

BTO – BlaBlaCar meeting 2 February 2016

Digital Single Market DSM TF4

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Participants: [REDACTED], [REDACTED] (EC, CNECT F.1) and [REDACTED] (BlaBlaCar, [REDACTED]).

- BlaBlaCar continues to experience significant growth - adding 1.5 million members each month - and is currently operating in 12 EU Member States. Because of expansion-related investments, BlaBlaCar is not profit-making for the moment.
- BlaBlaCar considers itself a pure ride-sharing platform, which allows its drivers to share costs, but not to be profit-making. To this end, it employs a cap on the fee that drivers can charge their passengers.
- BlaBlaCar raised three problematic issues in relation to which it seeks the support of the EU, all relating to (potential) regulatory fragmentation:
 - *Comprehensive assessment of platforms/guidance on the collaborative economy*: in order to prevent that BlaBlaCar is inadvertently captured by legislation targeting online platforms intermediating in paid-for transport services, BlaBlaCar would welcome the formulation by the EU of a definition of "ridesharing" (or of "remuneration"). In Hungary, amongst other countries, BlaBlaCar is currently for example running into trouble because of legislation targeting Uber or Uber-like services.
 - [REDACTED]
 - [REDACTED]
- As regards liability, BlaBlaCar considers that illegal content and risk are two very different things and that the ECD-framework is limited to the former. Notwithstanding, a form of self-regulation is already in place in relation to the handling of risk (BlaBlaCar is trying to verify driver IDs by using 3rd party service providers, provides transparency in the event of accidents/incidents and 'removes' certain drivers from its website).
 - As regards liability for illegal content, BlaBlaCar considers that pro-active monitoring measures should be allowed under the ECD (i.e. these should not place hosting service providers outside the liability exemption). However, given the lack of clarity around this issue, hosting service providers are currently hiding that they actively monitor content (which they all do). BlaBlaCar itself moderates all content it hosts on its website. The Commission should clarify this matter, without however opening up the ECD, which will only lead to right holders strengthening their position.

Out of
scope

- As regards intermediaries' responsibilities/liability for risk, BlaBlaCar considers that in case the Commission intends to regulate this issue, it should consider developing standards/guidelines in cooperation with the industry.
- BlaBlaCar did not experience any issues in dealing with other online platforms.
- We mentioned that the Commission is currently still in the process of analysing the results of its public consultation on platforms and that it remains unclear whether (and if so what) action will be taken in relation to either the collaborative economy (we mentioned that the foreseen guidance on the collaborative economy will unlikely be able to introduce legal definitions of, for example, ridesharing, but that the CJEU could soon provide some clarity - Uber Spain) or liability for illegal content and beyond.