

**Marietje Schaake**

Member of the European Parliament D66/ALDE

Brussels  
5 December 2017

Dear Commissioner Ansip,  
Dear Commissioner Gabriel,  
Dear Commissioner Jourova,  
Dear Commissioner King,

We appreciate your continued efforts to address the difficult problems related to tackling illegal content online.

The Parliament has earlier called on the Commission to only advance policies in this area if they are in full compliance with the Charter of Fundamental Rights of the European Union, in particular the right to freedom of expression and information and the right to respect for private life.<sup>1</sup>

We are concerned that a number of recommendations in the Commission's communication on illegal content online,<sup>2</sup> notably on automatically detecting such content and preventing its reappearance, pose fundamental challenges to preserve the rule of law online. We strongly urge the Commission to conduct a thorough impact assessment about the national implementation of the E-commerce directive and to take into account the Draft Recommendations of the Council of Europe on the roles and responsibilities of internet intermediaries<sup>3</sup> and the EU Human Rights Guidelines on Freedom of Expression Online and Offline<sup>4</sup>, before taking any future steps to tackle illegal content online.

At the same time, additional procedural requirements for notice and action procedures (as foreseen by the e-commerce directive) are urgently needed to prevent unjustified restrictions of speech by private hosting providers. As Commissioner Ansip earlier indicated, this is a related but separate issue<sup>5</sup>, and we urge the Commission to take up the specific issue of notice and action procedures as a priority, independent from its work on addressing illegal content online.

The EU's policies in this area resonate worldwide. A clear focus on preserving fundamental rights, enhancing transparency, and limiting the privatization of content removal decisions, is essential to create a legal framework that does not lend itself to abuse within the EU, and which does not provide an excuse for countries outside the EU to legitimize or vindicate questionable laws that suppress freedom of speech.

Yours sincerely,

MEP Marietje Schaake

<sup>1</sup> European Parliament resolution of 19 January 2016 on Towards a Digital Single Market Act (2015/2147(INI)), 82.

<sup>2</sup> COM(2017) 555 final

<sup>3</sup> Draft Recommendation CM/Rec(2017)xxx of the Committee of Ministers to member states on the roles and responsibilities of internet intermediaries MSI-NET(2016)05rev4 dated 19 September 2017

<sup>4</sup> As adopted by the Council of the European Union on 12 May 2014

[https://eeas.europa.eu/sites/eeas/files/eu\\_human\\_rights\\_guidelines\\_on\\_freedom\\_of\\_expression\\_online\\_and\\_offline\\_en.pdf](https://eeas.europa.eu/sites/eeas/files/eu_human_rights_guidelines_on_freedom_of_expression_online_and_offline_en.pdf)

<sup>5</sup> ARES(2017) 3094890, <https://marietjeschaake.eu/en/reply-by-vice-president-ansip-on-notice-and-action-directive>

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