

Recommendation on measures to effectively tackle illegal content online

Seznam.cz welcomes the opportunity to give its opinion on the recommendation. While we understand the Commission's interest in removing illegal content and negative impacts of its spreading on society, we share neither its approach to this issue nor the provisions proposed. Based on our two decades market experience, we strongly believe in non-regulatory tools, in the need to fully apply and consistently enforce the already existing (and thus valid) legislation, in necessity to respect and maintain the eCommerce Directive framework and finally in a crucial role of rising digital literacy and skills of Europeans. To our great surprise, there is not even a single word on education in the whole Recommendation!

Main bottlenecks

- We do not share the Commission's enthusiasm for automated solutions for content search and deletion. In addition to being against Articles 14 and 15 of the eCommerce Directive, the artificial intelligence is not yet (fortunately or unfortunately) at a level to distinguish lexical nuances and meanings. Only man can do it.
- The requirement to prevent re-uploading deleted content is not fully feasible in the Internet. There are simple ways how to change the original content so that it cannot be repeatedly captured by automated tools (after intervention, the modified content behaves as completely unique one).
- We are not in favor of the EC's proposal setting 1 hour for removing notified illegal content even in case of terrorist one and reported by public authority. There are the following reasons: official notification does not relieve us of the need to become acquainted with the notice; notification enters an internal workflow with certain processes; the nature of the notification may call for the need for an assessment by several departments; notification is not always in line with official procedures; there would be the need for specific administrators only to address these notifications; only courts' decision has an "automatic" applicability (though with the possibility of appealing against the decision itself).
- We do not agree with obligatory automatic feedback to users whenever the problematic content is captured (even beyond cooperation with the police). In addition to the associated administration, there is an aspect of providing the ones concerned with the information that we are capable to capture such content (which is not always appropriate – e.g. in case of attackers/spammers).
- While we do not generally oppose the concept of trusted flaggers, there must be mention that legal responsibility lies directly with companies concerned, not with the flaggers. Moreover, the potential cooperation shall be voluntarily based and trusted flaggers must not get into a specific position above (or off) the system.
- We do not agree with the shift from judicial to quasi-judicial tools to resolve disputes between service providers and users / third parties. There should be an information in Terms and Conditions, the possibility of using them, but not the obligation to put in place appropriate mechanisms on the part of the companies.
- We do not support the publication of transparency reports. In addition to another administrative burden, this can turn against companies that are fairly informing in comparison to those who will not be reporting with an equally responsible approach.

Potential solution

- Privacy-by-default: technical and procedural settings of services to eliminate the possibility of uploading and distributing illegal content itself.
- Follow the money: advertisers to determine what content they do not want to be associate with.
- Notice and Take Down: respecting the proven, well-balanced and market-recognized legal framework of the eCommerce Directive.
- Offering user-friendly reporting tools for illegal content.
- Enforceability of existing legislation. And at the same time stricter sanctions.
- Keeping the choice of tools and measures on companies.
- Promoting voluntary cooperation: the voluntary sharing of skills and knowledge with authorities, NGOs and the academic community.
- Finally, increasing the media and digital literacy of the European population.