibility, is an improvement that we fully support. We also welcome that the European Parliament makes the proactive measures voluntary. In addition, the European Parliament is right to delete

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THE CONFEDERATION OF INDUSTRY OF THE CZECH REPUBLIC HAVE SIGNED UP TO THE EU TRANSPARENCY REGISTER AND THE ASSOCIATED CODE OF CONDUCT. REGISTER IDENTIFICATION NUMBER: 785320514128-81.

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provisions on mandatory prevention of the re-upload of “content.” Such a provision would derogate from the e-Commerce Directive and fail to take into account technical limitations and the complexity of evaluating re-uploads (for instance for academic or news purposes).

- **Scope:** We argue that the scope of the regulation should be narrowed down by excluding B2B cloud services, which are not being used for the incitement for terrorism. We support the European Parliament’s text, which specifies that ‘cloud infrastructure providers and cloud providers are not considered hosting service providers,’ nor electronic communications services. Such definition ensures that the regulation's intent remains intact, while providing a necessary clarity for companies.
- **Removal Orders:** It is difficult to imagine that all hosting service providers, regardless of their size, will be able to comply with the one hour turnaround time for the removal of terrorist content. It also risks excessive takedowns that run counter to the fundamental rights of citizens in Europe. Authorities should be required to give a “detailed statement of reasons” up front, and allow companies to “stop the clock” where they, in good faith, need to seek additional information to discharge their duties responsibly.
- **Competent authorities:** We support the European Parliament, which has clarified that a ‘competent authority’ should be a ‘single designated judicial authority or functionally independent administrative authority in the Member State.’ Such a requirement would bring efficiencies and protections that would help ensure that hosting service providers were better able to comply with removal orders.
- **Data retention and data disclosure:** Small providers would have difficulty complying with the requirement of data preservation, due to the infrastructure needed and related costs required to preserve such a potentially large amount of data. Moreover, this might lead to a high financial burden on member states. We are also concerned that new referral obligations requiring proactive disclosure to law enforcement impede existing practices, introduce conflicts of law and put companies in an untenable position of assessing information for criminal evidentiary value.

We, the undersigned trade associations, wish to engage constructively in the further discussions to ensure a workable text that would fulfill the ambition to effectively tackle illegal content online, while preserving European competitiveness and respecting the freedom of expression. We stay at the disposal to all stakeholders.

Yours sincerely,



Dagmar Kuchtová

Director General, Confederation of Industry of the Czech Republic

ASIC

Association
des Services
Internet
Communautaires



APDETIC
Asociația Producătorilor
și Distribuitorilor
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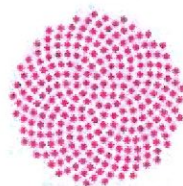
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