

**Meeting with Antigone Davis,
Meta VP and Global Head of Safety
Brussels (Commissioner's Office) – 01/06/22 @ 13:30 h
Request CAB DALLI/744**

Scene setter

- You will be meeting **Antigone Davis**, Vice-president of Meta (formerly Facebook) and **Global Head of Safety** (CV see below). The meeting is scheduled for half an hour.
- The objective of this meeting is to discuss the **proposal for a directive on combating violence against women** and the proposal for a **Digital Services Act (DSA)** in particular with regards to the proposed measures to address gender-based cyber violence.
- The DSA will enter into application on 1 January 2024 or 15 months after its entry into force, whichever is later.
- However, as regards the very large online platforms or very large online search engines they will have to report on their user numbers three months after entry into force of the DSA and they will have to comply with the obligations under the DSA four months after their designation (*NB: in principle it should take between 1-2 months to designate them*).
- This meeting could be used as an opportunity to understand **what steps** Meta has undertaken to combat gender-based cyber violence and to encourage Meta to contribute to establishing a **Code of Conduct** together with the Commission.

[Proposal for a directive on combating violence against women and domestic violence]

- On 8 March 2022 the Commission put forward a **proposal for a Directive to combat violence against women and domestic violence**.
- The Commission's proposal includes a **strong focus** on gender-based cyber violence, which is **addressed throughout the entire proposal**: in the areas of criminalisation, protection, access to justice, victim's support, prevention and cooperation and coordination.
- The proposal suggests, in particular, to **criminalise common forms of gender-based cyber violence**:
 - non-consensual sharing of intimate materials,
 - cyber stalking,
 - cyber harassment and
 - cyber incitement to hatred or violence based on sex or gender.
- In addition, the proposal **facilitates access to justice** by victims of cyber violence **by enabling the reporting of cyber violence crimes online**. It requires the Member States to ensure that **services investigating and prosecuting** violence against women or

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domestic violence **have sufficient expertise** and tools to effectively investigate such crimes.

- The proposal also aims to **ensure that illegal online content** related to **gender-based violence can be quickly removed**. It allows national authorities to order intermediary service providers to remove content that is likely to be illegal.
- The proposal includes **targeted support measures to victims of cyber violence**, namely advice on how to access judicial remedies and how to remove online content related to the crime.
- It also proposes **trainings for relevant national authorities and media professionals** to adequately address this phenomenon.

[DSA-proposal]

- The content-specific measures of the violence against women proposal would **supplement the general regulatory framework of the Digital Services Act. The Digital Services Act**, as you will know, looks at platforms' liability, and sets out a comprehensive approach towards all forms of illegal content online. The violence against women proposal ensures that the **most serious forms of gender-based cyber violence** are **considered as illegal content across the EU**, and fall within the scope of application of the DSA.
- The DSA **introduces specific rules** for very large online platforms given their systemic impact in facilitating public debate, economic transactions and the dissemination of information, opinions and ideas.
- The horizontal rules against illegal content **are carefully calibrated and accompanied by robust safeguards for freedom of expression and an effective right of redress**.
- Very large platforms must **assess the risk** posed by their services on a yearly basis and explain clearly what they do to **mitigate** these. Specific risk assessments will have to be conducted during **crises** threatening the public health or the security of European citizens.
 - These risks include disinformation, manipulation, the propagation of illegal content. This includes hate speech and cyber violence within the meaning of the recent proposal on violence against women and harms to mental health.
- Very large platforms are additionally subject to **independent scrutiny**: the extent of the risks posed can be analysed by vetted researchers and NGOs, while the effectiveness of risk mitigation measures taken will be subject to independent audits.
- It is ultimately the **perpetrators of violence who are responsible**, both in real life and online. We therefore need to **work with IT platforms** and EU Member States to ensure appropriate follow-up and victim support. We also need to work with the perpetrators.
- It is crucial that online platforms take action against all types of illegal content – and **create a safe online environment** where all users can thrive and exchange opinions and ideas without discrimination.

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[Work on a Code of Conduct]:

- We are grateful for the **constructive cooperation** with Meta thus far. The cooperation on gender-based online violence in 2019, concerning the **#DigitalRespect4Her** social media campaign was a great success.
- We would also like to continue the constructive discussions we have had on the **possibility of Meta participating in a voluntary-based Code of Conduct**. Under the Gender Equality Strategy, the setting up of the Code of Conduct is planned to be continued this year.
- We have been following with great interest the setting up of a **Women's Safety Hub and the formation of a Global Women's Safety Expert Advisor's group** by Meta¹. I would be curious to learn more about the features that this platform provides. We are happy that Meta has intensified its work towards ensuring that women can be safe online.
- The Code of Conduct on gender-based cyber violence will be **modelled after the positive example of the 2016 Commission Code of Conduct** on racist and xenophobic hate speech,² which has given us very good ideas of what can be achieved through good cooperation and sustained commitment.
- We would be happy to include you in the work on the Code of Conduct and would **appreciate receiving your expertise** and **input** on elements necessary to include in the Code of Conduct. We are looking forward to continuing our good cooperation.

¹ [Safety Center \(facebook.com\)](#) and [Safety Center \(facebook.com\)](#).

² [The EU Code of conduct on countering illegal hate speech online | European Commission \(europa.eu\)](#).

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DEFENSIVES

Online activity and thus violence is increasing, but how will this directive change things for women users and victims of violence?

- Once entered into force, the Digital Services Act (DSA) will regulate **online platforms' responsibilities**, including with regard to illegal content and ascertaining users' fundamental rights in the online environment. The DSA however does not define illegal content.
- By including a **definition of online violence against women** at EU level and by establishing minimum rules on the definition of offences concerning non-consensual sharing of intimate or private images, content and cyber stalking, the proposal ensures that the requirements of the DSA can be fully applied to this kind of illegal content across the EU.
- The proposal also supports the DSA by setting out **detailed provisions on the removal of illegal gender-based online content**. It includes measures on the prevention of such cyber violence, as well as support to victims.

What is the Commission's position on gender equality related to freedom of the media?

- Various sources report that violence against women further increased during the pandemic both online and offline.
- This is also true for women in public life, such as politicians and journalists.
- Misogynist attacks can dissuade women from becoming politically active, and may lead women to disengage from political discourse, or prevent women journalists from pursuing their work. This is of course problematic from a gender equality perspective. It also puts the very fabric of our democracies at risk.

How is the freedom of speech guaranteed in the proposal on violence against women?

- The EU's work remains firmly rooted in European values and principles, including the freedom of expression and user's right to access legal online content (as defined in the Charter of Fundamental Rights, the European Convention of Human Rights, and relevant jurisprudence).
- All provisions of the proposal have been carefully drafted in light of these considerations.
- The cyber criminalisations are furthermore modelled off of existing national criminal law provisions.
- The provisions will define the concept of gender-based 'illegal online content', and support the implementation of the Digital Services Act with regard to gender-based cyber violence.

How can social media be used to tackle gender-based violence?

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- Social media can be brilliant in giving everyone, including women and girls, a space to debate and discuss their ideas.
- Everyone can use their voice on social media to raise awareness on important issues and build positive narratives.
- Using social media can even help connect to others outside one's normal social circles. We can use IT platforms to for instance to call for an end to gender-based violence.
- Social media platforms are also crucial in helping users flag illegal and harmful online content. Most platforms have mechanisms in place to allow users to signal individual content they experience as harmful.

How does the DSA proposal keep a fair balance with fundamental rights such as the freedom of expression?

- The text puts protection of freedom of expression at its very core. This includes protection from government interference in people's freedom of expression and information. The horizontal rules against illegal content are carefully calibrated and accompanied by robust safeguards for freedom of expression and an effective right of redress – to avoid both under-removal and over-removal of content on grounds of illegality.
- The proposal gives users and users the possibility to contest the decisions taken by the online platforms to remove their content, including when these decisions are based on platforms' terms and conditions. Users can complain directly to the platform, choose an out-of-court dispute settlement body or seek redress before courts.
- The Digital Services Act proposes rules on transparency of content moderation decisions. For very large platforms, users and consumers will be able to have a better understanding of the ways these platforms impact our societies and will be obliged to mitigate those risks, including as regards freedom of expression. They will be held accountable through independent auditing reports and specialised and public scrutiny.

Does the Digital Services Act define what is illegal online?

- The Digital Services Act sets out horizontal rules covering all services and all types of illegal content. DSA does not decide what is illegal, for this is done in other in other laws at EU level or National level. Rather, the DSA ensures that what is illegal offline is also illegal online.

What does the DSA do, if anything, for tackling violence against women?

- Providers of very large online platforms, in particular those primarily used for the dissemination of pornographic content, will also be required to diligently meet all their obligations under the DSA in respect of online content constituting cyber violence.

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- Such obligations will include among others obligation of risk management, which includes the risk assessment, including in relation to cyber violence, and adoption of relevant risk mitigating measures (and subsequent audit of these).
- Such cyber violence would be understood as defined in the recent proposal of the Directive on combating violence against women and domestic violence, including ensuring that victims can effectively exercise their rights in relation to content representing non-consensual sharing of intimate or manipulated material in a timely manner.

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BACKGROUND

In line with the **President's political guidelines**, tackling gender-based violence against women and domestic violence is a key priority. It is a widespread violation of fundamental rights and must be addressed on a common basis.

Gender-based cyber violence (an umbrella term for various kinds of illegal and harmful online behaviours) disproportionately affects women and girls. Women experiencing violence in real life are often also targeted by online violence, and new forms emerge. As acknowledged in the **European Democracy Action Plan** from December 2020, this may have the effect of silencing women and limiting their participation in society.

According to the **Gender Equality Strategy 2020-2025**, the Commission will facilitate the development of a framework for cooperation (**Code of Conduct**) with internet platforms to better protect women's safety online. The purpose will be to bring platforms to agree on voluntary commitments based on their terms of service. The cooperation can cover all kinds of harmful content and does not need to be limited to illegal content.

The DSA Proposal

The Gender Equality Strategy also set out that the Commission will present a **Digital Services Act** to harmonise the responsibilities of information service providers to address e.g. user-disseminated illegal content and protect users' fundamental rights. The DSA proposal from December 2020 updates the general regulatory framework on online regulation. The political trilogue on 23 April concluded the negotiations on the Digital Services Act. The political agreement is now being translated in the final legal text, which may be adopted by the European Parliament during July or September Plenary.

The DSA will enter into application on 1 January 2024 or 15 months after its entry into force, whichever is later.

However, as regards the very large online platforms or very large online search engines they will have to report on their user numbers three months after entry into force of the DSA and they will have to comply with the obligations under the DSA four months after their designation.

The proposal for a directive on combating violence against women and domestic violence

On 8 March 2022, the Commission adopted a **proposal for a directive on combating violence against women and domestic violence**, which applies to all forms of such violence regardless whether it takes place online or offline. The proposal focuses on prevention, protection, support, access to justice and coordination concerning this group of victims. It contains targeted provisions on, including criminalisations of, illegal gender-based cyber violence. These support the application of the DSA framework by defining gender-based

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illegal content at EU level, as well as providing for targeted measures for the protection of victims.

Cooperation with Meta (formerly Facebook)

The Commission started cooperating with Facebook on gender-based online violence in 2019, when the Commission launched the **#DigitalRespect4Her social media campaign** (CNECT and JUST in the lead). At the same time, DG JUST organised two meetings with online platforms to solicit their interest in participating in a voluntary-based **Code of Conduct**, that would enable the sharing of best practices to better combat online violence against women based on their Terms of Service.

In 2016, the Commission launched a **Code of Conduct on countering illegal hate speech** online with online platforms to tackle hate-speech based on racism and xenophobia. Using this Code of Conduct as a model, the Commission, in spring 2019, started setting up voluntary-based cooperation arrangements against gender-based online violence with IT platforms. It organised **two consultative meetings with platforms** (where Google, Facebook, Microsoft, Twitter and Snapchat announced their interest in participating. The Match Group signalled interest later on).

According to the **Gender Equality Strategy 2020-2025**, the Commission will continue to facilitate the development of the **framework for cooperation between internet platforms** to protect women's safety online. The purpose of this work will be to bring platforms, NGOs, experts and Member States and to agree on a set of voluntary-based commitments based on the companies' terms of service. The cooperation can cover all kinds of harmful content that is prohibited by the platforms on a commercial basis and does not need to be limited to illegal content (such as incitement to violence or hatred, defamation and online stalking).

Action taken by Facebook to tackle gender-based online violence against women

Facebook addresses illegal and harmful online content under its **Terms of Service**, referred to as [Community Standards](#). Gender-based illegal or harmful content can be removed under the standards on the sexual exploitation of adults or bullying and harassment. Users can filter content by ignoring unwanted messages and blocking other users. Victims can also [report violating behaviour](#) for removals where the reported content is found to disrespect the Community Standards.

The Facebook Safety Advisory Board brings together internet safety organisations from around the world to provide information and views on online safety and inform the company's safety policies.

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In 2020, Facebook has initiated work on a [policy on gender-based online content targeting women](#). It underlines that the Community Standards “include rules against behaviors that disproportionately impact women, such as the sharing of non-consensual intimate imagery ... and harassment, like sending multiple unwanted messages to a person”. The platform has also updated their hate speech policy to include to include “female-gendered terms”.

Facebook has also published [guidance for national law enforcement authorities](#) and legal professionals for requesting materials from the social platform for the purposes of a domestic investigation or court proceedings.

Similarly as for other types of prohibited online content, Facebook uses AI-based machine learning to identify gender-based content prohibited under the Community Standards. Such content can be removed before it is published and shared with other users.

Whereas the above developments are steps to the right direction, the [reality is not as straightforward](#) when it comes to policies on gender-based online violence. Facebook [allegedly insufficiently addresses materials promoting violence against women](#), and the **machine learning programmes may remove graphic sources that are not illegal**, whereas illegal materials can remain unaddressed. The instructions for users are mostly **US-centered**, and it can be difficult for law enforcement officials to obtain requested materials. Room for further cooperation remains.

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