



Commission initiatives on tackling illegal content online

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Which initiatives?

27/9/2017

- **Communication** on Tackling illegal content online – towards an enhanced responsibility for online platforms

1/9/2018

- **Recommendation** on measures to effectively tackle illegal content online

2/3/2018

- **Inception Impact Assessment** on Measures to further improve the effectiveness of the fight against illegal content online

4Q 2018

- Potentially, further measures

Context

Digital Single Market Strategy for Europe (6th May, 2015)

Online platforms, as major channels for content consumption, have an increasingly important role to play and need to step up their social responsibility

E-Commerce Directive: it remains the relevant legal framework: the Commission committed not to modify the E-Commerce Directive

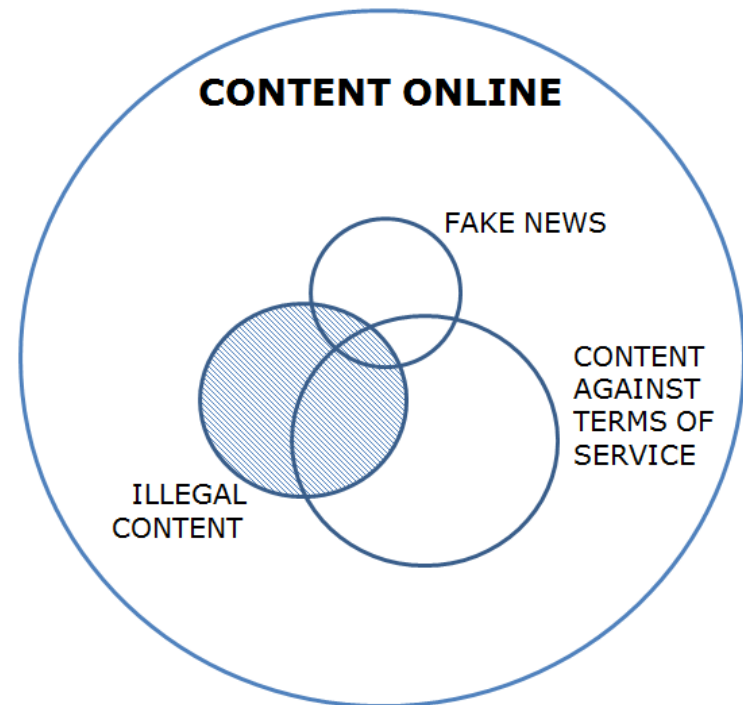
MS cannot impose general monitoring obligations



Scope

- Addressed to hosting services providers
- Concerning illegal content online.

Illegality is determined by specific legislation at EU level, as well as by national law.



Principles and safeguards

*The Communication and the Recommendation outline principles and safeguards in the **different steps** of the procedure:*

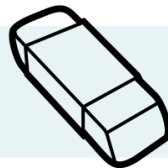
Identification of
illegal content



Avoiding that
illegal content
reappears online



Removal of
illegal content



Recommendation

- *It is a legal instrument, but without binding nature*
- *It builds on the Communication and translates its political commitment into a legal form.*
- *Addressed to Member States and hosting services providers*
- *It applies to all types of illegal content – but the focus is on terrorism related content.*
- *Legal fragmentation hampers the operation of platforms.*
- *Monitoring for 3/6 months. The Commission will assess if binding instruments are needed.*

What's in the box

Clearer 'notice and action' procedures

More efficient tools and proactive technologies

Stronger safeguards to ensure fundamental rights

Transparency

Closer cooperation with authorities and trusted flaggers

Specific chapter on Terrorism

Clearer 'notice and action' procedures

- *Need for easy and transparent rules for notifying illegal content*
- *Minimum content of a notice*
- *Counter-notice procedures*
 - **For removals as result of a notice**
 - **For automatic or proactive removals**
- *Measures against abusive behaviour (abusive notices and counter-notices, repeat infringers...)*
- *Need for fast-track procedures for 'trusted flaggers'*
- *Out-of-court dispute resolution mechanisms*
- *Link with P2B Regulation*

More efficient tools and proactive technologies

- *Platforms should have proactive tools to detect and remove illegal content, in particular for content which does not need contextualisation to be deemed illegal*
- *This remains voluntary – no obligation to monitor*
- *Special attention to SMEs: call for cooperation among industry to benefit smaller platforms with more limited resources and expertise*

Stronger safeguards to ensure fundamental rights

- *"Human in the loop": human oversight and verification, in full respect of fundamental rights, freedom of expression and data protection rules*
- *Due diligence to avoid unintended and erroneous decisions*
- *Special attention to contextual illegality*

Transparency

- *Encouragement to publish clear explanations on content policy – both on illegal content and content against ToS*
- *Encouragement to regular publication of transparency reports*
 - **Preferably at least annually**
 - **Including information on amount of content removed, number of notices and time needed for taking action**
- *Link with P2B regulation*

Closer cooperation with trusted flaggers

- *Fast-track procedures for notices submitted by trusted flaggers (confidence on accuracy)*
- *Need to convey conditions for becoming a trusted flagger*
- *Need for expertise and diligence by trusted flaggers*
- *The experience from the MoU feeds work in this area*

Specific chapter on terrorism

- *Based on cooperation built in the EU Internet Forum*
- *Fast removal (1h) for referrals sent by enforcement authorities*
- *Proactive measures (including "staydown"), based on the Database of Hashes*

Way forward

- *Reporting:*
 - **Information from sectoral dialogues essential, eg. MoU**
 - **MS and platforms are asked to report in 6 months relevant information to allow for monitoring**
- *IIA*
- *Impact assessment in the making*
- *Potentially, further legislative measures (Q4 2018)*