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**22.1.2019**

**Resolution for ACR AGM 2019**

**Association for Consumer Rights AGM 2019**

***Title of Resolution***

**Tackling Illegal content in online platforms**

***Name of individual submitting the resolution***

**Grace Attard ACR General Secretary**

**Background**

Online platforms are a type of information society service provider that acts as an intermediary in a given digital ecosystem. They include a wide range of actors participating in numerous economic activities, such as e-commerce, the media, search engines, the collaborative economy, non-profit activities, the distribution of cultural content or social networks.

* There is no clear and precise definition of online platforms and it is difficult to formulate one due to their continually evolving nature. Currently, they play an important role in the internal market, a role that will only increase in the future.
* Illegal online content is a complex and cross-cutting issue that needs to be tackled from a range of perspectives, both in terms of assessing its impact and harmonising the way it is dealt with in the legal framework of the Member States.
* In response to the EU Commission communication the European Economic and Social Committee (EESC) emphasises the importance of establishing a **suitable and balanced regulatory framework** **for platforms i**n the digital single market that could help **to establish a climate of trust, both for businesses and for consumers in general, enabling them to use platforms with confidence**

**Justifications, reasons and current situations to be addressed**

**The aim is to step up the implementation of good practices** in **the prevention, detection, removal or disabling of access to illegal content**, in order to

* ensure that it is effectively removed
* increase transparency and the protection of fundamental rights online
* provide clarification for platforms on their liability when they take proactive steps to detect, remove or disable access to illegal content (the so-called "Good Samaritan" actions)

In short, the Communication serves as a guideline but does not change the applicable legal framework or contain legally binding rules.

* Its objective is, firstly, to provide guidance to online platforms on the best way to live up to their responsibilities when it comes to tackling the illegal content they host.
* It also aims to mainstream good procedural practices against different forms of illegal content, and to promote closer cooperation between platforms and competent authorities.

**Conclusions and recommendations**

* Regulatory and self-regulatory policy measures that are flexible, sustainable and respond directly to challenges should be adopted, in particular for procedures relating to the detection, investigation, notification and removal of illegal content on platforms.
* A basic fundamental principle is that what is illegal in the real world is also illegal online, and this should be reflected in coherence between rules that apply online and offline in equivalent situations
* Such balance is also needed between online platforms of varying size and pursuing different activities
* Appropriate measures against the growing presence of violent and/or discriminatory messages on platforms, need to be taken, stressing the importance of protecting vulnerable people and children and combating all forms of racism, sexism, incitement to terrorism and harassment, including in the digital environment.
* Attention should be paid in particular to the effectiveness of actions taken in relation to those online platforms whose headquarters are located outside EU territory.

The application of the guiding principles for detection, investigation, notification and withdrawal procedures should be encouraged in the following cases:

* to defend rights that are recognised by international conventions, such as those aimed at: protecting children from any digital content which may be contrary to the provisions of the Convention on the Rights of the Child;
* protecting persons with disabilities from any digital content which may be contrary to the provisions of the Convention on the Rights of Persons with Disabilities;
* to guarantee the absence of gender-based discrimination in digital content, in particular as regards the application of the principle of equal treatment of men and women in accessing and supplying goods and services and guaranteeing gender equality and human dignity in advertising;
* to ensure that digital content complies with the provisions of the Digital Agenda to enhance safety and consumer rights in the digital society

In order to ensure that illegal online content is removed more quickly and in a more reliable way, mechanisms need to be established to facilitate the work of **"trusted flaggers**". These are specialised entities with specific expertise in identifying illegal content and dedicated structures for detecting and identifying such content online.

As regards communication with users, **online platforms should establish an easily accessible and user-friendly mechanism** to enable their users to report content hosted by them that they consider to be illegal

It should be made clear that Artificial Intelligence must not replace decisions taken by human beings on the basis of ethical assessments.

Cases of illegal content ought to be set out in such a way that, as far as possible, a **common understanding may be established among Member States**, thus enabling them to prioritise and determine the limits of these cases, including cases relating to the following:

* national security (terrorism, corruption, drug trafficking, arms trafficking, tax evasion and money laundering);
* protection of minors (pornography, violence, etc.);
* human trafficking, prostitution and gender-based violence, including sexist advertising;
* protection of human dignity (incitement to hatred or discrimination based on race, gender or ideology, or as regards sexual orientation);
* economic security (frauds and scams, piracy and counterfeiting, etc.);
* security of information (criminal hacking, collection of data for commercial reasons, avoidance of competition, disinformation, etc.);
* protection of privacy (cyber-bullying, leaking and use of personal data, interception of personal communication, interception of people's location, etc.);
* protection of reputation (defamation, illegitimate comparative advertising, etc.)
* intellectual property

With regard to **detection and reporting of illegal content**, the Communication states that

* **national courts and authorities can adopt protective and other measures** to remove or block access to illegal content.
* These steps should be accompanied by measures **in line with** those laid down in the **regulation on cooperation between consumer authorities[[1]](#footnote-2).**
* Likewise, mechanisms **would need to be established for identifying who was responsible**, along with response procedures enabling authorisations to be revoked.
* The measures to be taken in each case would also need to be set out, bearing in mind the context and available information.

***(Source EESC Opinion INT/836 Illegal content/online platforms)***

1. [OJ C 34, 2.2.2017, p. 100](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2017.034.01.0100.01.ENG). [↑](#footnote-ref-2)