

CODE OF CONDUCT ON COUNTERING ILLEGAL HATE SPEECH ONLINE

Facebook, Microsoft*, Twitter and YouTube (hereinafter "the IT Companies") – also involved in the EU Internet Forum – share, together with other platforms and social media companies, a collective responsibility and pride in promoting and facilitating freedom of expression throughout the online world;

The IT Companies also share the European Commission's and EU Member States' commitment to tackle illegal hate speech online. Illegal hate speech, as defined by the Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law and national laws transposing it, means all conduct publicly inciting to violence or hatred directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin. The IT Companies and the European Commission also stress the need to defend the right to freedom of expression, which, as the European Court of Human Rights has stated, "is applicable not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population".¹

Broader society and in particular civil society organisations (CSOs) also have a crucial role to play in the field of preventing the rise of hatred online, by developing counter-narratives promoting non-discrimination, tolerance and respect, including through awareness-raising activities.

The IT Companies support the European Commission and EU Member States in the effort to respond to the challenge of ensuring that online platforms do not offer opportunities for illegal online hate speech to spread virally. The spread of illegal hate speech online not only negatively affects the groups or individuals that it targets, it also negatively impacts those who speak out for freedom, tolerance and non-discrimination in our open societies and has a chilling effect on the democratic discourse on online platforms.

The Joint Statement issued by the extraordinary Justice and Home Affairs Council of 24 March 2016 on the terrorist attacks in Brussels underlines that "the Commission will intensify work with IT companies, notably in the EU Internet Forum, to counter terrorist propaganda and to develop by June 2016 a code of conduct against hate speech online".²

In order to prevent the spread of illegal hate speech, it is essential to ensure that relevant national laws transposing the Council Framework Decision 2008/913/JHA are fully enforced by Member States in the online as well as the in the offline environment. While the effective application of provisions criminalising hate speech is dependent on a robust system of enforcement of criminal law sanctions against the individual perpetrators of hate speech, this work must be complemented with actions geared at ensuring that illegal hate speech online is expeditiously acted upon by online intermediaries and social media platforms, upon receipt of

* Microsoft-hosted consumer services, as relevant

¹ Handyside v. the United Kingdom judgment of 7 December 1976, § 49

² <http://www.consilium.europa.eu/en/press/press-releases/2016/03/24-statement-on-terrorist-attacks-in-brussels-on-22-march/>

a valid notification, in an appropriate time-frame. To be considered valid in this respect, a notification should not be insufficiently precise or inadequately substantiated.

The IT Companies underline that the present code of conduct³ is aimed at guiding their own activities as well as sharing best practices with other internet companies, platforms and social media operators.

The IT Companies, taking the lead on countering the spread of illegal hate speech online, have agreed with the European Commission on a code of conduct setting the following public commitments:

- The IT Companies to have in place clear and effective processes to review notifications regarding illegal hate speech on their services so they can remove or disable access to such content. The IT companies to have in place Rules or Community Guidelines clarifying that they prohibit the promotion of incitement to violence and hateful conduct.
- Upon receipt of a valid removal notification, the IT Companies to review such requests against their rules and community guidelines and where necessary national laws transposing the Framework Decision 2008/913/JHA, with dedicated teams reviewing requests.
- The IT Companies to review the majority of valid notifications for removal of illegal hate speech in less than 24 hours and remove or disable access to such content, if necessary.
- In addition to the above, the IT Companies to educate and raise awareness with their users about the types of content not permitted under their rules and community guidelines. The notification system could be used as a tool to do this.
- The IT companies to provide information on the procedures for submitting notices, with a view to improving the speed and effectiveness of communication between the Member State authorities and the IT Companies, in particular on notifications and on disabling access to or removal of illegal hate speech online. The information is to be channelled through the national contact points designated by the IT companies and the Member States respectively. This would also enable Member States, and in particular their law enforcement agencies, to further familiarise themselves with the methods to recognise and notify the companies of illegal hate speech online.
- The IT Companies to encourage the provision of notices and flagging of content that promotes incitement to violence and hateful conduct at scale by experts, particularly via partnerships with CSOs, by providing clear information on individual company Rules and Community Guidelines and rules on the reporting and notification processes. The IT Companies to endeavour to strengthen partnerships with CSOs by widening the geographical spread of such partnerships and, where appropriate, to provide support and

³ Article 16 of 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 ('Directive on electronic commerce', OJ L 178, 17.7.2000), indicates that Member States and the Commission shall encourage the drawing up of codes of conduct at Union level, by trade, professional and consumer associations or organisations designed to contribute to the implementation of its Articles 5 to 15.

training to enable CSO partners to fulfil the role of a "trusted reporter" or equivalent, with due respect to the need of maintaining their independence and credibility.

- The IT Companies rely on support from Member States and the European Commission to ensure access to a representative network of CSO partners and "trusted reporters" in all Member States to help provide high quality notices. IT Companies to make information about "trusted reporters" available on their websites.
- The IT Companies to provide regular training to their staff on current societal developments and to exchange views on the potential for further improvement.
- The IT Companies to intensify cooperation between themselves and other platforms and social media companies to enhance best practice sharing.
- The IT Companies and the European Commission, recognising the value of independent counter speech against hateful rhetoric and prejudice, aim to continue their work in identifying and promoting independent counter-narratives, new ideas and initiatives and supporting educational programs that encourage critical thinking.
- The IT Companies to intensify their work with CSOs to deliver best practice training on countering hateful rhetoric and prejudice and increase the scale of their proactive outreach to CSOs to help them deliver effective counter speech campaigns. The European Commission, in cooperation with Member States, to contribute to this endeavour by taking steps to map CSOs' specific needs and demands in this respect.
- The European Commission in coordination with Member States to promote the adherence to the commitments set out in this code of conduct also to other relevant platforms and social media companies.

The IT Companies and the European Commission agree to assess the public commitments in this code of conduct on a regular basis, including their impact. They also agree to further discuss how to promote transparency and encourage counter and alternative narratives. To this end, regular meetings will take place and a preliminary assessment will be reported to the High Level Group on Combating Racism, Xenophobia and all forms of intolerance by the end of 2016.