

PRESS RELEASE

Proposed Regulation on preventing the dissemination of terrorist content online...in need of further detail

Brussels, September 12th, 2018 EDiMA* has read the proposed Regulation with interest. We continue to echo the fact that our members are indeed rising to the challenge of tackling terrorist and terrorist inciting material through the EU and Global internet forums to which our members continue to be committed.

The proposal aims to create a regulatory environment that will extend beyond what is being done already by means of capturing both the measures needed to prevent the dissemination of terrorist content online and the implementation and enforcement mechanisms needed to do so. We appreciate the European Commission's intentions and welcome the attempt to clarify processes and improve the cooperation between private companies, law enforcement and other competent authorities to make the EU safer. However a number of crucial elements put forward remain of concern.

The proposal:

- Does not present a definition of a terrorist organisation
- Introduces the involvement of competent authorities to be put forward by Member States with no criteria to determine the validity of these authorities or limitations to the number of authorities to be put forward
- Provides no clarity as to what should happen in the 6 months period between entry into force of the Regulation and the official notification of the competent authorities- during which the liabilities on the online service providers to act are already in place
- Leaves it up to Member States to determine fines under the Regulation which would result in fragmentation
- Introduces the prevention of reupload of content (Art. 6.2 of the proposal) which would require general monitoring of content – in direct contradiction to ART. 15 of the e-commerce Directive
- Introduces the possibility for the competent authorities to require additional measures to be taken (art 6.4 of the proposal) and the possibility of fines being put in place (art 18.1 of the proposal) with no possibility for the Online Service Provider to contest these requirements
- Includes the 1 hour turnaround time for take-down which is not practical
- Requires Online Service Providers to share data with law enforcement authorities when aware of terrorist material- this would have to be aligned with other legal obligations already in place but which are currently not mentioned in the proposal – thus again legal uncertainty could result

“Whereas we understand the pressure that the European Commission is working under to deliver a legislative piece to tackle online dissemination of terrorist content- we fail to see how this piece that lacks precision and includes arbitrary obligation can be a workable improvement to the current collaborative work that is being done and to which we are committed to continue work on,” said EDiMA Director General Siada El Ramly.

EDiMA will continue to engage with the stakeholder community at large to attempt to create the needed legal certainty that is needed to make this Regulation workable.

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* EDiMA is the European trade association representing online platforms and other innovative businesses. It is an alliance of new media and Internet companies whose members include Airbnb, Allegro, Amazon EU, Apple, eBay, Expedia, Facebook, Google, King, Microsoft, Mozilla, Oath, OLX, TripAdvisor, Twitter, Veon Digital and Yelp. EDiMA's members provide Internet and new media platforms offering European consumers a wide range of online services, including e-content, media, e-commerce, communications and information/search services.