Report of the 14/07 call with Google

On the initiative of Google on 14/07 Ms ████████, Mr ████████ and Mr ████████ of Cabinet VESTAGER met via a teleconference call with Mr ████████, ████████████████████████ Google. He was accompanied by Mr ████████ EMEA Competition; Ms ████████████████████; and ████████████████████ Google's EU Public Policy team. Mr ████████ from the Secretariat General also joined the meeting. The main focus of the meeting was on the Digital Services Act and AI.

On the DSA the discussion focused on illegal content online. Google considers that it is crucial to provide clear parameters as to what constitutes illegal content, and that the platforms' performance should be judged on the overall outcomes, and not individual cases. Having legal certainty is of outmost importance for Google which has a clear preference for positive obligations, and would prefer not to rely on court rulings. The so-called Good Samaritan protections are crucial in particular in enabling platforms to tackle content which is harmful but nevertheless arguably still legal. Moreover, Google pointed that any "take down and stay down" rules for illegal content would force to company to engage into constant surveillance akin to the general monitoring obligation. As for the possible disclosure of algorithms, Mr ████ stressed that an obligation to fully disclose them would primarily benefit malicious actors (such as fraudsters and criminals) willing to game the algorithms, but would be of limited value to individuals or small businesses. Moreover, a full disclosure of Google's search algorithm would ultimately, due to gaming, make the Google's search service less useful for users.

Cab Vestager pointed that it does not intend to overload the DSA, as it is already likely to be a far reaching and complex proposal. For instance, its provisions will need to cover not only illegal content, but also goods. The very point of the DSA is to avoid fragmentation of the single market and prevent emergence of diverging national rules and national court cases. Cab Vestager also pointed that the Commission has never argued for a full disclosure of algorithms, but focused on parameters, as is already the case in the platforms-to-business regulation. The Commission Recommendation on illegal content has clearly stayed away from suggesting "stay down"-type provisions. Finally, Cab Vestager confirmed the intention of the Commission to present the DSA proposals by the end of the year, and that the P2B guidance is forthcoming shortly.

On the ex-ante rules Google would like to see clear provisions allowing for business certainty. It is important in particular in cases where the company is entering a new market where it brings an improved customer experience (e.g. Google's flight search and "Jobs" service). Google is concerned about the possible provisions black listing of self-referencing where it clearly benefits consumers, as for instance providing multiple map results on a location search would clearly deteriorate users experience. Mr ████ also called for establishing a formal consultation channel between businesses and the Commission (akin to business review letters in the US tax system) which would allow to verify whether a company's attempt to put on the market a new product would be considered to fall, or not, within the ex-ante rules. Cab Vestager did not react to these queries as the internal discussions are still ongoing.

On AI, Google submitted an extensive reply to the public consultation which has recently closed. Many Google's products are AI-based and the company has its own "Google AI principles" that are followed in the development of AI-based products and services. Google supports the Commission's risk-based approach. However, this should be based on the existing sectorial regulatory frameworks, where the existing sectorial regulatory authorities have the necessary experience and competence. Google also called for factoring in the risks of not only applying AI, but also of not applying AI. AI

algorithms might make mistakes or be biased, but human decision-making which they replace can be even more prone to mistakes and bias. Moreover, it is crucial to ensure that the various pieces of legislation (GDPR, P2B, DSA, ex-ante, AI, etc.) are fully compatible, for instance data protection rules limiting the storage of certain datasets, and the possible AI rules requiring retention of data sets used for training of an AI algorithm. Cab Vestager stressed that the Commission does not want to unnecessarily overregulate this new area, but also pointed that market take up of AI in Europe can only happen when citizens have full trust and confidence in this technology.