



EUROPEAN COMMISSION

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*M. Jean BIZET
Président de la Commission
des affaires européennes du Sénat
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*cc. M. Gérard LARCHER
Président du Sénat
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Dear President,

The Commission would like to thank the Sénat for its Opinion in favour of a partial liability of online hosting service providers. This Opinion makes reference to the existing liability regime under the Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (the ‘E-commerce Directive’).

The Commission takes very seriously the concerns expressed by the Sénat as regards the need for a revision of the E-commerce Directive. As the Commission announced in its Communication on Online Platforms¹, the present liability regime for certain services furnished intermediaries, as set out in the e-Commerce Directive, was designed at a time when online platforms did not have the characteristics and scale they have today. However, it did create a technology-neutral regulatory environment that has considerably facilitated their scaling-up. This is in part due to the harmonisation of the exemption of certain types of online platforms from liability for illegal content and activities in respect of which they have neither control nor knowledge. Given this background, the Commission opted at this stage to maintain the general liability regime. At the same time, a number of specific issues relating to illegal and harmful content and activities online, audiovisual media, copyright or the fairness of platforms have been identified that need to be addressed to render this approach sustainable

¹ Communication ‘Online Platforms and the Digital Single Market Opportunities and Challenges for Europe’, COM(2016) 288 final.

Furthermore, together with its Communication on ‘Tackling online disinformation’², the Commission outlined an action plan to step up efforts to counter disinformation in Europe. It has to be mentioned, however, that to the extent that disinformation is not considered illegal in Member States the liability exemption under the E-commerce Directive – which refers to illegal content – is not relevant.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Sénat and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Mariya Gabriel
Member of the Commission*

² *Communication ‘Tackling online disinformation: a European approach’, COM(2018) 236 final.*