

DG GROW
Meeting between Deputy Head of Cabinet Kristian Hedberg and Thomas Myrup Kristensen
(Facebook Managing Director EU Affairs)
Brussels, 8 June 2017

Name of Cabinet Member: HEDBERG Kristian

Name of the Director who has cleared the briefing: Joaquim NUNES DE ALMEIDA; Hubert GAMBS

BASIS request ID: CAB BIENKOWSKA/791

Room, time: 11h

Participants:

Name of main contact person: [REDACTED]; [REDACTED]

Telephone number: [REDACTED]; [REDACTED]

Directorate/Unit: DG GROW B2; E3

MINI BRIEFING NOTE

Scene setter/Context of the meeting/ Objective of the meeting:

Mr Thomas Myrup Kristensen, Facebook's Managing Director for EU Affairs, requested a meeting to discuss the state of play concerning three legal acts: the draft German Network Enforcement Act, [REDACTED] out of scope [REDACTED].

The briefing focuses on the status of the notification procedure of the first legal act, the draft German "*Act improving law enforcement on social networks*", under the Single Market Transparency Directive (EU) No 2015/1535.

The draft Law aims at ensuring that criminal content (such as hate speech, defamation or fake news) published on digital social networks (such as YouTube, Facebook or Twitter) is promptly removed by social network operators. The draft Law was notified on 23 March 2017 and the EC has until 28 June 2017 to express its views on the compatibility or not of the notified draft with EU law, including with the e-Commerce Directive.

This meeting gives us the opportunity to inform Facebook on the status of the notification procedure and to gather information on their position concerning the topics on the agenda.

[REDACTED] Out of scope
 [REDACTED]

KEY messages

- The Commission is aware of the complex balance that has to be stricken between individual rights, effective law enforcement and the need to guarantee the free provision of services when defining measures to avoid the proliferation of criminal offences committed via social networks.
- The Commission is currently assessing the **draft Act** notified by Germany, as the deadline for reaction expires on 28 June 2017.

- [REDACTED] Out of scope
 [REDACTED]

- [REDACTED]
[REDACTED]
[REDACTED] All following alineas out of scope
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[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]

Questions to the interlocutor?

- How does Facebook see the draft German Network Enforcement Act falling in the scope of the E-commerce and the enforcement of intellectual property rights Directives?

Defensives / Q&A

For each item on the Agenda

Question: Does the EC intend to object to the notified German draft act [REDACTED]
[REDACTED] ?

Answer: The Commission is still assessing the compatibility of the draft Act notified by Germany with EU law. The deadline for reaction (under the Single Market Transparency Directive (EU) 2015/1535) expires on 28 June 2017.

Background information

Within the framework of the notification procedure laid down by Directive (EU) 2015/1535, the German authorities notified to the Commission on 27 March 2017 a draft "*Act improving law enforcement on social networks*". The draft Law aims at ensuring that criminal content (such as hate speech, defamation or fake news) published on digital social networks is promptly removed by large influential digital social networks operators (such as YouTube, Facebook or Twitter), **within 24h from receiving a complaint**. Social networks shall file quarterly reports on how they dealt with complaints regarding potentially criminal content and may be imposed a fine of up to EUR 5 million in case of non-complying with these obligations. The draft Law thus puts high burden on internet service operators, including on Facebook.

[REDACTED]

CNECT has informed the German authorities of CNECT's intention to regulate the same matter with a different approach than the one presented in the notified draft, as also other EU Member States intend to regulate the matter.

[REDACTED]

[REDACTED] However, VP Ansip is highly interested in initiating a dialogue with Germany (he sent to the LS a draft letter to the German authorities for visa, where he questions the German draft law).

The German State Secretary Mr Billen presented the Draft German law in the *High Level group on Combating Racism, Xenophobia and other forms of intolerance* (chaired by DG JUST) on 31 May 2017. This High Level Group brings together Member States' authorities, civil society organisations and community representatives, relevant EU agencies (the Fundamental Rights Agency), as well as international organisations active in this area (Council of Europe/ECRI, OSCE/ODHIR, UN/OCHCR), as a means to step up cooperation and coordination between relevant actors, maximizing concrete impact on preventing and combating hate crime and hate speech as well as informing on national initiatives. The presentation was merely informative and the Commission did not comment on that.

[REDACTED]

This paragraph and pages 4-5 are out of scope.