

MEETING CONCLUSIONS

Title	Meeting between Vice-President Ansip with Nick Clegg and other representatives of Facebook
Date	28 January 2019
Participants	<p>Facebook representatives: Nick Clegg, Vice-President, Global Affairs and Communications; Thomas Myrup Kristensen, Managing Director EU Affairs, Head of Office Brussels; Markus Reinisch, Vice-President, Public Policy Europe, Middle East and Africa.</p> <p>COM: Vice-President Ansip;</p> <p>Issues raised & follow-up</p> <p>Nick Clegg explained that Facebook's attitude towards regulation as well as its behaviour have changed. Facebook is stepping up its efforts to scrutinise political advertising in the EU, as it was the case for the US mid-term elections. The company will launch new tools to check ads at the end of March, ahead of the European elections in May. Given increasing calls for regulation of disinformation and hate speech, he wondered where the EU regulatory debate will be heading in the future.</p> <p>Vice-President Ansip stressed that there is a strong case for more transparency.</p> <p>Following the Cambridge/Alytica scandal, voices are also calling for more regulation, but there are limits to regulating fake news. Protecting freedom of expression is essential. Self-regulatory measures and voluntary cooperation can bring good results when properly designed and implemented. It is vital for tech companies to regain peoples' trust now and for the future.</p> <p>Nick Clegg said that there could be different measures depending on the nature of the content, starting with the more straight-forward that would be banned (like e.g. terrorist content) and then a soft end for more delicate/ambiguous content like possible disinformation. But it is difficult to draw the line in the grey areas.</p> <p>Cabinet Ansip mentioned that this is in line with the approach of the Commission. The code of practice (self-regulation) covers disinformation content that is legal under Union or national law. The Commission proposed targeted measures to address the spread of illegal content online, including the Recommendation on measures to effectively tackle illegal content online and the proposal for a Regulation on preventing the dissemination of terrorist content online.</p> <p>Vice-President Ansip thanked for the data provided on the implementation of the code of practice against disinformation, whose results would be published on 29 January 2019. While the Commission welcomed the progress made, it also called on companies to intensify their efforts in the run up to the 2019 European Parliament elections.</p> <p>In terms of regulation, Vice-President Ansip reminded the importance of the proposal of the Commission on ePrivacy.</p> <p>Vice-President Ansip explained that the proposed ePrivacy Regulation complements existing personal data protection rules (General Data Protection Regulation): it is about protecting the confidentiality of communications, which something 92% of respondents to the Eurobarometer considered to be important. He stressed that, in two years from now, when the new Electronic Communications Code will enter into force, platforms will have certain obligations, notably when providing so-called "over-the-top" (OTT) services (including Voice over Internet Protocol and chat services such as Whatsapp, Facebook Messenger etc.).</p> <p>Vice-President Ansip further clarified that, without the ePrivacy Regulation, companies risk very restrictive interpretations of the existing ePrivacy Directive, whereas data</p>

protection authorities could also take action (and impose fines) against them. On the other hand, if the ePrivacy Regulation is adopted, its immediate effect will provide legal certainty and fragmentation will be avoided as to the interpretation of the existing law, according to which data controllers are not able to monetise data (whereas the proposed ePrivacy Regulation allows this after obtaining the users' consent).

Nick Clegg stated as main Facebook's concern the fact that the said rules are considered to call into question the Facebook business model, which should not be 'outlawed' (e.g. Facebook would like to measure the effectiveness of its ads, which requires data processing). He stated that the General Data Protection Regulation is more flexible (by providing more grounds for processing).

Vice-President Ansip explained that the ePrivacy rules do not only ensure privacy but also confidentiality of communications and therefore the grounds for processing cannot be as wide as the ones in the General Data Protection Regulation. EU-wide harmonisation has to be ensured and a level playing field between operators and platforms needs to be created.

Vice-President Ansip concluded by saying that if Member States do not believe that EU common rules tackle all the issues they may adopt further regulation themselves. He advocated a balanced approach based on transparency and purpose limitation when it comes to processing personal data.

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